

**SOUTHERN REGION DRUG COURT
BEGINNING WITH
THE MERCER COUNTY DRUG COURT
POLICY AND PROCEDURES MANUAL
2006**

- THIS MANUAL REFLECTS LOCAL OPERATIONS AND WILL BE INCORPORATED AND/OR MODIFIED FOR CONSISTENCY WITH THE WEST VIRGINIA TREATMENT COURTS ADULT DRUG COURT POLICY AND PROCEDURES MANUAL UPON COMPLETION AND APPROVAL BY THE WEST VIRGINIA SUPREME COURT OF APPEALS
- THIS MANUAL IS SUBJECT TO REVISION AS NEEDED

DRUG COURT PLANNING INITIATIVE POLICIES AND PROCEDURES MANUAL

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STEERING COMMITTEE

The committee should be comprised of executive level personnel from each agency to facilitate the process, to expeditiously resolve issues and to provide buy-in at the upper echelon, so that later committees with non-executive level personnel will be comprised of people who are confident that the Head of each agency has made drug court a priority mission. The committee should have a clear purpose; roles of members defined and meet on a regular basis.

The steering committee of the Southern Region Drug Court, beginning with the Mercer County Drug Court, includes the following personnel from a broad community partnership:

Derek C. Swope, Circuit Court Judge for the Ninth Judicial Circuit and Southern Region Drug Court Judge

Linda Richmond Artimez, Director for Mental Hygiene Services and Treatment Courts Project Director for the West Virginia Supreme Court of Appeals Administrative Office

Michael D. Flanigan, Mercer County Magistrate

Danny R. Wills, Sheriff of Mercer County

Sgt. Melissa D. Clemons, West Virginia State Police

William Sadler, Prosecuting Attorney of Mercer County

Scott A. Ash, Chief Public Defender for Mercer County

Steven L. Collins, Executive Director Community Corrections and Director Mercer County Day Report Center

Laura Helton, Drug Court Coordinator

James Baker, Southern Highlands Mental Health Center

Joseph G. Allen, Chief Adult Probation Officer for Mercer County

Terri Pierce, Probation Officer for Mercer County

Doug Workman, Southern District Supervisor Parole Services

Dr. John David Smith, Research Evaluator for Concord University

PLANNING TEAM

The working group of people to carry out the daily tasks involved in planning the drug court program. The group should meet regularly as a team and also with the steering committee.

The planning committee of the Southern Region Drug Court, beginning with the Mercer County Drug Court, includes the following personnel from a broad community partnership:

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MISSION STATEMENT

A brief statement developed by the drug court team that reflects the purpose of the drug court.

The mission of the Southern Region Drug Court, beginning in Mercer County, is to protect and improve the community by reducing substance abuse based criminal activity through an intensive treatment process; thereby reducing the costs of incarceration and economic loss to the community, freeing resources for more productive uses and returning useful members to the local community.

GOALS AND OBJECTIVES

Goals are general statements about what you need to accomplish to meet your purpose, or mission, and address major issues facing the drug court.

Objectives are specific activities or action steps to implement 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.

OVERALL GOAL: To stop illicit use and abuse of addictive substances and curtail related criminal activity that brings individuals into the criminal justice system.

OBJECTIVES:

(1) Divert non-violent offenders charged with either misdemeanor or felony criminal charges from the criminal justice system into supervised, comprehensive community treatment, consistent with public safety, to achieve reduction in substance abuse and recidivism.

SUBGOAL: To provide effective court supervision of program participants

ACTION OBJECTIVE:

100% of the Drug Court participants will receive intensive court supervision including regular hearings, tracking of progress, and progressive sanctions for failures.

SUBGOAL: To provide an integrated program of drug treatment, substance abuse education, and rehabilitation services

ACTION OBJECTIVE:

100% of participants referred will receive inpatient or outpatient substance abuse treatment at any given time

ACTION OBJECTIVE:

100% of the participants who complete the program will participate in substance abuse education classes

SUBGOAL: To promote public safety by reducing recidivism

ACTION OBJECTIVE:

No more than 5% of the participants who graduate from the program will be rearrested within six months post graduation

ACTION OBJECTIVE:

No more than 10% of the participants who graduate from the program will be rearrested within one-year post graduation

(2) Institute early, continuous, and intensive judicially supervised treatment which addresses substance abuse needs, any co-occurring mental health disorders, and other life needs such as education, vocational needs, and housing which will affect participant success in stopping illicit use and abuse of all addictive substances.

SUBGOAL: To provide effective court supervision of program participants

ACTION OBJECTIVE:

At least 85% of participants receiving program services will reduce the frequency of alcohol and other drug use as measured by urinalysis testing results.

ACTION OBJECTIVE:

65% of the eligible participants will complete the program successfully.

ACTION OBJECTIVE:

100% of the participants who successfully graduate will have a long-term sobriety plan.

SUBGOAL: To provide an integrated program of drug treatment, substance abuse education, and rehabilitation services

ACTION OBJECTIVE:

90% of the participants who complete the program will be employed upon graduation

ACTION OBJECTIVE

50% of the graduates with less than a high school degree will earn a GED

(3) Require participant abstinence from substance use for participation in the program, excepting prescribed medications for diagnosed illness or sickness from a treating physician involved with the drug court diversion program.

(4) Develop and maintain partnerships between criminal justice, treatment providers, and social service systems to offer qualified offenders appropriate court-supervised treatment alternatives to prosecution and incarceration consistent with public safety.

STRUCTURE/MODEL

Identifies the type of adjudication process for your drug court, i.e. post-plea, diversion, etc.

The Southern Region Drug Court, beginning with the Mercer County Drug Court, operates as a dual tribunal model in both the Circuit and Magistrate Courts. The Drug Court Magistrate handles only misdemeanor cases; whereas the Circuit Court Drug Court Judge has jurisdiction over felony cases and any other cases the Court deems should be handled at the Circuit Court level. A hybrid pre and post plea adjudication process is utilized to allow maximum flexibility in diverting eligible offenders from traditional criminal justice processing into Drug Court.

TARGET POPULATION

Those offenders with characteristics, which the drug court team has identified, to involve in the drug court program.

The target population for the Southern Region Drug Court are adult individuals, both male and female, who have been charged with or plead guilty to a eligible criminal offense, either misdemeanor or felony, and are substance abusing or addicted.

ELIGIBILITY CRITERIA

The guidelines used to identify and enter offenders into the drug court program.

Offenders eligible to enter the Southern Region Drug Court, beginning in Mercer County, are:

- (1) Adults;
- (2) West Virginia residents;
- (3) Living in Mercer County or a county contiguous to Mercer County;
- (4) Charged with non-violent (as defined by federal law) misdemeanor and/or felony offense(s), including DUI, but excluding any crime where a child is a victim, or involving a sex offense;
- (5) Diagnosed or assessed as substance abusing or addicted (co-occurring disorders of mental illness are eligible);
- (6) Able to understand and comply with program requirements;
- (7) Willing to agree to participate in and cooperate with the program, including following the advice of physicians and other treatment providers, (offenders with a pending competency evaluation/determination are not eligible until evaluated competent or restored to competency);
- (8) Non-violent (as reflected in moderate to low risk on administered risk assessment) and do not pose an unacceptable risk to either the program staff, self, or the community;
- (9) Individuals for whom treatment is available to address their needs;
- (10) Offenders who are medically cleared prior to inclusion in the program for outpatient treatment release if substance dependent at arrest and are experiencing physical symptoms of withdrawal or in need of medically monitored detoxification or maintenance services; and
- (11) Offenders approved for participation by the prosecuting attorney.

DISQUALIFICATION CRITERIA

The guidelines which are used that make an offender ineligible for the drug court program.

The following circumstances may result in disqualification from Drug Court program participation:

- (1) Falsification of information provided to the Drug Court program;
- (2) Failure to comply with program rules and requirements;
- (3) Change of residence from West Virginia;
- (4) Change of residence from Mercer County and contiguous counties;
- (5) Re-arrest during program participation (Arrest for a crime of violence while participating in Drug Court will result in termination from program.);
- (6) Failure to participate in and cooperate with the program, including treatment providers;
- (7) Engaging in violent behavior or posing an unacceptable risk to program staff, self, or the community;
- (8) Treatment team determination that offender's treatment needs cannot be met in the program; and
- (9) Unexcused absence from the program.

ENTRY PROCESS

This is the process by which the drug court program moves offenders from arrest to treatment/program entry.

After charges are filed, potential candidates for Drug Court may be identified at either pre or post plea and referred to the program by prosecutor, defense counsel, law enforcement officer, probation officer, day report center personnel, judge, magistrate, or jail personnel. The goal is early identification, for pre plea referrals at least by the time of arraignment by a magistrate.

Referrals shall be forwarded either to the prosecutor or the Drug Case Coordinator (DCC). If made to the DCC, the referral shall promptly be forwarded by the DCC to the prosecutor for approval. If made directly to the prosecutor, the referral shall promptly be reviewed for initial approval and notice provided to the DCC of a potential referral. The prosecutor and DCC notify defense counsel. Defense counsel meets with the client, reviews the charges and determines legal eligibility, educates the client about the program, and notifies the Prosecutor if the client is willing to participate. Prosecutor and defense counsel negotiate the details of the plea/diversion agreement.

The agreement reached between the prosecutor and defense counsel is presented to the Court and if acceptable to the Court, official referral is made to Drug Court.

After prosecutor approval, the DCC will meet with the candidate to obtain the necessary signed forms for entry into the program, and schedule the candidate for assessment. The candidate shall be assessed both for risk and substance abuse or addiction diagnosis. The Assessment will be arranged within three days of notification to the DCC of prosecutor approval. Appearance before the Drug Court Magistrate or Drug Court Circuit Judge for acceptance into the program and treatment planning will occur within 7 days.

PROGRAM PHASES

Phases are the steps identified by the drug court team which clients must progress through to complete the drug court program.

A multiphase treatment process is employed. This process is divided into three phases, each of at least four months duration; thus the program is, at a minimum, one year in duration. It is expected that most participants will take more than one year to complete the entire program. Participants must apply to the Drug Court for movement from one phase to the next. To move from one phase to the next the offender must meet the criteria of the preceding phase. The participant's application is reviewed by the treatment team, which makes a recommendation to the Drug Court Judge or Magistrate.

Frequency of treatment services will be dependent upon the individual's need, but generally the most intensive treatment will occur subsequent to stabilization of the individual and then decrease gradually as the individual progresses through the program. Judicial supervision occurs most intensely at entry into the program with less judicial appearances and supervision occurring as rewards for success as the participant moves through the program phases.

The three phases are:

(1) Phase One: Stabilization and Intensive Treatment Phase

Detoxification, initial treatment assessment, education and screening for other needs occur at this phase. The participant appears before the Drug Court Judge or Magistrate once a week*; reports to their assigned case manager once each week; receives 8 to 10 hours of substance abuse treatment per week; and must complete 28 hours of community service if unemployed. The participant must be drug free for 60 consecutive days before eligible to move to Phase Two.

(2) Phase Two: Intensive Treatment Phase

Individual and/or group counseling, and other therapies are fully active at this phase. The participant appears before the Drug Court Judge or Magistrate a minimum of twice a month*; reports to their case manager a minimum of twice a month; must complete outpatient treatment; must complete 28 hours of community service; and must seek employment if unemployed. The participant must be drug free for 90 consecutive days before eligible to move to Phase Three.

(3) Phase Three: Reintegration Phase

Re-establishment of employment, social reintegration, education, stable housing and aftercare activities are the focus of this phase. The participant appears before the Drug Court Judge or Magistrate a minimum of once every three weeks*;

reports to their case manager a minimum of once a week; completes 28 hours a week of community service if fulltime unemployed; and must actively seek employment or education/job skill training. The participant must be drug free for 120 consecutive days to complete the program.

***The Drug Court Judge or Magistrate makes the determination of frequency of appearances before the Court based upon a review of the case and considering recommendations of the Drug Court team and treatment providers.**

TERMINATION CRITERIA

Termination Criteria are the guidelines used to unsuccessfully release an offender from the drug court program.

The Drug Court Judge or Magistrate will terminate a participant if the following occurs:

- (1) The participant is charged with an offense falling within the violent offender definition.

The Drug Court Judge or Magistrate may terminate a participant if any of the following occur:

- (1) The participant is re-arrested for another crime during program participation.
- (2) The participant absconds.
- (3) The participant does not appear for two or more status hearings or drug tests without good cause for the failure to appear.
- (4) The participant expresses by word or action the intent to no longer comply with program requirements.
- (5) The Drug Court exhausts the program's list of graduated sanctions.
- (6) The participant engages in violent behavior or posing an unacceptable risk to program staff, self, or the community.
- (7) The participant is disqualified from the program.
- (8) The treatment team's determination that the offender's treatment needs cannot be met in the program;

Termination Procedure

Any member of the treatment team may propose that a participant be terminated from the Program. The motion to terminate a participant from the Program shall then be entertained by the Treatment Team without the participation of the Drug Court Judge.

Upon passage of such motion a short, concise statement of fact constituting the grounds for termination shall be delivered to the participant by the Drug Court Coordinator. If the participant wishes to contest the factual basis for the termination motion, the Drug Court Judge shall, as soon as possible, set a time for a summary hearing. Upon the request of the participant, the hearing may be held in closed court.

At the time of the hearing, the Drug Court Coordinator and the participant may be heard on the factual basis of the motion to terminate. The Drug Court Judge will entertain whatever testimony, statements and/or exhibits the Judge believes will assist in determining the factual basis for said motion.

The decision of the Drug Court Judge is not subject to review or appeal.

GRADUATION CRITERIA

Graduation Criteria is the guidelines used to identify how offenders can successfully complete the drug court program.

Graduation requires a least completion of the three phases of treatment. No substance abuse must occur within the last 90 days before graduation. The participant must have created an aftercare plan with the assistance of the Drug Court Treatment Team.

INCENTIVES AND SANCTIONS

Incentives are responses to compliance, perceived as positive, by the receiver.

Sanctions are the imposition of a consequence, perceived as negative by the receiver, as a direct result of a prohibited activity.

Incentives include:

- (1) Praise from the judge;
- (2) Encouragement from treatment and program staff;
- (3) Applause;
- (4) Reduced court appearances;
- (5) Moving case to the front of the docket;
- (6) Reduction in community services hours;
- (7) Receiving phase movement certificates;
- (8) Ceremonies in court to recognize accomplishments with token awards;
- (9) Gift certificates or small token gifts from various businesses;
- (10) Overall recognition of clean time;
- (11) Reduced supervision;
- (12) Graduation from the program;
- (13) Dismissal of criminal charges or reduction in sentence; and
- (14) Any incentive approved by the Southern Region Drug Court Administering Judge from the attached list published by the National Drug Court Institute, Model State Drug Court Legislation: Monograph Series 5 (May 2004).

Sanctions include:

- (1) Judicial admonishment and warnings;
- (2) Demotion to an earlier program phase;
- (3) Additional community service;
- (4) Jail time;
- (5) Increased drug testing;
- (6) Increased treatment intensity;
- (7) Increased Drug Court appearances;
- (8) Increased contact with case manager;
- (9) Increased attendance to support groups;
- (10) Writing of essays;
- (11) Termination from program; and
- (12) Any sanction approved by the Southern Region Drug Court Administering Judge from the attached list published by the National Drug Court Institute, Model State Drug Court Legislation: Monograph Series 5 (May 2004).

TREATMENT PROTOCOL

The type of substance abuse treatment model that will be used to treat the drug court participants. Include the who, what, when, where and frequency.

Treatment services currently available include individual, group, and family counseling sessions. Individual sessions can be scheduled as frequently as needed, and are by definition age and gender specific. Individual treatment serves clients to their specific needs, including clients from different cultures. Individual and group therapies are offered at the Mercer County Day Report Center. AA/NA offers group and family sessions.

Participants are scheduled into the appropriate treatment modalities to address their issues. All Drug Court participants engage in the group substance abuse treatment services offered at the Mercer County Day Report Center, and services other than group are selected based upon the individual need of the participant. The Mercer County Day Report Center offers the following group treatment model for substance abuse: (1) Matrix Model; (2) Relapse Prevention; (3) Intensive Substance Abuse Intervention; (4) Anger Management; and (5) Cognitive-Behavioral Therapy. For women only, the Mercer County Day Report Center offers Women in Recovery.

Participants with co-occurring mental health needs receive individual mental health therapy by two psychologists at the Mercer County Day Report Center and mental health services once a month from Southern Highlands Mental Health Center, which is located approximately two blocks from the DRC and courthouse.

SUPERVISION PROTOCOL

The type of supervision/case management model that will be used to supervise/monitor the drug court participants. Include the who, when, where and frequency.

Judicial Supervision:

Participants appear before the Drug Court Judge or Magistrate once per week during the minimum four-month time period of Phase One participation. Once promoted to Phase Two, the participants appear before the Drug Court Judge or Magistrate a minimum of two times per month. In Phase Three, participants appear before the Judge or Magistrate typically once every three weeks, although the minimum appearance schedule is every other month. Drug Court is held at the Mercer County Courthouse in the courtroom of Judge Derek Swope each Tuesday afternoon.

Case Management and Community Supervision:

The Drug Court Coordinator is responsible for legal case management. The DCC also acts as backup for all case managers assigned to Drug Court participants as community supervisors.

Community supervision is the effort to monitor the offender's behavior and program compliance outside the courtroom. It is accomplished through a system of support and monitoring to assist the client through the treatment process. Community supervision of Drug Court participants can be done by probation officers, home confinement officers, other Day Report Center personnel, and police officers. Currently the Drug Court uses both Day Report Center personnel and probation officers to supervise and case manage Drug Court clients. The purpose of community supervision is to protect public safety, provide accountability, protect program integrity, support the progress of the participant, provide early intervention, and extend the Drug Court team presence into the community.

Public safety efforts include monitoring participants for alcohol, drug use, and other behaviors which pose a risk for the community; making sure new offenses are not being committed by the participant; and monitoring curfew and other restrictions. Accountability efforts are intended to assure that the client is complying with the terms and conditions set by the Drug Court; is on the road to sobriety; and is engaged in treatment. Supporting the progress of the participant is provision of positive reinforcement to a participant who is successful. The goal of community supervision is not to solely catch the participants at being "bad," but to also catch them doing "good." Early detection and intervention requires recognizing behaviors that lead to relapse; recognizing other problem behaviors; and relaying information to the treatment team.

Community supervision practices include home visits, both announced and unannounced, after hours visits, engaging family members, off site drug testing, searches of residence and curfew checks. Supervision also includes office visits for the participant for collection of routine information, case plan adjustment, and drug testing.

TESTING PROTOCOL

The type of alcohol and drug screening model that will be used to test the drug court participants. Include the type (i.e. swab, patch, urine, breath, etc.) and when, who, where and frequency.

Participants are drug tested at least twice per week on a random schedule during participation in Drug Court. Randomness is from the client's prospective, so there is no pattern to when the testing occurs. Tests are administered by Mercer County Day Report Center staff. Alcohol testing is done utilizing a Portable Breath Testing Unit. Urine drug testing is otherwise used. A positive result requires confirmation by a GCMS if the Drug Court participant does not admit to use or contests the results.

Elements to guard against tampering or adulteration of testing includes direct observation of urine sample collection, verification of temperature and measurement of creatinine levels to determine water loading, following of written procedures for urine sample collection, analysis and result reporting, a documented chain of custody, following of quality control and assurance procedures, and verification of accuracy procedures when contested. Samples are sent to an independent testing laboratory for analysis and reporting.

In the field, swab testing can be utilized as well as PBT testing.

EVALUATION DESIGN

Evaluation must be tailored to the political and organizational context of the program to be evaluated. It typically involves assessment of one or more of five program domains: (a) the need for the program, (b) the design of the program, (c) the program implementation and service delivery, (d) the program impact or outcomes, and (e) program efficiency. Evaluation requires an accurate description of the program performance or characteristics at issue and assessment of them against relevant standards and criteria.

A process and outcome evaluation will be conducted to evaluate the program goals and objectives by measuring the size and type of target population; program completion rates; one year retention rates for misdemeanor offenses; average time in the program for felony offenses; percentage of participants rearrested during program participation; percentage of participants rearrested after one year; and types of services received.

Evaluation will be completed by Dr. John David Smith of Concord University and assisting personnel.

Program analysis will include at a minimum:

- (1) Acceptance and rejection totals and percentages;
- (2) Age percentages of participants;
- (3) Gender percentages of participants;
- (4) Ethnicity percentages of participants;
- (5) Percentages of offenses charged;
- (6) Participant drugs of choice percentages;
- (7) Percentages of types of services received by participants;
- (8) Caseload assignment percentages to community supervision staff;
- (9) Referral source percentages;
- (10) Mental health diagnosis percentages;
- (11) Program completion percentages;
- (12) Retention rates; and
- (13) Rearrest rates during and one year post program participation.

MEMORANDA OF UNDERSTANDING

These are written agreements with other agencies or organizations for services.

Memoranda of Understanding between the Drug Court and the agencies or organizations providing services are prepared at the end of the first year of program operations, and thereafter, within six months of agreements reached and the onset of services supply between the Drug Court and an agency or organization providing services to Drug Court participants. These memorandums are intended to clarify and solidify the working arrangements that have been established between the Drug Court and the agency or organization for future and continued operation of the Drug Court. Failure to obtain a memorandum of understanding with a provider of services shall not prohibit use of the provider's services.

ETHICS AND CONFIDENTIALITY

This is your written statement outlining your confidentiality and ethical considerations.

The Southern Region Drug Court is strongly committed to protecting the rights of all candidates and participants and to maintaining the high standards of professional ethics among its members. All members of the Drug Court team will abide by the following:

- (1) Personal client information collected as part of the screening, evaluation, intake, planning, review, and participant assistance processes by the Southern Region Drug Court will be kept confidential outside program uses. Information regarding all potential participants and current participants is confidential and intended only for the use of the Southern Region Drug Court, including its internal and any external evaluation by the West Virginia Supreme Court of Appeals, via the Court's Administrative Office, Concord University, or other providers or agencies contacted in a legitimate and proper effort to evaluate the program, or as may be used to explore additional services for the program.
- (2) Drug Court hearings may be held in open court with numerous participants and treatment team members. No medical information is discussed in open court; such information is discussed instead by private side bar discussion or in judicial chambers with the judge or magistrate as needed, unless self-disclosed by the participant. Court hearings with multiple program participants present and serve a valuable therapeutic strategy and are part of the overall program, and as is similar to group therapies in which the participants may be required to participate, other program participants will become know to the participants in the program, and participants are encouraged to make social and supportive connections and relationships with others in the program as within their capabilities and as appropriate and positive for treatment and recovery.
- (3) Information may be requested by and shall be provided to the Administrative Office of the West Virginia Supreme Court of Appeals, or designated program evaluator(s), for statistical purposes to evaluate the Southern Region Drug Court. Dissemination, distribution, copying, or any other use of information outside the Southern Region Drug Court program is strictly prohibited. It is expected that all Drug Court team members will protect confidential information conveyed to or heard by them about participants, their families, or the organizations represented in the program.
- (4) All Southern Region Drug Court team members will adhere to all state and federal laws and regulations regarding the collection, maintenance or dissemination of information regarding program candidates or participants.