

Maryland Drug Courts



Family/Dependency Drug Treatment Court Programs

Office of Problem-
Solving Courts

Maryland's Guidelines for Planning and Implementing

**Family/Dependency
Drug Treatment
Court Programs**



MARYLAND'S GUIDELINES FOR PLANNING AND IMPLEMENTING

Drug Treatment Court Programs

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Preface

Drug treatment courts are built upon a unique partnership between the criminal justice system and the drug treatment community. A single drug treatment court judge, through his or her authority and personal involvement, structures treatment intervention. Drug 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 drug abuse and criminal behavior.

Maryland's Guidelines for Planning and Implementing Family /Dependency Drug Treatment Court Programs was developed to assist planning jurisdictions with the planning and implementation of successful drug treatment courts. These guidelines provide a suggested road map for drug court development while allowing for jurisdictional creativeness and individuality.

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. And in July of 2007, Maryland has seen the number of Drug Treatment Courts rise to over 36 operational programs with several others in their planning stages.

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.

The Drug Treatment Court Commission of Maryland became active in 2002 pursuant to an order of Chief Judge Robert M. Bell. The Commission was recognized as the lead agency in the State's effort to operate and maintain drug treatment court programs for the State of Maryland. Commission members included: 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, providers of addiction treatment services, and community leaders.

In December of 2006 Chief Judge Robert M. Bell of the Court of Appeal issues an administrative order to establish a Standing Committee on Problem-Solving Courts. These courts, such as drug treatment and mental health courts have grown as public and other branches of state government look to the courts to help solve the problem of crime through non-traditional methods.

This committee did not disband the current Drug Treatment Court Commission nor change its focus. Rather it institutionalized the work the Commission had done over the nearly 5 years by having it report directly to the Problem-Solving Court Standing Committee.

Planning A Family/Dependency Drug Treatment Court

1. Judicial Leadership

The planning and implementation of a family/dependency drug treatment court program is a demanding process, which requires on-going judicial leadership and oversight.

Firm judicial leadership is critical to the success of the drug treatment court and requires at least one judge to promote the feasibility/planning process and the planning committee.

2. Planning Committee

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

Stakeholders should include the following:

- Juvenile judge/Master
- Director of local drug and alcohol treatment provider
- Local Board of Education
- Local law enforcement
- Mayor or county executive's office
- Local public defender
- Local Child's Counsel
- Department of Social Services
- Local Health Department
- CASA
- Mental Health Providers
- Court Clerk

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 drug court is needed in a particular jurisdiction depends on a determination of whether current practices and services for handling substance-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 drug offenders and potentially the utility of a drug court program can include:

- Relatively high percentage of child abuse/neglect cases related to parent substance abuse
- Relatively high percentage of children born drug/alcohol exposed
- Relatively high percentage of cases involving substance abuse
- Relatively high rates of addiction to alcohol and other drugs reflected in the population
- Relatively low rates of substance abuse treatment retention for this population
- Relatively high rates of prior cases resulting in Termination of Parental Rights (TPR)

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

Identifying the problems

Symptoms of ineffective practices regarding the court's handling and disposition of substance abusing parents/guardians are generally reflected in (1) percentage of parents/guardians who are drug users; (2) relatively high rates of relapse; and (3) prior history of involvement with the juvenile dependency court system. 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 Department of Social Services staff can be very helpful in compiling this sample.

Information needed to determine current practices

- Parent/Guardian demographics: age, gender, race, ethnicity, education, public assistance status, employment status
- Substance abuse history
- Prior Child Protective Services (CPS) history
- Relapse rates among the current substance-abusing population
- Family dependency treatment resources available/needed
- Current dependency court practices involving substance abusing parents

Identify treatment availability

- What treatment services are available in the community? Where are they located? What are their eligibility requirements?
- What is the waiting time for a defendant to enter treatment? What is the nature of the treatment being provided? What mechanisms are used to determine whether a parent has stopped using drugs following his/her adjudication?
- What mechanisms ensure the coordination and the delivery of services as well as accountability of both the service providers and the parents?
- 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 substance-abusing individuals need to recover?

4. Planning Committee Expansion

Once the need for a drug 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
- Community based entities
- Parent Aide/Support Services
- Child Advocates
- Housing providers
- Medical/dental providers
- Program evaluators
- Citizen groups

While not all of these representatives may be involved actively 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 also will 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 drug treatment court and provide a road map for its direction.**

This is accomplished by first turning individual goals into team goals and then developing those team goals into a concise, meaningful mission statement. From those team goals, the team also can 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:

- Promoting safety and permanency for children
- Assisting in establishing permanency for families more quickly
- Improving efficiency of case processing to meet ASFA (Adoption Safe Families Act) timelines
- Acquiring effective parenting skills
- Enhancing integrated treatment opportunities and services for families
- Promoting personal responsibility
- Improving utilization of community resources
- Increasing cost effectiveness for the child welfare systems
- Increasing treatment program retention and completion
- Improving access to services
- Enhancing the functioning of parent (e.g. acquiring/retaining employment, attaining educational diplomas, acquiring/maintaining housing, improving literacy skills)
- Promoting interagency collaboration between the courts, child welfare, and treatment systems

- Developing and maintaining community support for families and systems

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

Example: Goal: Promoting safety and permanency for children Objective#1 Decreasing length of time in out of home care

Objective#2 Decreasing rate of reoccurrence of abuse and neglect

Objective#3 Decreasing rate of occurrences of relapse

2.Target Population

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

Initial considerations in developing the target population may include:

Parent characteristics

- Abuse and neglect history
- Mental Health
- Physical Health
- Extent of substance abuse problem
- Criminal history

Community resources

- Treatment availability
- Docketing limitations
-

Case management and drug testing capacity Policies

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

The nature of drug use, abuse and neglect patterns, treatment and other resources, as well as child welfare system handling of substance-involved parents, 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 drug treatment court.

3. Program Eligibility

In many cases the program can't serve the entire target population.

Therefore, eligibility criteria need to be developed to focus on the substance-abusing parent that the program can serve.

Specific eligibility requirements must be designed to ensure consistency in parent 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, e.g., fiscal, programmatic, transportation, staff, etc.

Eligibility Considerations

Case Characteristics

- Reunification must be the plan
- No cases where "waiver of reasonable efforts" applies
- Cases identified at shelter care. Parent's agreement to enter FDTC and treatment will not be used against parent.
- Positive toxic screened babies with indicated neglect
- Parents who maintain custody, but who have neglect indicated with a petition.
- Parents who maintain custody post disposition (Order of Protective Supervision)

4. Program Structure

The type of program structure establishes the method of entry into the drug court and subsequent program operations.

There are a variety of FDTC Models currently in operation. It is important for each jurisdiction to consider each of the models or some hybrid to determine what is the best model for their jurisdiction.

Two-System Models

The System-wide Family Dependency Treatment Court

In this model, all appropriate cases enter some level of treatment services, with more intensive cases participating in the Family/Dependency Drug Treatment Court.

The Stand-Alone FDTC

Serves a subset of substance abusing parents

Two Court Models

The Two-Judge Model (Parallel)

In this model, the Dependency or CINA Court is separate from the “Drug Court”. A judge presides over the dependency case, where the primary focus is on permanency. These cases remain on the regular dependency/CINA docket.

The Drug Court Judge presides over the proceedings where the primary focus is on the noncompliant parent who is ordered into or voluntarily enters drug court to address substance abuse issues separate from the contempt processing. These cases are scheduled on a separate, specialized drug court docket.

The One Judge, One Family Model (Integrated)

In this model, both dependency and sobriety issues are addressed by one consistent judge/master. Because of the judge’s involvement in both proceedings, he/she remains acutely aware of ASFA timelines and other family issues which contribute to both cases. The child welfare agency and treatment case managers play an integral role in both models by developing and maintaining community support, enhancing integrated treatment opportunities and services, and assisting in establishing permanency for families more quickly.

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

- The nature of the target population (e.g., parents with significant prior contact with the child welfare system)
- Existing programs regarding drug-abusing parents

Generally, the program structure will have little or no effect on that actual service provided to each participant, which is determined, primarily, by the initial and ongoing clinical assessments of the individuals’ strengths and needs including; mental health, substance abuse, medical, housing, educational, and parenting, etc.

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

- Voluntary—Prior to the filing of the petition the parent can be referred.
- Pre-Adjudication—Referral is made at shelter care.
- Dispositional—Participation in FDTC is required as part of disposition.

5. Screening and Assessment

Intervention and screening of potential drug treatment court participants should occur as soon as possible after identifying clients, to expedite their involvement in treatment and capitalize on motivation for behavior change associated with the crisis of the recent removal of the child.

Screening Process

The screening process determines whether individuals are appropriate and eligible for the program based upon the target population criteria. Potential drug court participants screening should address both case characteristics and the clinical components.

Case Characteristics and Clinical Components:

- Abuse and neglect cases where substance abuse appears to be a contributing factor. The screening function could be handled by the DSS, who is responsible for assessing the family's needs, the Drug Treatment Court Coordinator or other court personnel.
- A brief assessment of substance abuse, social history, mental health, primary health care, family violence and other environmental factors, and willingness to participate can be performed by the drug court case manager, protective services workers, certified addictions specialist, or the treatment provider can conduct this screening.

Screening Best Practices

- Services should be housed in or near the Courthouse. This would allow the participant to be physically delivered by the Parent Attorney or other court personnel.
- Use of standardized screening instruments to ensure valid and consistent drug treatment court referrals.

Assessment Process:

The purpose of the assessment is to match the drug treatment court candidate with the appropriate treatment services needed while ensuring the safety of children.

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 Certified Addictions Counselor (CAC), Licensed Certified Professional Counselor (LCPC), Licensed Certified Social Worker (LCSW), Licensed Psychologist, or Psychiatrist should perform this assessment. Treatment assessments in Maryland should include an ASAM (American Society of Addiction Medicine) Level of Care.

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 and motivating 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 participants may distrust the system and not feel comfortable initially in becoming involved in a program as intensive and intrusive as the drug treatment court intrusive as the drug treatment court

6. *Entry Process*

Detailed procedures to identify and process defendants into the drug treatment court program are necessary

The drug court team should answer the following questions:

- Will there be an Integrated or Parallel drug treatment court model utilized?
- What mechanisms will be needed to promote early identification?)
- How will cases move through the drug treatment court system? What time frames will apply?
- What court events will apply?
- How will program terminations be handled?

7. *Incentives, Sanctions, and Treatment Responses*

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

Incentives:

Courts have traditionally used punishment as a response to negative behavior and rarely have used incentives to encourage positive behavior. Drug treatment courts use a variety of incentives to encourage positive behavior with a strength-based approach. The program also provides positive reinforcement to those who have rarely received praise. Drug treatment courts should identify and incorporate the strengths and past successes of the participants and build upon them. The program should look constantly 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 drug/alcohol testing
- Donated goods and services
- Certificates of completions of phases or programs

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

Note: It is not recommended that increased or decreased visitation be used as an incentive or sanction.

8. Judicial Supervision

The focus and direction of a drug treatment court program are provided through the effective leadership of a single drug treatment court judge

- ***Pre-hearing Staffings:*** Staffings enable the drug treatment court team to discuss each case so that the judicial officer will have a foundation for the recommendations made and as relevant background as possible to address each participant meaningfully at the court hearing.
- ***Drug Treatment Court Hearings:*** These hearings are conducted in open court to monitor participants' participation and progress, and to alter case management plans as needed. Conferences generally occur every 2 to 6 weeks depending on the level of participant participation, progress and addiction. Generally, they are more frequent at the initial stages of program participation. If necessary, the drug treatment court coordinator will summons the participant to appear before the judicial officer for an accelerated hearing.

9. Treatment Services

Integrated treatment is an essential part of the drug treatment court program and its role is to provide counseling and techniques of self-examination that promote recovery and improve well-being.

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. When developing jurisdictional models it is critical to choose treatment providers who recognize the importance of providing concurrent treatment for mental health and substance abuse. Providers must have appropriate certification and licensure by the Department of Mental Health and Mental Hygiene, Alcohol and Drug Abuse Administration.

Ranges of treatment modalities to treat substance abusers 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 include:** 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, and 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 methadone to provide treatment, support and recovery services to opium-addicted patients. **Services include:** medical assessment, physical examination, counseling, drug 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 also should be available during both day and evening hours and provide access to childcare.

Cultural Proficiency

Treatment services must 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, and social status.

10. *Ancillary Services*

Most drug 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 participant such as:

- AIDS Counseling
- Anger Management
- Children's Services
- Childcare
- Community Support Programs
- Educational Training
- Family Counseling
- Housing Assistance
- Legal Assistance
- Life Skills Training
- Meditation or Yoga
- Money Management
- Parenting Skills Training
- Primary Health Care
- Self-Help Groups
- Sexual, Emotional, Domestic Abuse Counseling
- Social Skills
- Physical/fitness Activities
- Vocational Training and Placement

11. 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 drug treatment court participants in their substance abuse treatment.

Most treatment providers limit their services to treatment. Therefore drug 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.

Case management is a method of providing myriad services to client based upon a comprehensive biopsychosocial assessment of a client's needs (Brennan & Kaplan, 1993). A biopsychosocial assessment determines the client's strengths and limitations, as well as the social, financial, and institutional resources available to assist the client in obtaining treatment goals. A professional case manager arranges, coordinates, monitors evaluates, and advocates for a package of services designed to meet the specific complex needs of a client and his/her family. The primary goal is to optimize client functioning by providing high quality service in the most efficient and effective manner to individuals with multiple complex needs (Brennan & Kaplan, 1993). The individualized service plan identifies priorities, desired outcomes, and strategies and resources to be used to obtain outcomes. Moreover, the case manager must periodically reassess the client in order to update the individual service plan for its effectiveness and the progress of attaining desired outcomes. If the plan is not attaining the desired outcomes, the intervention strategy will need to be revised. A case manager needs to understand and be aware of how the service system environment can both positively and negatively affect a client's progress, as well as how to intervene systemically to optimize a client's opportunity to succeed (Brennan & Kaplan, 1993).

12. Alcohol and Other Drug Testing

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

An effective drug 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 drug treatment court is designed to deter future abuse, 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 outcomes is increased.

Alcohol and other drug tests are most commonly conducted in 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 particular drug 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 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? Negated?)
- Special procedures for detecting adulteration
- Chain of custody procedures

13. Graduation/Termination Criteria

Policies for successful completion of the drug 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 drug treatment court conditions
- Remaining drug and crime free for an established period of time prior to graduation date
- Successfully completing all phases of drug treatment court recommended treatment and aftercare

Graduation Ceremony

For many participants, completion of the drug 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 drug 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 drug treatment court after graduated sanctions have been exhausted typically are:

- Continued non-compliance with treatment recommendations
- Failure to attend scheduled drug 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

14. Information System to Monitor participant progress and program operation

An automated management information system (MIS) facilitates the operation of the drug court and improves its functioning by compiling and making readily available on-going information regarding participant involvement in the program.

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 adequately to 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, substance abuse treatment, mental health, public health, social services, and family services agencies.

An effective MIS also will 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 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 drug treatment courts in Maryland will use the University of Maryland's Institute for Governmental Services and 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 drug 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.

15 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 drug court's stakeholders will support future funding endeavors, gain community support, and may facilitate passage of legislation to assist the drug court movement.

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

Process Evaluations

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

Outcome Evaluation

- Assesses the effect of the drug treatment court program on the lives of the drug 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 resulting for (1) the participant (e.g., family reunification, abstinence, employment, educational credentials, acquiring/maintaining housing, etc.), (2) the child welfare system (e.g., reduced time in foster care, improving efficiency of case processing to meet ASFA timelines, increasing cost effectiveness of services, etc.), and (3) The larger community (decreased criminal activity, public health, etc.)

Cost Analysis

- An economic analysis that contrasts cost and benefits to help determine whether the drug treatment court program warrants sustained or increased funding.
- It addresses the question of how the drug 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

Family Dependency Drug Treatment Courts (FDDTC) function within the traditional Child In Need Of Assistance (CINA) juvenile court division, and therefore, must comply with constitutional, statutory and other provisions applicable to the CINA/TPR case

The family dependency drug treatment court program may alter traditional relationships among CINA court professionals, parents and treatment providers. Parents/custodians may waive certain rights in return for entry into a drug treatment program; however the fundamental rights of each party to legal representation and due process should not be jeopardized. Each participant should be clearly informed of the requirements of the FDDTC program, including whether participation is mandatory or voluntary and potential sanctions to which participants may be exposed for non-compliance with program conditions. 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 entire period of program participation.

It has been said that drug courts “invade” the confidentiality between patient and his/her treatment provider so that compliance information may flow freely between the treatment provider, attorneys representing the agency, child, parent and the judge/master presiding over the FDDTC. Since this is clearly a departure from the traditional patient-health care provider relationship, participants’ attorneys must be certain to advise their clients as to the nature and purpose of the FDDTC, including advice on alternative courses of action. Further, participants should be advised that he or she will be expected to speak truthfully and directly to the judge/master and not through an attorney.

In addition to due process issues, judges, in particular, are faced with ethical considerations when presiding over a FDDTC. Some issues to be considered would be conflicts of interest when actively participating in team meetings and then imposing sanctions for non-compliance; ethical considerations with “one judge-on family” models in which the same judge who presides over the CINA court also presides over the FDTC; and possible claims of ex part communications when a judge discusses the participant’s progress out of court with any one member of the treatment team outside a

2. ASFA Timeline Constraints

All cases involving children who are placed into foster care are governed by federal law, as established by ASFA (the Adoption and Safe Families Act of 1997)

When the local department assumes custody of a child due to issues of abuse or neglect, there

must be reasonable efforts made to facilitate a plan of reunification, except in cases involving aggravating circumstances. Subsequently, if the child remains in out-of-home placement for 15 of 22-months, AFSA requires the department to pursue termination of parental rights (TPR).

ASFA mandates strict timelines for children that are in out-of-home placements. Focusing mainly on issues of permanency for the child, the federal rules require the court to make a decision of permanency within a short fixed period of time. In contrast, the timelines for treatment must be fluid and extended based upon the needs of the client and the availability of resources. As a result, there is a great deal of tension between these timelines. ASFA mandates a judicial determination as to whether the agency is making reasonable efforts to rehabilitate the family and eliminate the need for continued placement of a child.

Competing timelines exist between the statutory mandates of the Adoption and Safe Families Act (ASFA) of 1997, and a course of successful addiction treatment and recovery. Courts and stakeholders are charged with the task of determining a permanency plan for a child found a Child In Need of Assistance (CINA) and committed to the department of social services no later than 11 months after the child enters an out of home placement. (see Maryland Courts and Judicial Proceedings Article, Section 3-823 (b)). ASFA and Maryland law require that reasonable efforts be made to reunify the family unless the child has been subjected to aggravated circumstances. In addition, ASFA requires states to initiate termination of parental rights proceedings if a child under the age of ten has been in foster care for eighteen of the previous twenty-two months, while the length of time for addiction treatment can last over a period of years. If the child has been in foster care or placed with a relative for eighteen of the prior twenty-two months, the court must find “compelling reasons” to excuse the filing of a petition for termination of parental rights. “Obviously, there is a tension between these deadlines and the course of recovery for most persons from a serious drug or alcohol addiction. If it takes a minimum of one year in most drug courts before we can reasonably say that a person has achieved sobriety, and since the permanency decision must be made within the same 12 months, the parents are under considerable pressure; indeed, they are caught in the rip tide of competing legal currents.”¹

In order to balance the permanency vs. treatment timeline, it would be necessary to know with certainty the length of time needed for successful drug treatment. However, the key question that remains unanswered is “how long does it take for successful drug treatment?” Because there is no quick and easy answer, complying with the strict timelines dictated by ASFA is assuredly difficult at best and impossible at worst. “Individuals progress through drug addiction treatment at various speeds, so there is no predetermined length of treatment. However, research has shown unequivocally that good outcomes are contingent on adequate lengths of treatment. Generally, for residential or outpatient treatment, participation for less than 90 days is of limited or no effectiveness, and treatments lasting significantly longer often are indicated. For methadone maintenance, 12 months of treatment is the minimum, and some opiate addicted individuals will continue to benefit from methadone maintenance treatment over a period of years. Many people who enter treatment drop out before receiving all the benefits treatment can provide. Successful outcomes may require more than one treatment experience. Many addicted individuals have multiple episodes of treatment, often with a cumulative impact.” Taking this into consideration, one must question the possibility, or even the probability, that a person can become both sober and learn how to resolve interpersonal conflicts with family members and learn how to become a nurturing parent all within the one year ASFA timelines. “Further, unless the courts are willing to help create and monitor comprehensive services for men, women and children, then an excellent legal argument can be made that the state has violated its covenant to perform reasonable efforts to preserve the family within the tougher time lines set out in the Act. Thus, the birth of the Family Drug Court is, in many jurisdictions, not simply an innovation or a luxury. Instead, the Family Drug Court becomes a flat out necessity.”

¹Impact of The Adoption and Safe Families Act of 1997, Applying Drug Court Concepts in the Juvenile and Environments, A Primer for Judges, June 2000 (rev.)

²Principles of Drug Addiction Treatment, A Research-Based Guide, National Institute on Drug Abuse, p. 14

³Applying the Drug Court Concepts, p.20.

3. 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.

4. 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, generally is 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 participant continues to participate in treatment and complies with other program conditions. The drug 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.

5. *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 drug 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.

6. *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 persons 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
- Fosters an increased awareness, acceptance, valuing and utilization of and an openness to learn from general and health related beliefs, practices, traditions, languages, religions, historical and current needs of individuals and the cultural groups to which they belong

- 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
- Identify ways to identify and work with biased professionals
- Adopt policies to address the dynamics of race, ethnicity, power, socioeconomic status and culture
- Offer services that recognize and value various cultures and ethnic groups as well as build upon the strengths of minority children, families, and communities.
- Promote child welfare policies that are flexible to accommodate the specific needs of all cultural and ethnic groups which are being served by the courts and local agencies

7. Media and Public Relations

Success of the drug treatment court, to a large extent, depends upon public awareness and acceptance.

Public interest and media attention inevitably will be drawn to the drug court program. For this reason, a public relations strategy should be developed before the drug court even becomes operational. Community meetings, 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 drug treatment court enters its first participant is usually the worst time for the drug treatment court team to manage media coverage. Challenges routinely surface at the start of the program and are better resolved away from media scrutiny. Since media will be aware of the drug 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 also may ask to film or photograph a live session of the drug 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.)

8. Oversight Committees

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

The size of oversight committees varies and routinely includes the drug 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 drug 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.

9. Funding the Program

Securing stable and dedicated funding from a combination of local, state, federal, and private sources is a critical need of all drug 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 drug treatment court program from a variety of governmental and social perspectives.

Consider:

- Providing evaluation results for the drug 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 community service component as part of treatment plan

RESOURCES AND BIBLIOGRAPHY