

# Maryland Drug Courts



## Adult DUI/DWI Treatment Court Programs

Office of Problem-  
Solving Courts

Volume

4

---

Maryland's Guidelines for Planning and Implementing

**Adult DUI/DWI  
Treatment Court  
Programs**



MARYLAND'S GUIDELINES FOR PLANNING AND IMPLEMENTING  
**DUI/DWI Treatment Court Programs**

---

Office of Problem-Solving Courts

2011-D Commerce Park Drive

Annapolis, MD 21401

Phone: 410.260.3615

Fax: 410.260.3620

---

# Table of Contents

## Preface

## Introduction

### 1. Planning A Drug Treatment Court

1. Judicial Leadership .....	4
2. Planning Committee.....	4
3. Assessing the Problem. ....	5
4. Planning Committee Expansion.....	6

### 2. Developing Program Operational Procedures

1. Mission, Goals and Objectives.....	7
2. Target Population.....	8
3. Program Eligibility.....	9
4. Program Structure.....	10
5. Screening and Assessment.....	10
6. Entry Process.....	11
7. Incentives and Sanctions.....	11
8. Judicial Supervision.....	12
9. Community Supervision.....	13
10. Substance Abuse Treatment Services.....	13
11. Ancillary Service.....	15
12. Case Management Services.....	15
13. Alcohol and Other Drug Testing.....	16
14. Graduation/Termination Criteria.....	17
15. Information System to Monitor Participant Progress and Program Operation.....	18
16. Ongoing Program Review and Evaluation.....	18

### 3. Addressing Policy Issues

1. Assuring Due Process.....	20
2. Confidentiality.....	20
3. Relapse.....	20
4. Alumni Activities.....	21
5. Cultural Competence.....	21
6. Media and Public Relations .....	22
7. Oversight Committees.....	22
8. Funding the Program. ....	23

4. Resources.....	24
-------------------	----

# Preface

DUI/DWI treatment courts are built upon a unique partnership between the criminal justice system and the drug and alcohol treatment community. A single DUI/DWI treatment court judge, through his or her authority and personal involvement, structures treatment intervention. DUI/DWI treatment courts are dependent upon the creation of a non-adversarial courtroom atmosphere where a single judge and dedicated team of court officers and staff work together toward the common goal of breaking the cycle of alcohol abuse and criminal behavior.

# Introduction

## **Maryland's Drug Treatment Court Movement**

Maryland's drug treatment court movement started in the early 1990's as a response to the surge of drug-related cases, which overwhelmed dockets and caused enormous trial delays. Maryland's first drug treatment court began in March 1994, in the District Court for Baltimore City. The Circuit Court began their program shortly thereafter, in October of that same year.

The Drug Treatment Courts provide a dynamic alternative to addressing drug and drug-related cases. Currently, there is extensive drug treatment court development and expansion underway in the State of Maryland. Three DUI/DWI Courts currently exist in Anne Arundel, Howard and Harford Counties.

It has been agreed upon that the typical multiple DUI offender shares some common characteristics with the typical drug offender participating in a drug treatment court program. Each has a serious substance abuse problem; each requires treatment, a support system, and the ability to come to terms with their problem before real change can occur.

The Office of Problem-Solving Courts established in 2006 pursuant to an Administrative Order of Chief Judge Robert M. Bell. The Office of Problem-Solving Courts leads the State's effort to operate and maintain drug treatment court programs for the State of Maryland. Oversight committee members include: Circuit Court and District Court judges, legislators, representatives from the Department of Health and Mental Hygiene, the Department of Juvenile Services, the Department of Public Safety and Correctional Services, State's Attorney's Offices, the Office of the Public Defender's, the Governor's Office of Crime Control and Prevention, the Maryland Association of Public Health Officers, providers of addiction treatment services, and community leaders.

## Planning An Adult DUI/DWI Treatment Court

### *1. Judicial Leadership*

**The planning and implementation of an adult DUI/DWI treatment court program is a demanding process, which requires on-going Judicial leadership and oversight.**

Ideally, the potential development of a DUI/DWI court program should be discussed among all judges of the court, particularly since substance abuse and related charges impacts most criminal dockets. Firm judicial leadership is critical to the success of the DUI/DWI treatment court. Ideally, at least one judge should be the court representative to promote the feasibility/planning process and to lead in assembling other relevant members of the planning committee.

### *2. Planning Committee*

**Initially, there must be an agreement to pursue a DUI/DWI treatment court among principal players. It is important that key stakeholders are included in these initial discussions.**

Stakeholders should include the following:

- Administrative judge
- Director of local drug and alcohol treatment provider
- Director of the local jail
- Local director of the department of parole and probation
- Local law enforcement
- Administrative clerk
- Mayor or county executive's office
- Public defender
- Private bar representative
- Local Law Enforcement
- State's attorney's office
- Mothers Against Drunk Driving

It is critical that the representatives attending the meetings have decision-making capacity for their organizations.

### *3. Assessing the Problem*

**The answer to the question of whether a DUI/DWI court is needed in a particular jurisdiction depends upon a determination of whether current practices and services for handling alcohol-addicted defendants are effective.**

Many jurisdictions have approached the planning task by selecting a sample of relevant cases handled in the past.

#### *Symptoms/Red Flags*

Symptoms/red flags that may suggest the need to improve the court's handling of DUI/DWI offenders and potentially the utility of a DUI/DWI court program can include:

- Relatively high percentage of alcohol and alcohol related offenses filed
- Relatively high rates of recidivism and probation violations
- Relatively high rates of addiction to alcohol and other drugs reflected in the defendant population
- Relatively low rates of substance abuse treatment retention for this population
- Consistent overcrowding in local jail

The impact of alcohol-abusing defendants may initially be reflected in the traffic docket but generally spills over to the entire caseload of the court, in particular, domestic, juvenile, and dependency matters.

#### *Identifying the problems*

Symptoms of ineffective practices regarding the court's handling and disposition of alcohol-abusing defendants are generally reflected in (1) evidence that a significant percentage of arrestees are alcohol users; and (2) relatively high recidivism (e.g., re-arrest) rates and probation violation among these defendants. If data is not readily available to ascertain the degree to which these factors are present in your jurisdiction, a sample of cases disposed of over the past two to three years may need to be taken. Generally probation staff can be very helpful in compiling this sample.

#### *Information needed to determine current practices*

- Defendant demographics: age, gender, race, ethnicity, education, public assistance status, employment status
- Alcohol and substance abuse history
- Prior record and sentences
- Post sentence services provided to defendant
- Recidivism among the current substance-abusing population
- Criminal justice resources available/needed



### Identify treatment availability

- What treatment services are available in the community? Where are they located? What are there eligibility requirements?
- What is the waiting time for a defendant to enter treatment? What is the nature of treatment being provided? What mechanisms are used to determine whether a defendant has stopped using alcohol following his/her disposition?
- What mechanisms ensure the coordination and the delivery of services as well as accountability of both the service providers and the defendants?
- What other support services are available including: treatment services, mental health services, public health services, housing, vocational, educational, family, and other support services?
- Where are the gaps in treatment resources? What other ancillary resources do alcohol-abusing individuals need to recover?

### 4. *Planning Committee Expansion*

**Once the need for a DUI/DWI court has been established, it is often helpful to add additional representatives to the planning committee who can enhance the perspectives and resources of the initial group.**

They members may be drawn from:

- Business community
- Educational community
- Public health community
- Faith community
- Day care providers
- Vocational and job training /placement agencies
- Housing providers
- Medical/dental providers
- Program evaluators
- Citizen groups
- Community based entities

While not all of these representatives may be actively involved in the planning process, they can serve as a valuable resource from which to draw upon, as needed, to develop a full range of program services. These representatives will also be able to serve as advocates for the program as planning and implementation occur.

## DEVELOPING PROGRAM OPERATIONAL PROCEDURES

### *1. Mission, Goals and Objectives*

The mission and the goals define the purpose of the DUI/DWI treatment court and provide a road map for its direction.

First turning individual goals into team goals and then developing those team goals into a concise, meaningful mission statement accomplishes this. From those team goals, the team can also develop objectives, which can be evaluated and measured to determine eventual program success.

Below is a sample of some critical issues for this component.

#### *Mission Statement*

Provides a concise and clear statement, which captures the spirit and motivations of the planning team and the goals they hope to accomplish.

#### *Program Goals*

Goals are general statements about what must be accomplished in order to meet your purpose or mission. Program goals may include:

- ✦ Enhancing public safety by reducing number of traffic accidents, injuries and deaths related to DUI/DWI offenses
- ✦ Promoting personal responsibility
- ✦ Improving utilization of community resources
- ✦ Boosting cost effectiveness for the criminal justice system
- ✦ Improving rates of treatment program retention and completion
- ✦ Assuring open access to services and due process
- ✦ Upgrading the functioning of individuals (e.g. acquiring/retaining employment, attaining educational diplomas, improving literacy skills, and retaining children)
- ✦ Improving efficiency of case processing
- ✦ Promoting interagency collaboration between criminal justice and treatment systems
- ✦ Decreasing recidivism

## Program Objectives

Objectives are specific outcomes or action steps to achieve each goal. Exactly what you will attempt to accomplish for whom and in what time period – set of measurable situations, which when achieved will satisfy need. Program objectives should be:

- Clearly stated, realistic results that achieve the program goals
- Quantifiable with measurable outcomes
- Responding to participant, stakeholder, and community needs

## *2.Target Population*

**Identify the population that will be best served by the DUI/DWI treatment court. This will help define the scope and focus of the program.**

Initial considerations in developing the target population may include:

### **Defendant characteristics**

- Risk level of offender
- Extent of substance abuse problem
- Criminal and traffic history

### **Community resources**

- Treatment availability
- Docketing limitations
- Supervision and drug and alcohol testing capacity

### **Policies**

- Community impact
- Political realities
- Geographical obstacles
- Cultural competence
- Language barriers

The nature of alcohol and drug use, arrest patterns, treatment and other resources, as well as justice system handling of substance-involved offenders is continually changing in most communities. What was a given situation at the time of program planning may well change by the time the program has been operating for six months. Redefining the program's target population will be an ongoing aspect of an operational DUI/DWI treatment court.

### 3. Program Eligibility

**Most likely the program can't serve the entire target population. Therefore, eligibility criteria need to be developed to focus on the defendant population that the program can serve.**

Specific eligibility requirements must be designed to ensure consistency in defendant selection and reduce net widening or omission of appropriate candidates.

Generally, the eligible population will be more limited than the targeted population. This will be due, primarily, to a lack of available resources, such as: fiscal, programmatic, transportation, staff, etc.

The concept of eligibility should be broken down into four components: offense qualifiers/disqualifiers and offender qualifiers/disqualifiers.

#### Eligibility Considerations

##### *Offense Qualifiers/Disqualifiers*

- Nature of crime – Drunk driving offense
- Severity of crime – Personal injury involvement
- Type of crime – Alcohol related
- Type of drug – Alcohol

##### *Offense Qualifiers/Disqualifiers*

- Legal
  - Open warrants
  - Pending cases
  - Parole/probation status
- Prior record
  - Violent offenses
  - Weapon offenses
  - Arrests vs. convictions
  - Severity of offense—number of prior DUI/DWI offenses; BAC > .15
  - Length of time since offense
- Personal
  - Demographics – age, residency, gender
  - Severity of alcohol use
  - Types of drugs abused
  - Prior treatment
  - Mental health issues

#### Other Considerations

- Funding sources often require that programs exclude offenders with certain types of criminal histories.
- Exclusion of certain offenses that impact victims.

#### 4. Program Structure (pre-plea, post plea, etc.)

**The type of program structure establishes the method of entry into the DUI/DWI court and subsequent program operations.**

Determining the program model will be based on several factors including:

- The nature of the eligible population (e.g., first offenders or persons with significant prior DUI/DWI convictions)
- Prosecution policies
- Existing programs regarding alcohol-related offenses

Generally, the program structure will have little or no effect on the actual service provided to each participant, which is determined, primarily, by the initial and ongoing clinical assessments of the individuals' alcohol abuse needs and performance in the program.

Below are the most common models; however, a combination of them and others are also employed based upon the individual needs of the jurisdiction.

- Diversion plea—the defendant pleads guilty as a requirement of participation in the program; however, the plea is withdrawn and the case is dismissed upon completion of the program.
- Deferred sentencing—a guilty plea is accepted and sentencing is deferred pending program participation. Upon successful completion of the program an appropriate probationary sentence is imposed or the case is dismissed.
- Post-conviction probation—the defendant is placed on probation with the successful completion of the program as a condition of probation.

#### 5. Screening and Assessment

**Intervention and screening of potential DUI/DWI treatment court participants should occur as soon as possible after arrest to expedite their involvement in treatment and capitalize on motivation for behavior change associated with the crisis of the recent arrest.**

##### *Screening Process*

The screening process determines whether individuals are appropriate and eligible for the program based upon the target population criteria. Potential DUI/DWI court participants screening should address both legal and the clinical components.

**Legal:** Criminal history, offense type, and severity

- The State's Attorney's Office traditionally handles this function; however, the Public Defender's Office, pre-trial services, law enforcement, the DUI/DWI treatment court coordinator or other court personnel can also conduct this assessment.

**Clinical:** Brief assessment of substance abuse, social history, and willingness to participate

- DUI/DWI court case manager, pre-trial services, probation, or the treatment provider can conduct this assessment.

### Assessment Process:

The purpose of the assessment is to properly match the DUI/DWI treatment court candidate with the type of treatment services needed to address problems while ensuring that the community is reasonably protected from the risk of drunk driving behavior.

All candidates are assessed either before entry into the program or at treatment entry to develop individualized treatment plans to establish clinical appropriateness for the treatment provider. A clinically trained and qualified counselor, social worker, psychologist, or psychiatrist should perform this assessment.

Assessments should culminate in a placement that is least intensive/restrictive first and then intensify as clinically indicated. Ongoing assessments, pursuant to accepted clinical practices, are necessary to monitor progress, to change the treatment plan if necessary, and to identify relapse.

Cultural proficiency is an important element of the assessment process and should be considered when engaging the defendant and motivate the individual to want to participate in the program and recognize the advantages it can provide in terms of recovery and life situation. Program staff involved in the assessment process should bear in mind that a significant number of defendants may distrust the justice system and not feel comfortable initially in becoming involved in a program as intensive and intrusive as the drug treatment court.

### *6. Entry Process*

**Detailed procedures to identify and process defendants into the DUI/DWI treatment court program are necessary to expedite the transfer of cases to the program while ensuring that legal safeguards and rights of the individual are preserved.**

The DUI/DWI court team should answer the following questions:

- How will cases flow through the DUI/DWI treatment court system?
- What time frames will apply?
- What court events will apply?
- Will there be a need to create new court events? (e.g., initial program entry hearing, review hearings, etc.)
- How will terminations be handled?
- What mechanisms will be needed to promote early case screening and disposition?

### *7. Incentives and Sanctions*

**Both positive and negative reinforcements help to develop the DUI/DWI treatment court participant's sense of accountability and to encourage compliance with the program.**

#### Incentives:

Criminal justice agencies have traditionally punished negative behavior, and have seldom used incentives to promote positive behavior. The DUI/DWI treatment courts' use of incentives encourages positive behavior by the participant by using a strength-based approach. The program also provides positive reinforcement to those who have rarely received praise. DUI/DWI treatment courts should identify and incorporate the strengths and past successes of the participants and build upon them. The program should constantly look for new ways to encourage participants to succeed.

Incentives might include:

- Applause and/or verbal accolades
- Earning points toward a reward
- Modifying treatment requirements
- Increasing the time between judicial status conferences
- Decreasing supervision
- Early termination from the program
- Waiving of program fees
- Transportation Vouchers

***Sanctions:***

Sanctions are immediate consequences for negative or inappropriate behavior. They demonstrate that participants will be held accountable for relapse and other programmatic and behavioral infractions. They are typically imposed during status hearings. Sanctions should be graduated and become more restrictive as the severity and frequency of infractions increase.

Planning sanctions in advance enables the team to have a rational response to participants who test the limits and boundaries of program rules or who are ambivalent toward treatment. They should be revisited after the program is operational to assess their effectiveness.

Immediacy of consequences is a critical factor in the effectiveness of both incentives and sanctions. Behavior is most effectively addressed when directly attributed to a specific action.

Sanctions may include:

- Increased urinalysis, breathalyzer, supervision, or treatment
- Essay writing
- Community service
- Imposition of a curfew
- Courtroom/jury box detention
- Electronic monitoring or house arrest
- Shock incarceration
- Termination from the program

*8. Judicial Supervision*

**The focus and direction of a DUI/DWI treatment court program are provided through the effective leadership of a single DUI/DWI treatment court judge.**

***Pre-hearing Staffings (Optional):*** Staffings enable the DUI/DWI treatment court team to discuss each case so that the judge will have a foundation for the recommendations made and as relevant background as possible to meaningfully address each participant at the court hearing. Note these staffings are optional and confidentiality policy should be established.

***DUI/DWI Treatment Court Hearings:*** These hearings are conducted in open court to monitor defendants' participation and progress, and to alter case management plans as needed. Conferences generally occur every 2 to 6 weeks depending on the level of the defendant's participation, progress and addiction. Generally, they are more frequent at the initial stages of program participation. If necessary, the DUI/DWI treatment court coordinator will summons the defendant to appear before the judge for an accelerated hearing.

## 9. Community Supervision

**DUI/DWI treatment court supervising agents provide community supervision for all participants and monitor their compliance with conditions imposed by the DUI/DWI court judge throughout the length of the program.**

Community supervision agents apply different levels of supervision designed to help the participants combat their addiction and prevent relapse, as well as to obey the law and comply with program conditions. They maintain close contact with each participant through frequent office and home visits.

Agents will also interact with the treatment team, family members, employers, and social services agencies to implement the team approach to each participant's recovery. They also routinely coordinate, refer, monitor and help manage daily activities to ensure compliance and promote well-being. They often act as the liaison between local agencies and the DUI/DWI treatment court program, striving to incorporate the community into each participant's treatment plan.

Probation agents often provide community supervision for DUI/DWI treatment courts, but this function can be served by other sources, such as treatment or the DUI/DWI court coordinator.

## 10. Substance Abuse Treatment Services

**Treatment is an integral part of the DUI/DWI treatment court program and its role is to provide counseling and techniques of self-examination that promote continued abstinence from alcohol and drugs.**

The program will be most effective if a seamless continuum of services is available and responsive to the needs of each participant. Most treatment programs attempt to accomplish this by varying structure, duration, and intensity of services. A continuum of service allows for placement of individuals recovering from substance abuse in a setting that is equipped to meet individual needs.

Ranges of treatment modalities to treat alcohol and substance abuse addicts are described below:

- ***Early Intervention Services*** – treats patients who may be in the early stages of alcohol or drug use. ***Services include:*** assessment, treatment planning, case management, group or individual counseling, and family services.
- ***Detoxification Services*** – monitors the decreasing amount of alcohol and other drugs in the body, manages withdrawal symptoms, and motivates the individual to participate in an appropriate treatment program for alcohol or other drug dependence.



- **Outpatient detoxification services** – includes physical examination, medical evaluation, assessment, treatment planning, administering and monitoring medication, monitoring vital signs, discharge or transfer planning, and referral services. **Inpatient detoxification services include:** nursing assessment at admission, physical examination, addiction assessment, treatment planning, discharge or transfer planning, monitoring of vital signs, administering of medication, family services, alcohol and drug education, motivational counseling, and referral services.
- **Intensive Outpatient** – provides structured outpatient evaluation and treatment of patients who require programming nine or more hours weekly. **Services include:** assessment, treatment planning, case management services, individual counseling at least once monthly, and leisure and recreational activities.
- **Halfway Houses** – offers a living space, plus treatment services directed toward preventing relapse, applying recovery skills, promoting personal responsibility, and reintegration. **Services include:** case management, individual counseling at least once monthly, and leisure and recreational activities.
- **Long Term Residential Care** — provides structured environment in combination with medium intensity treatment and ancillary services to support and promote recovery. **Services include:** assessment, treatment planning, alcohol and drug education, individual counseling, leisure and recreation counseling, referral services, and assistance with vocational issues.
- **Therapeutic Community** – provides a highly structured environment in combination with moderate to high intensity treatment and ancillary services to support and promote recovery, and uses the treatment community as a key therapeutic agent. **Services include:** medical assessment, physical examination, assessment, treatment planning, medication monitoring, therapeutic activities which may include, individual and group counseling, alcohol and drug education, career counseling, nutrition education, and family services.
- **Medically Monitored Intensive Inpatient Treatment (Intermediate Care)** – provides a planned regimen of 24-hour, professionally directed evaluation, care and treatment in an inpatient setting. **Services include:** weekly individual counseling, treatment planning, group counseling, alcohol and drug education, nutrition education, weekly family sessions, case management, medical evaluation, physical examination, medication monitoring, sub-acute detoxification, medical services, diagnostic services, and referral services.
- **Medication-Assisted Treatment** – uses pharmacological interventions such as an abuse to provide treatment, support and recovery services to alcohol-addicted patients. **Services include:** medical assessment, physical examination, counseling, drug and alcohol testing, medication administration and monitoring, and referral services.

### Accessibility

Accommodations should be made for persons with special needs, including but not limited to:

- Physical disabilities
- Language and fluency issues
- Literacy issues

Treatment programs, ideally, are located in areas that enable access to the support services and are accessible by public transportation, when possible. Treatment services should also be available during both day and evening hours.

### Cultural Proficiency

Treatment services must also be culturally proficient (e.g., have both the staff and services that acknowledge the values and perspectives of the participant’s culture). “Culture” in its broadest sense encompasses gender, race, ethnic background, age, economic status, social status, etc.

## 11. Ancillary Services

**Most DUI/DWI treatment court participants have other problems that contribute to addiction and require variety of other services to aid in recovery.**

Substance abuse treatment services may be limited in their impact if these services are not provided. Therefore, local officials will need to develop a range of support services that should be provided to participants such as:

- AIDS Counseling
- Anger Management
- Childcare
- Cognitive Behavior Therapy
- Legal Assistance
- Life Skills Training
- Meditation or Yoga
- Money Management
- Parenting Skills Training
- Community Support Programs
- Educational Training
- Family Counseling
- Housing Assistance
- Self-Help Groups
- Sexual, Emotional, Domestic Abuse Counseling
- Social/Athletic Activities
- Vocational Training and Placement

## 12. Case Management Services

**The function of case management services is to provide a central point for referral to an array of ancillary services to support DUI/DWI treatment court participants in their alcohol abuse treatment.**

Most treatment providers limit their services to treatment. Therefore DUI/DWI treatment courts may wish to designate an individual to serve as a case manager to oversee the treatment and other services relevant to each participant.

The case manager ensures that each participant receives appropriate services that are needed and can act as a liaison between the court, the participant, the other participating agencies, and service providers.

**Frequent, random and monitored testing provides current information regarding participants' progress and holds them accountable for their actions.**

An effective DUI/DWI treatment court program must have the capacity to:

- Conduct frequent and random alcohol and other drug tests of participants
- Obtain test results immediately
- Maintain a high degree of accuracy in test results

Substance abuse testing within a DUI/DWI treatment court is designed to deter future usage, to identify participants who are both maintaining abstinence or who have relapsed, and to guide treatment and sanction decisions. Research indicates that with greater frequency of tests, drug use declines substantially and the potential for both short and long term successful outcomes is increased.

Alcohol and other drug tests are most commonly conducted in probation offices, treatment agencies, and court offices. However, these tests can be conducted in any public location that will not conflict with public safety and participant's personal development, such as their home, school, or place of employment.

#### **Considerations in Selecting the Appropriate Testing Method**

To determine which testing method will best meet the needs of a DUI/DWI treatment court program consider:

- The volume of tests that will be conducted
- The drugs that will be analyzed
- The number of trained individuals available to conduct the analysis
- The turnaround time needed for obtaining test results
- The need for confirmation of test results
- The quantification of levels of drugs and alcohol required.

***For jurisdictions with limited resources that conduct a small number of tests (e.g., less than 10,000 annually), consideration might be given to:***

- Using an on-site, manual testing methodology for routine tests, with instrument confirmation and analysis conducted by an outside laboratory on an as-needed basis
- Identifying other entities that conduct drug testing and pooling resources to develop the most cost-effective strategy for meeting these multi-agency drug testing needs (State probation departments, for example, frequently conduct a high volume of drug tests for defendants under probation supervision and can add the drug court testing component to their existing operations.)
- Identifying other agencies that might be willing to join with the drug treatment court in developing a cost-effective drug testing capability

***Jurisdictions that decide to use on-site, manual testing methodologies, consider the following:***

- The efficacy of the test in accurately detecting the targeted drug(s)
- Policies regarding confirmatory testing (Will confirmations be made for all positive tests or only in situations in which the test result is challenged? Who will pay for the test if the positive test result is confirmed? Negative?)
- Special procedures for detecting adulteration
- Chain of custody procedures

***14. Graduation/Termination  
Criteria***

**Policies for successful completion of the DUI/DWI treatment court program as well as unsuccessful terminations will need to be addressed prior to program implementation.**

***Typical Graduation Criteria***

- Completion of established treatment plan
- Completing all other DUI/DWI treatment court conditions
- Remaining alcohol, drug and crime free for an established period of time prior to graduation date
- Successfully completing all phases of DUI/DWI treatment court recommended treatment and aftercare
- Paying any outstanding court costs, fines, restitution.

***Graduation Ceremony***

For many participants, completion of the DUI/DWI treatment court program represents the first significant achievement of their lives. A graduation ceremony provides an excellent opportunity to highlight the success of the participants and of the program.

A graduation ceremony can be incorporated into the DUI/DWI court docket or held separately. Regardless, consideration should be given to inviting relatives, friends, and support groups of the participant to the ceremony. Consideration also should be given to inviting a guest speaker to the graduation ceremony and allotting time for the graduates to speak. A certificate of graduation or other form of recognition is appropriate.

***Termination***

Conditions for unsuccessful termination of the DUI/DWI treatment court after graduated sanctions have been exhausted typically are:

- Continued non-compliance with treatment recommendations
- Failure to attend scheduled DUI/DWI court hearings
- Continued non-compliance with supervision guidelines
- Arrest on a new charge which the program determines warrant termination
- Demonstrating violent behaviors towards self or others

### *15. Information System to Monitor Participant Progress and Program Operation*

**An automated management information system (MIS) facilitates the operation of the DUI/DWI court and improves its functioning by compiling and making readily allowable on-going information regarding participant involvement in the program, program operations, and other data.**

Having adequate and current information available on an ongoing basis relating to (1) participant information (e.g., demographics, program status, as well as their individual progress) and (2) program information (available treatment services and their utilization, funding sources, expenditures, etc.) is essential to enable the program to adequately monitor participant progress, oversee program operations, and periodically evaluate the programs' effectiveness and degree to which it is meeting its intended goals. MIS also offer an effective means to facilitate the exchange and sharing of information among team members, including criminal justice, alcohol and substance abuse treatment, mental health, public health, social services, and family services agencies.

An effective MIS will also provide the data needed to assess the operation of the program and its accomplishments as well as make modifications as necessary.

MIS should be designed to provide a wide range of participant information, including the following:

- Screening and assessment information
- Demographic information (including employment, family, living situation, etc.)
- Dates and results of all alcohol and drug tests
- Dates and attendance of all treatment sessions and other services scheduled for the participant
- Schedules of court hearings and actions taken at these sessions (e.g. sanctions imposed, incentives offered, conditions prescribed (e.g., look for work, etc.)
- Ancillary services being provided (e.g., housing, job training, etc.)

All DUI/DWI treatment courts in Maryland will use the University of Maryland's Bureau of Governmental Research's Automated Management Information System (SMART) which is designed to allow for the entry and sharing of offender and client information across various organizational networks, while maintaining confidentiality requirements.

All DUI/DWI treatment court programs in the State of Maryland will have access to SMART and will be provided with user accounts to access client records and enter client data. Access will be granted to authorized staff of each specific agency based on a consent process that is consistent with Titles 42 and 28 of the Code of Federal Regulations.

### *16. Ongoing Program Review and Evaluation*

**Routine review of program operations is essential in order to manage and to modify as needed.**

Evaluations are critical to assess the operations of the program and to determine the accomplishments relative to the program's objectives. An objective evaluation which examines important issues and concerns for the DUI/DWI court's stakeholders will support future funding endeavors, gain community support, and may facilitate passage of legislation to assist the DUI/DWI court movement.

Several types of DUI/DWI treatment court evaluations are utilized to assess the overall operational effectiveness and success of these programs and include:

**Process Evaluations**

- Documents how the DUI/DWI treatment court program is currently operating and contrasts that with how it was intended to operate

**Outcome Evaluation**

- Assesses the effect of the DUI/DWI treatment court program on the lives of the DUI/DWI court participants after they have left the program, as compared with outcomes associated with more traditional criminal justice processing
- Focuses on a wide range of outcomes for (1) the participant (e.g., abstinence, employment, family unification, etc.), (2) the criminal justice system (e.g., recidivism, criminal case processing efficiency, etc.), and (3) the larger community (jail utilization, public health, etc.)

**Cost Analysis**

- An economic analysis that contrasts cost and benefits to help determine whether the DUI/DWI treatment court program warrants sustained or increased funding.
- It addresses the question of how the DUI/DWI court compares with the costs for probation or incarceration as well as other societal costs associated with crime such as, poor health, child welfare, workforce production, and consequences of continued substance abuse.

## Addressing Policy Issues

### 1. *Assuring Due Process*

**DUI/DWI treatment courts function within the traditional criminal case adjudication system, and therefore, must comply with constitutional, statutory and other provisions applicable to the**

The DUI/DWI treatment court program may alter traditional relationships among justice system officials and treatment providers. Defendants may waive certain rights in return for entry into a DUI/DWI treatment court program; the fundamental rights of each defendant to representation and due process should not be jeopardized.

In particular, eligible participants should be assured the opportunity to consult with counsel prior to program entry and should be represented by counsel throughout the period of program participation. They should be clearly informed of the requirements of the DUI/DWI treatment court program, including potential sanctions to which they may be exposed for noncompliance with program conditions. The DUI/DWI court team should make relevant recommendations regarding participant placement, sanctions, incentives, etc., but all judicial decisions remain the responsibility of the judge.

### 2. *Confidentiality*

**The confidentiality of alcohol and drug abuse patient records is governed by Federal regulations 42CFR Part 2 and HIPPA regulations which cannot be disclosed without written consent of the participant unless otherwise stated in the regulations.**

Federal law and regulations do not protect any information regarding suspected child abuse or neglect from being reported under state law to appropriate state or local authorities. Other instances of mandated reporting are in case of emergency, threats to harm self or others or for research purposes.

### 3. *Relapse*

**Relapse is described as a series of behaviors that lead to and include the actual drug or alcohol use following a period of abstinence.**

Regardless of the care and effort made by the treatment provider and/or the participant, relapse often occurs and may be related to a variety of reasons including: client's history of physical, sexual or emotional trauma, environmental conditions, self-efficacy, co-occurring disorder and physiological state.

Relapse, although not condoned, is generally accepted as part of the recovery process and, although a judicial response should result, it is not, in itself, a cause for program termination, as long as

the defendant continues to participate in treatment and complies with other program conditions. However, the DUI/DWI court team should establish clear requirements for the number of relapse episodes that the court will tolerate and the court's response to each one. Rather than the typical criminal justice response to drug or alcohol usage, the primary response should be to enhance treatment, however, the use of graduated sanctions should be considered when appropriate.

#### *4. Alumni Activities*

**Alumni groups provide valuable support, continued structure, guidance, and networking opportunities for those who have already graduated and who are preparing for graduation.**

Alumni volunteers can assist the program as follows:

- Serve as mentors to new participants
- Serve as peer counselors on DUI/DWI court hearing days
- Attend monthly meetings
- Plan social activities
- Facilitate relapse panels for current participants
- Develop and distribute newsletters
- Speak at graduations and host receptions
- Develop resource networks and support for alumni who may have relapsed or have other needs.

#### *5. Cultural Competence*

**Culture has been defined as “the shared values, traditions, norms, customs, arts, history, folklore, and institutions of a group of people.” A person's cultural affiliation often determines the person's values and attitudes about health issues, and even the use of alcohol, tobacco, and other drugs. It may also influence a person's willingness to participate and respond to treatment services**

Cultural competence refers to a set of interpersonal skills that allow individuals to increase their understanding and appreciation of cultural differences and similarities within, among, and between groups. This requires a willingness and ability to draw on community-based values, traditions, and customs and to work with knowledgeable persons in developing targeted interventions, communications, and other support.

A culturally competent program is one that demonstrates sensitivity to and understanding of cultural differences in program design, implementation, and evaluation. Culturally competent programs:

- Acknowledge culture as a predominant force in shaping behaviors, values, and institutions
- Acknowledge and accept that cultural differences exist and have an impact on service delivery
- Believe that diversity within cultures is as important as diversity between cultures
- Respect the unique, culturally defined needs of various client populations
- Recognize that concepts such as “family” and “community” are different for various cultures and even for subgroups within cultures
- Understand that people from different racial and ethnic groups and other cultural subgroups are usually best served by persons who are a part of or understand their culture and recognize the potential impact of one's cultural values on one's response to the drug treatment court program
- Recognize that taking the best of both worlds enhances the capacity of all



## 6. Media and Public Relations

**Success of the DUI/DWI treatment court, to a large extent, depends upon public awareness and acceptance.**

Public interest and media attention will inevitably be drawn to the DUI/DWI court program. For this reason, a public relations strategy should be developed before the DUI/DWI court even becomes operational. Community meetings, MADD groups, radio and television programs, legislative events, and public hearings provide excellent forums to educate the public, media, and legislature regarding the program.

The day the DUI/DWI treatment court enters its first participant is usually the worst time for the DUI/DWI treatment court team to manage media coverage. Challenges routinely surface at the start of the program and are better resolved away from media scrutiny. However, since media will be aware of the DUI/DWI treatment court prior to its actual implementation, a news conference should be scheduled as quickly as possible after, or even before commencement, to answer questions, and to discuss activities and access to the program in the future. Media kits, consisting of a *Fact Sheet* and other information regarding the program and the nature of substance abuse in the community, are helpful in disseminating information and are greatly appreciated by reporters.

The media may also ask to film or photograph a live session of the DUI/DWI court or attend a pre-hearing conference. Great care should be exercised in granting such requests due to the participant's rights to confidentiality. Since filming is prohibited in Maryland's courts, consider the following alternatives:

- Stage mock courtroom proceedings.
- Allow several participants to be interviewed. (Be sure to secure 42 CFR confidentiality waivers prior to interviews.)

## 7. Oversight Committees

**Oversight committees provide advisory services regarding the design, implementation, operation, and improvement of the DUI/DWI treatment court. In many instances, these committees also assist in gaining community support.**

The size of oversight committees varies and routinely includes the DUI/DWI treatment court team. In addition, membership frequently includes representatives from the legal, medical, education, business, faith, and public health sectors of the local community, citizen representatives, local anti-drug initiatives representatives, and DUI/DWI court alumni representatives.

The frequency of oversight committee meetings can vary, however, in the beginning, the meetings should generally be held fairly frequently.

The formation of other committees may also be necessary to address specific issues such as funding, evaluation, operational issues, public relations, and ancillary resources.

## 8. *Funding the Program*

**Securing stable and dedicated funding from a combination of local, state, federal, and private sources is a critical need of all DUI/DWI treatment court programs.**

A comprehensive funding strategy should include identifying potential government and private sources at the national, state, and local levels. The type of information that needs to be obtained and distributed to funding sources should always demonstrate the worth of the DUI/DWI treatment court program from a variety of governmental and social perspectives. Law enforcement agencies and the Maryland Highway Safety Office, for example, have been very supportive of DUI/DWI courts, frequently providing funds.

### **Consider:**

- Providing evaluation results for the DUI/DWI treatment court program to show that the basic concept is viable and cost effective
- Emphasizing collaboration and development of alliances at local and state levels, and between local and state executive and legislative leaders
- Incorporating a fee schedule, which is commensurate with each participant's ability to pay. However, no one should be turned away solely because of an inability to pay
- Incorporating a community service component as part of treatment plan

## RESOURCES

Florida Supreme Court, State Justice Institute. (1991) Manual: Treatment-Based Drug Courts...a Guide (Available from The Office of the State Courts Administrator, Florida Supreme Court 500 South Duval Street, Tallahassee, Florida 32399-1900)

Ashcraft, Ron & Bronstad, JoAnn & Huntington, Bill. (1998, March) Oklahoma Drug Court: A Guide for Planning and Implementation. (Available from State of Oklahoma, Department of Mental Health and Substance Abuse Services, P.O. Box 53277 Oklahoma City, OK 73152-3277)

Belenko, Ph.D., Steven. (1998, June) Research on Drug Courts: A Critical Review. (Available from Volume 1, Issue 1 of the National Drug Court Institute, Summer 1998, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

Fulton Hora, The Honorable Peggy & Schma, The Honorable William G. & Rosenthal, John T. A., (1999, January) Therapeutic Jurisprudence and the Drug Treatment Court Movement. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

National Drug Court Institute, (1999, April) Federal Confidentiality Laws and How They Affect Drug Court Practitioners. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

National Drug Court Institute, (1999, April) Monograph: Drug Courts: Research Agenda. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

National Drug Court Institute, (1999, May) Development and Implementation of Drug Court Systems. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

Robinson, M.F.S., T.C., S.C., M.T., Jerome J. & Jones, Ph.D., D.A.B.C., D.A.B, F.E., James W.. (2000, May) Drug Testing in a Drug Court Environment: Common Issues To Address. (Available from the OJP Drug Court Clearinghouse, American University, Justice Program Office 4400 Massachusetts Ave., N. W. Brandywine, Suite 100 Washington, D. C. 20016)

National Drug Court Institute, (2000, June) Fact Sheet: The Critical Need for Jail as a Sanction in the Drug Court Model. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

National Drug Court Institute, (2003, April) Critical Issues for Defense Attorneys in Drug Court, Monograph Series 4. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)

National Drug Court Institute (1999, March) DUI/Drug Courts: Defining a National Strategy, Monograph Series 1. (Available from National Drug Court Institute, 4900 Seminary Road, Suite 320, Alexandria, VA 22311)