

SAFETY + JUSTICE CHALLENGE
PRETRIAL EQUITY TRANSFORMATION (PET) NETWORK

EVALUATING THE EVIDENCE: **URINALYSIS TESTING**



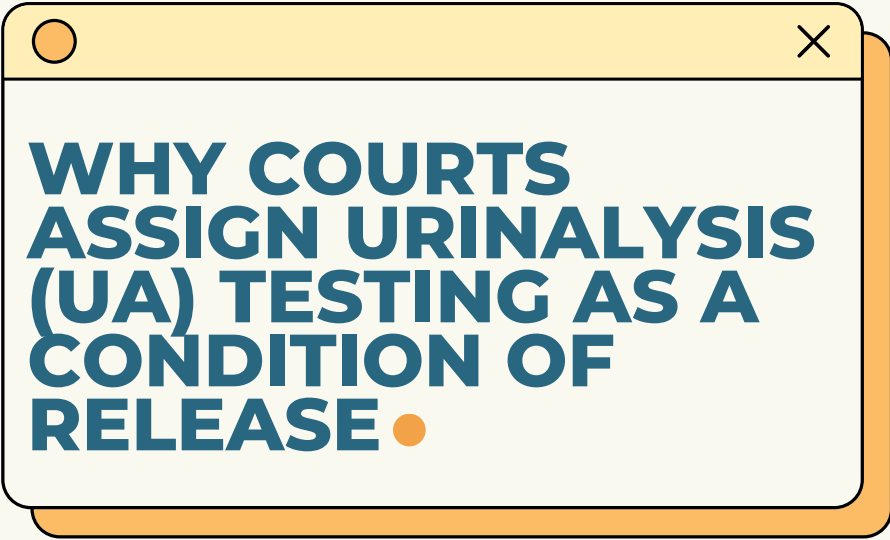
this series

The *Evaluating the Evidence* series highlights key pretrial release supports and conditions: (1) automated court reminder systems; (2) (3) electronic monitoring or GPS monitoring; (3) pretrial supervision, and; (4) urinalysis testing.

Each resource will provide key findings from the research about the effectiveness of the strategy to improve court appearance and reduce arrest while on pretrial release.

The resource will also discuss the strategy's impacts on worsening or improving disparities, and offer critical questions to help practitioners take an equity lens to their own pretrial release strategy.





WHY COURTS ASSIGN URINALYSIS (UA) TESTING AS A CONDITION OF RELEASE ●

Among individuals who consistently miss court are individuals experiencing a substance use disorder (i.e., drugs and/or alcohol). The use of substances for these individuals can get in the way of getting to court as scheduled.

As a result, courts may rely on urinalysis (UA) testing, or testing for the presence of substances in a person's body, as a condition of pretrial release. The assumption is that if individuals know they will return to jail for testing positive for substances, they will not use substances, get to court as scheduled, and not get in trouble (re-arrested). Courts also assign individuals without a known substance use disorder to UA testing to help deter potential drug/alcohol use that may affect court attendance or invite opportunities to get in trouble and experience a rearrest while on pretrial release.

UNCLEAR EVIDENCE IF UA TESTING IMPROVES ATTENDANCE OR REDUCES REARREST

The science of recovery shows few individuals can stop using substances, especially opioids and alcohol, immediately and that recurrence is part of the desistance process. Therefore, the expectation from the courts that individuals can refrain from substance use immediately upon pretrial release is unattainable for most individuals. This likely explains why individuals with known substance use disorders continue to use and test positive during the pretrial phase. Research shows individuals who test positive are less likely to appear in court as scheduled. Researchers are unclear if it is substance use, the likelihood of returning to jail for a positive UA test, or both that is resulting in court absence for these individuals.

WHAT DOES THE EVIDENCE SAY?

URINALYSIS (UA) TESTING

If the court uses urinalysis (UA) testing as a condition of release, the court will set a testing frequency. This involves the released individual giving urine samples either on a set schedule or randomly to the court. Testing locations may vary and can include the pretrial supervision office, probation or parole office, a private testing site, a treatment center, or an individual's home. Courts typically rely on pretrial supervision staff to make sure individuals follow through with testing and report compliance with testing and testing results to the court.

Overall, the **research shows inconsistent evidence** about the ability of UA testing to improve court appearance and reduce pretrial rearrest. However, the research clearly states individuals with a known substance use disorder are more likely to test positive, receive a technical violation, and return to jail.

In this way, UA testing during pretrial release for individuals with a known substance use disorder sets them up to fail.



Courts may refer an individual to drug treatment during the pretrial phase where the treatment provider may request UAs as part of the program. **Research shows** testing by way of treatment programs does not increase court appearance.

taking an **EQUITY LENS** to **URINALYSIS (UA) TESTING**

Courts may use urinalysis (UA) testing as a condition of pretrial release, but the research shows it is not effective in securing court attendance or reducing rearrest, especially among individuals with a known substance use disorder. Researchers are unclear if it is substance use, the likelihood of returning to jail for a positive UA test, or both that is resulting in court absence for these individuals.

Given the evidence and number of individuals with substance use disorder navigating pretrial release, courts should assess their own use of UA testing. The questions below can help agencies reconsider the scale of using UA testing and reflect on how testing may create disparate returns to jail for individuals with substance use disorders.

- How does your jurisdiction determine who receives UA testing as a pretrial condition of release? What is the demographic composition of those assigned to UA testing compared to those not assigned?
- How does prior missed court appearances factor into the decision to place someone on UA testing? In what ways are their missed court appearances related to an untreated substance use disorder?
- What are the financial costs to individuals ordered to UA testing? To what extent does your jurisdiction assess ability to pay costs associated with UA testing? How does your jurisdiction respond to the inability to pay?
- Are referrals to community-based organizations made available to individuals who test positive? If so, are there consequences to individuals for not following up on these referrals? If there are consequences, why? In what ways do these consequences punish poverty?
- What are the consequences for individuals when they test positive for alcohol/substances? How does UA testing contribute to increased technical violations and systematic funneling of minoritized populations back to jail?







SAFETY+JUSTICE CHALLENGE

Supported by the John D. and Catherine T. MacArthur Foundation

This resource guide was created with support from the John D. and Catherine T. MacArthur Foundation, which seeks to reduce over-incarceration by changing the way America thinks about and uses jails. Core to the Challenge is the need to reduce the over-reliance on jails, with a particular focus on addressing disproportionate impact on low-income individuals and communities of color.

www.SafetyandJusticeChallenge.org