

WAUKESHA COUNTY DRUG TREATMENT COURT
POLICIES & PROCEDURES MANUAL
WAUKESHA, WISCONSIN

Created February 2012



**Waukesha County Drug Treatment Court
Policies & Procedures Manual
TABLE OF CONTENTS**

I.	Steering Committee	3
II.	Planning Team	3 – 4
III.	Mission Statement	4
IV.	Goals and Objectives	4 – 7
V.	Structure/Model	7 – 10
VI.	Target Population	10
VII.	Eligibility Criteria	11
VIII.	Discharge Criteria	11
IX.	Entry Process	11 – 12
X.	Phases	12 – 13
XI.	Graduation Criteria	14
XII.	Rewards and Sanctions	14 – 15
XIII.	Treatment Protocol	15 – 16
XIV.	Supervision Protocol	16 – 17
XV.	Testing Protocol	17
XVI.	Evaluation Design	17 – 21
XVII.	Ethics and Confidentiality	21 – 24

I. Steering Committee

The Executive Committee of the Criminal Justice Collaborating Council (CJCC) will serve as the Steering Committee for the Drug Treatment Court (DTC). The Committee meets on a monthly, defined, basis and will regularly review program outcomes as well as resolve policy and operational issues if they arise and cannot be resolved by the DTC staffing team.

The CJCC Executive Committee consists of six members:

- Waukesha County Executive
- Chief or Presiding Judge
- Waukesha County Board Chairperson
- District Attorney
- Waukesha County Director of Health & Human Services
- First Assistant State Public Defender

II. Planning Team

The working group of justice system professionals who are involved in planning and implementing the drug treatment court program. Those denoted with a (*) are members of the core planning team who met on a regular basis to develop the program. The core group regularly meets as a team, as well as provides updates to the Steering Committee.

- | | |
|---|---|
| ▪ Hon. William Domina*
Circuit Court Judge
Waukesha County | ▪ Brad Schimel*
District Attorney
Waukesha County |
| ▪ Hon. Kathryn Foster*
Circuit Court Judge
Waukesha County | ▪ Sam Benedict*
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Multi-County Administrator
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County Board Chairman
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- Shawn Lundie
Chief of Staff
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- Tony Cotton
Defense Attorney
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WI Department of Corrections
- Mary Lynn Murphy
Probation Agent
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Waukesha County
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Sheriff's Department Captain
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- Susan Andrews
AODA Supervisor
Waukesha County
- Jean LaTour
Assistant State Public Defender
Waukesha County
- Joan Sternweis
Incoming Clinical Services Manager
Waukesha County

III. Mission Statement

A brief statement developed by the DTC Planning Team that reflects the purpose of the drug court.

The mission of the Waukesha County Drug Treatment Court is to advance public safety, reduce crime, reduce costs to our community, and improve individual and community health by providing intensive, integrated, evidence-based court supervision and comprehensive treatment services for drug dependent offenders.

IV. Goals and Objectives

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

Objectives are specific activities or action steps necessary to implement each goal.

GOAL 1 IMPROVE THE TREATMENT OUTCOMES FOR ADDICTED OFFENDERS.
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Rationale: The Waukesha County Drug Treatment Court Program is a post-plea, pre-judgement program that targets high risk offenders with a history of drug dependence. Through effective collaboration with the criminal justice and health care systems, the drug court program can help participants achieve long-term sobriety.

Objectives:

- 1) To achieve at least 6 continuous months of sobriety for 100% of those participants recommended for graduation from the Drug Treatment Court program.
- 2) To engage 100% of program graduates in aftercare planning.
- 3) To decrease the number of drug-using days per participant by at least 60% per year.

GOAL 2	DEVELOP AND IMPLEMENT A HOLISTIC, COMPREHENSIVE PROGRAM MODEL THAT IS SPECIFIC TO THE TREATMENT NEEDS OF EACH PROGRAM PARTICIPANT.
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Rationale: The drug court treatment model is built upon a foundation of individualized treatment supported through a comprehensive program of supervision, monitoring, and other program elements supported through a system of rewards and sanctions. Through a more comprehensive, longer-term approach to treatment and supervision, the Drug Treatment Court Program offers a new alternative for rehabilitation and recovery not currently available to offenders in Waukesha County.

Objectives:

- 1) To secure an agreement to participate in the program for at least 75% of those assessed as program-eligible.
- 2) To develop individualized, initial treatment plans for 100% of program participants within 15 days of acceptance into the Drug Treatment Court program.
- 3) To achieve a graduation rate of at least 65% of those who enroll in the Drug Treatment Court program.

GOAL 3 REDUCE RECIDIVISM AMONG DRUG COURT PARTICIPANTS.

Rationale: Successful intervention in the cycle of addiction will result in lower rates of recidivism among graduates of the drug court program.

Objectives:

- 1) To avoid re-arrest on any criminal charge for at least 65% of program participants after completion of Phase I of the Drug Treatment Court program.
- 2) To assess re-arrest rates for 100% of program participants at the completion of the program and again at 6 months and 1 year post-graduation.

GOAL 4 REDUCE COSTS TO THE COMMUNITY BY PROVIDING AN ALTERNATIVE TO LONG-TERM INCARCERATION FOR OFFENDERS WHO SUCCESSFULLY GRADUATE FROM THE DRUG COURT PROGRAM.

Rationale: Through enrollment in, and the successful completion of the drug court program, the offender can avoid his/her exposure to long-term incarceration and the county and state avoid the substantial costs associated with that incarceration.

Objectives:

- 1) To reduce the reliance on incarceration as the primary sanction for criminal offenses by maintaining at least 25 offenders in cost-effective, efficient community-based treatment programs and supervision delivered through the Drug Treatment Court program.
- 2) To successfully engage addicted offenders with the Drug Treatment Court model to avoid the imposition of incarceration for at least 75% of program participants.

GOAL 5 ENGAGE THE COMMUNITY IN THE RECOVERY PROCESS THROUGH EDUCATION AND AWARENESS OF THE CYCLE OF DRUG DEPENDENCE AND THE ROLE OF THE DRUG COURT IN PROVIDING A PUBLIC SAFETY SOLUTION.

Rationale: Community involvement is vital to the success of drug court participants and the program itself. Through education and awareness, an improved understanding of the cycle of drug dependence can promote community support for the recover process.

Objectives:

- 1) Solicit public speaking engagements by individuals representing the Drug Treatment Court and graduates at community forums and other group meetings to improve awareness of the cycle of addiction and the role of the DTC at least 2 times per year.
- 2) Solicit local businesses to support drug court participants toward recovery through public-private partnerships that provide tangible rewards for success.
- 3) Solicit locations for the placement of program participants in meaningful community service and/or part-time/full-time employment.

V. Structure/Model

The Waukesha County Drug Treatment Court is a post-plea, pre-judgement program for offenders charged with a non-violent crime. Participants must meet the eligibility requirements for entry into the drug court program (as defined under the section “Eligibility Criteria”) and must have a verifiable history of substance abuse and drug dependence.

Procedurally, defendants may be referred to the drug court program by 1) their attorney, 2) the District Attorney’s Office, or 3) one of the Waukesha County pre-trial programs. Once eligibility screening is complete and the defendant agrees to the terms of the Deferred Prosecution Agreement, the drug court staffing team makes the final decision on enrollment.

Once enrolled in the program, drug court participants should anticipate that they will remain enrolled in the program for at least 12 months while participating in a structured, four-phase program that involves treatment, urinalysis, breath analysis, case management, and other program-related requirements (see Section X “Phases”).

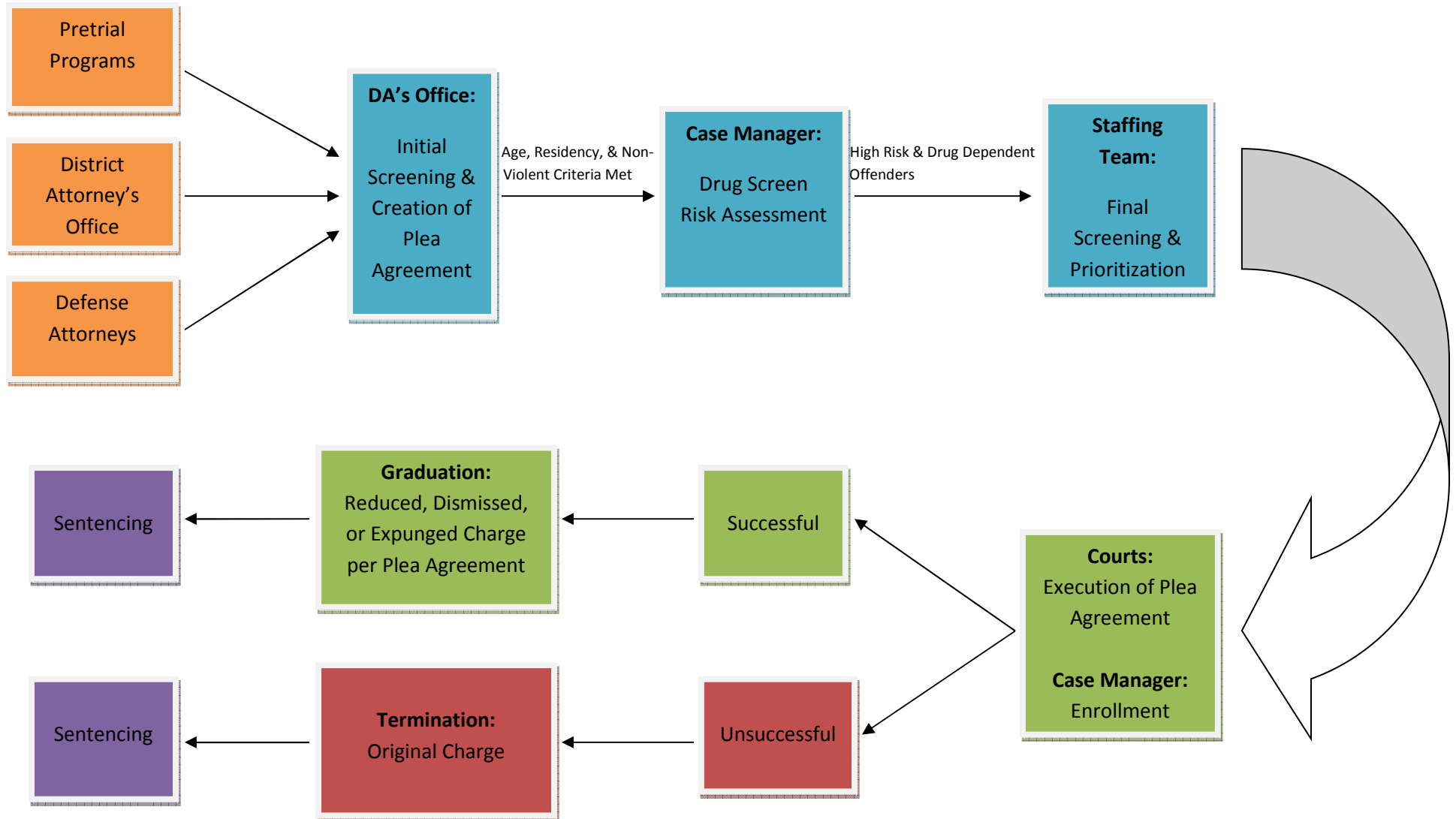
Upon successful completion of the Drug Treatment Court program and approval by the staffing team for graduation, the terms of the plea agreement will be executed.

The following flow chart depicts the Waukesha County Drug Treatment Court program from referral through discharge:

WAUKESHA COUNTY DRUG TREATMENT COURT PROGRAM

FLOW CHART: REFERRAL TO DISCHARGE

Referral Sources



The Waukesha County Drug Treatment Court is an offender-focused rehabilitation model that recognizes the powerful influence of substance abuse as a driver of behavior. Recognizing that recovery from addiction is vital to community safety and individual accountability, the Waukesha County DTC leverages four characteristics of its program as its foundation for participant support toward recovery:

- Unique involvement of the Drug Court Judge
- A non-adversarial, collaborative approach to treatment
- Recognition, rewards, and positive reinforcement for progress
- Rapid imposition of negative sanctions to improve compliance and to modify negative behaviors

VI. Target Population

The Waukesha County Drug Treatment Court targets non-violent offenders where there is a reasonable assumption that the offender's criminal activity is connected directly to the ongoing, chronic, and habitual abuse of substances. Absent an interruption in their cycle of addiction, it is likely that criteria-eligible offenders will continue to commit crime, re-enter the criminal justice system and be exposed to long-term incarceration or other negative consequences that often result from traditional, less resource-intensive approaches to case disposition.

Typically, offenders enrolled in the DTC program will have social histories hallmarked by prior contacts with law enforcement, previous exposure to alcohol and drug treatment systems, and a history of relapse into substance abuse. The Waukesha County DTC targets high-risk offenders who require more intensive focus on treatment, monitoring, and judicial intervention.

The Waukesha County DTC recognizes that substance abuse contributes to a wide variety of criminal acts. As a result, the program does not limit program participation to involvement in a drug-related offense. Adult offenders assessed as high risk and drug dependent, with approval by the DA's Office, will be afforded access to the program.

Through effective intervention in the cycle of addiction, the DTC transitions program participants from addicted persons to productive citizens capable of meeting daily life challenges.

VII. Eligibility Criteria

Offenders entering the DTC program must meet the following eligibility criteria:

- Waukesha County resident
- 17 years of age or older
- Non-violent offender (per federal definition)
- High-risk (per the Risk and Needs Triage assessment)
- Drug dependent (per the Texas Christian University Drug Screen II)
- Approved by the District Attorney's Office
- Voluntary consent to the Deferred Prosecution Agreement (plea agreement)

VIII. Discharge Criteria

Enrollment and participation in the Waukesha County Drug Treatment Court is an opportunity for an offender to overcome his/her dependence on drugs and/or alcohol. Through successful completion of the DTC program, offenders will overcome their addiction and avoid future criminal activity. Offenders may be discharged from the program if it is in the interests of the community and/or the credibility of the DTC program to do so. The following are some examples of circumstances that may lead to discharge; this list is not all-inclusive, as it is difficult to identify every circumstance that may lead to discharge.

- Committing a violent crime, or the DTC becoming aware of behavior that is violent or threatening to the safety of others as defined by the standards of the Bureau of Justice Assistance (BJA)
- Co-occurring disordered individuals whose mental illness is so severe to prevent active and full participation in the DTC program
- A demonstrated lack of capacity or willingness to engage in treatment or comply with program requirements
- Continuing criminal activity while under the supervision of the DTC
- Acts of violence while under the supervision of the DTC, which includes any violence, or threats of violence, in the participant's home, place of work, or at treatment centers/programs

IX. Entry Process

Entry into the Drug Treatment Court program must be initiated through a binding plea agreement in a criminal case.

The offender, his/her Defense Counsel, and the State's Attorney must agree to the terms of the Deferred Prosecution Agreement. No Drug Court participant will be enrolled in the program over the objection of the District Attorney's Office. Once a binding plea agreement has been reached, the offender will be assessed for Drug Court eligibility. Criteria-eligible offenders will be admitted to the Drug Court under the direction of the presiding Drug Court Judge. If the offender is determined to be ineligible for Drug Court enrollment, the case will be returned to the District Attorney's Office to resume traditional case processing.

X. Phases

Drug court enrollees participate in a four-phase treatment model designed to transition the offender from alcohol and drug dependence to successful recovery. The DTC is designed as a 12-month program, but participants should expect to be in the program longer if setbacks prevent them from being promoted to subsequent phases. Each phase of the program has specific elements and program criteria that must be completed prior to moving to the next phase. In some cases, participants may be returned to a lower phase as part of a sanction or if the staffing team decides that he or she could benefit from the more intensive requirements of a lower phase.

Following is the phase chart for the Waukesha County Drug Treatment Court program:

WAUKESHA COUNTY DRUG TREATMENT COURT PHASE CHART

	Phase I	Phase II	Phase III	Phase IV
	120 Days	90 Days	90 Days	60 Days
Court Obligations	▶ Judicial status hearing every two weeks	▶ Judicial status hearing every two weeks	▶ Judicial status hearing once a month	▶ Judicial status hearing once a month
Supervision & Monitoring Requirements	<ul style="list-style-type: none"> ▶ Random drug testing three times per week ▶ PBT's three times per week ▶ Meet with case manager at least once a week 	<ul style="list-style-type: none"> ▶ Random drug testing at least twice per week ▶ PBT's at least twice per week ▶ Meet with case manager at least once every two weeks 	<ul style="list-style-type: none"> ▶ Random drug testing at least twice per week ▶ PBT's at least twice per week ▶ Meet with case manager at least once every two weeks 	<ul style="list-style-type: none"> ▶ Random drug testing at least twice per week ▶ PBT's at least twice per week ▶ Meet with case manager at least once a month
Treatment Requirements	<ul style="list-style-type: none"> ▶ Complete assessment and individualized treatment plan ▶ Attend treatment as identified in assessment ▶ Attend at least three self-help meetings per week ▶ Obtain a sponsor within 30 days 	<ul style="list-style-type: none"> ▶ Attend treatment as identified in assessment ▶ Attend at least three self-help meetings per week 	<ul style="list-style-type: none"> ▶ Attend treatment as identified in assessment ▶ Attend at least two self-help meetings per week 	<ul style="list-style-type: none"> ▶ Develop aftercare treatment plan ▶ Attend AODA recovery group 1 time/month ▶ Attend two self-help meetings per week
Other Requirements	▶ Determined on an individual, as-needed, basis	▶ Determined on an individual, as-needed, basis	▶ Determined on an individual, as-needed, basis	<ul style="list-style-type: none"> ▶ Pre-graduation conference and exit interview ▶ Alumni program participation

XI. Graduation Criteria

Participants must have met all of the following criteria to graduate from the Drug Treatment Court program:

- Successful completion of all program requirements
- Payment of all fines, court costs, and program fees (if any)
- Six (6) consecutive months of sobriety, to include clean urinalysis and negative breathalyzer/SCRAM results
- No missed court dates, treatment sessions, or case management appointments within six (6) months of graduation
- A positive recommendation for graduation from the Drug Court staffing team
- The approval of the Drug Court Judge
- Completion of an aftercare plan with the case manager

XII. Rewards and Sanctions

The Drug Treatment Court program employs a variety of rewards to recognize and reinforce progress, and applies a process of graduated sanctions to address non-compliance.

Rewards

The reward process recognizes the positive achievements of Drug Court participants as they progress through the phases of the program, from active addiction to sobriety. Behavioral changes that may result in a reward are discussed by the staffing team and recommended at the status review hearing. Rewards may take many forms and will be consistent with the goals and objectives of the participant's treatment plan. Rewards may include, but are not limited to, the following:

- Encouragement and praise from the Drug Court Judge
- Ceremonies and tokens or certificates of progress
- Decreased frequency of court appearances
- Graduation ceremonies
- Promotion to a higher program phase
- Gift cards
- Using imposed and stayed sanctions when appropriate, at the discretion of the judge, in order to recognize a participant's overall positive performance

Sanctions

Non-compliance is addressed at the status review hearing. Since sanctions are most effective when applied immediately, participants violating the terms and conditions of their enrollment in Drug Court will be required to report in person to the next scheduled Drug Court docket. Thus, the non-compliance issue(s) can be addressed as early as possible. The Drug Court staffing team will discuss and agree upon the mandatory sanction to be imposed for non-compliance, emphasizing a team, rather than an adversarial process. Sanctions may include, but are not limited to, the following:

- Warnings and admonishments by the Drug Court Judge in open court
- Increased frequency of court appearances
- Increased frequency of drug testing and/or breath testing, or other elements of the defined treatment program
- Writing assignments
- Community service hours
- Extension of the time required to complete any given phase of the program
- Demotion to a lower program phase
- Escalating periods of jail confinement
- Termination from Drug Court, resulting in a null and void plea agreement with return to a non-Drug Court judge for sentencing on original charge

Failure to appear for any Drug Court hearing may result in a bench warrant to be served forthwith by the Waukesha County Sheriff's Department, with the defendant to be held without bond pending the next Drug Court docket.

XIII. Treatment Protocol

The treatment protocol provides for intensive therapeutic interventions for alcohol and drug dependent persons enrolled in the Waukesha County Drug Treatment Court program. The treatment model is outpatient; however, participants may be referred to and required to successfully complete a residential treatment program if necessary. The program also has a treatment protocol for those who have co-occurring mental health and substance abuse disorders.

Consistent with the Drug Court model, treatment begins with a thorough and complete assessment of an offender's history and level of involvement with alcohol and other

drugs. Based on this assessment, the assigned therapist will develop a treatment plan which may include the following elements:

- Individual outpatient treatment
- Group outpatient treatment
- Intensive outpatient treatment
- Inpatient treatment
- Day treatment
- Residential treatment
- Medication-assisted treatment
- Mandatory attendance at self-help meetings, such as Narcotics or Alcoholics Anonymous (NA & AA)
- Mandatory urinalysis and/or breathalyzer testing
- Ongoing reassessments
- Relapse prevention groups
- Aftercare planning

The Case Manager will remain in constant communication with the therapist to assist in facilitating the treatment plan and coordinate treatment requirements (i.e. drug and alcohol testing) to avoid duplicating services.

XIV. Supervision Protocol

Supervision is a shared responsibility among all members of the Drug Court Staffing Team, which is achieved through effective collaboration, decision-making, and rapid response to conditions that may lead to relapse or further criminal activity by program participants. Unique to the Drug Treatment Court model is the active, personal involvement of the Drug Court Judge at weekly/bi-weekly hearings with each of the program participants.

However, the primary responsibility for day-to-day supervision of program participants rests with the assigned Case Manager. The Case Manager will develop an individualized treatment and supervision plan with each participant enrolled in the program. Working in collaboration with the staffing team, the Case Manager will meet weekly or bi-weekly with each Drug Court participant and report his/her status at the weekly Drug Court Staffing Team meeting. For those participants also on probation, the designated agent from the Department of Corrections will coordinate with the Case Manager and share supervision and monitoring responsibilities to avoid duplicating services.

All members of the staffing team will keep the Case Manager informed of any conditions that might negatively impact the capacity or ability of the Drug Court program to successfully monitor and supervise participants.

XV. Testing Protocol

Drug Court participants will participate in mandatory, random urinalysis and breath testing consistent with the requirements of each phase of the program (see Section X “Phases”). Random drug and alcohol testing will never be less than twice a week throughout the duration of the program, and will be more frequent during Phase I. Frequency of testing may be increased at any time as a sanction for non-compliance with program requirements.

In addition, program participants may be required to wear a SCRAMx (Secure Continuous Remote Alcohol Monitoring) bracelet, if determined necessary by the Drug Court staffing team.

XVI. Evaluation Design

Overview

Two different evaluations will be conducted of the Waukesha Drug Court during the time it is funded by the Bureau of Justice Assistance (BJA). These evaluations are consistent with BJA expectations and will include an (1) Implementation Evaluation and a (2) Process and Outcome Evaluation of the program.

Implementation Evaluation

The implementation evaluation of the program is a process evaluation that will focus specifically on the first year of the program. Of particular focus will be providing an in-depth description of the Waukesha Drug Court and comparison of its implementation during its first year of operations against two benchmarks. The first benchmark will be the program narrative of the grant application funded by the Bureau of Justice Assistance. Careful comparisons will be made between what the application proposed to do and what was realized in the first year of operations. The second benchmark will be the *10 Key Components* (OJP 1997; 2004). Comparison against these benchmarks will determine whether an implementation failure occurred in either the operational model of the program (reflected in the grant narrative) or in the execution of the program in terms of adherence to an accepted theoretical model for drug courts (reflected in the 10

Key Components). Any departure from these two benchmarks will be noted and specific recommendations given for how to improve the implementation of the Waukesha Drug Court.

For this evaluation, data (described in more depth below) will come from program records and documentation, interviews with the team, a focus group, and self-reports of program adherence to the *10 Key Components*. Data collection is guided by the overarching evaluation questions that the implementation evaluation seeks to answer, including “Was the Waukesha Drug Court implemented well?” and “To what extent were the 10 Key Components implemented in the Waukesha Drug Court.” To reach conclusions with regards to these broader questions, numerous specific evaluation questions will be addressed including the following:

- 1) What is the Waukesha Drug Court’s target population? What types of admission and exclusion criteria are used by the court? To what extent do the characteristics of the participants match the planned target population for the program?
- 2) Are eligible participants quickly identified and placed in the drug court and treatment? How are participants referred to the program?
- 3) What is the planned capacity of the program? Does the program achieve its stated capacity?
- 4) What is the phase structure of the drug court? How do phases differ in terms of services, supervision, and expected duration?
- 5) How are participants supervised? What types of mechanisms and processes are used to accomplish participant supervision?
- 6) Does the drug court program integrate substance abuse treatment with justice system case processing?
- 7) Do the defense and prosecuting attorneys work together in a non-adversarial manner ensuring the participants’ interests are protected as well as the community?
- 8) Are participants given access to a continuum-of-care for both substance abuse and other problems?
- 9) Is abstinence from drugs routinely monitored via drug testing?
- 10) Is there a coordinated approach for sanctioning non-compliant behavior and rewarding compliant behavior?
- 11) Do participants have on-going contact with the drug court judge?
- 12) To what extent do staff and team members engage in continuing education?
- 13) How well is the drug court connected with the local community?

Process and Outcome Evaluation

The process evaluation of the program will focus on updating the implementation evaluation, comparing what happened in the 3rd year of program operations with those documented during the 1st year of implementation. In addition to using the implementation evaluation as a benchmark for comparison, the process evaluation will use both the program narrative of the grant application funded by the Bureau of Justice Assistance and the *10 Key Components* (OJP 1997; 2004). Comparison against these benchmarks will identify any significant changes made to the program (reflected in deviations from the implementation evaluation findings), determine whether an implementation failure occurred in either the operational model of the program (reflected in the grant narrative) or in the execution of the program in terms of adherence to an accepted theoretical model for drug courts (reflected in the 10 Key Components).

For this process evaluation, the same data collection methods for the implementation evaluation will be used. The data collection procedure is described in more depth below. Data collection is guided by overarching evaluation questions including “Were significant changes made to the drug court program model,” “Was the Waukesha Drug Court implemented well?” and “To what extent was fidelity to the 10 Key Components maintained.” To reach conclusions with regards to these broader questions, numerous specific evaluation questions will be addressed including the following:

- 1) Were there significant changes in the demographic profile of drug participants?
- 2) Did enrollments in the program meet projections set forth in the program narrative funded by the Bureau of Justice Assistance?
- 3) What was the retention rate of participants in the program?
- 4) What participant characteristics predict program dropout?
- 5) What was the average length of program stay and were goals expressed in the grant application reached?
- 6) Were there major changes in the implementation of the program and what served as the impetus for such changes?
- 7) Were there major changes in the manner in which the court adhered to the Key Components of drug courts?

Building upon the information collected during the process evaluation that describes what the program did, an outcome evaluation also will be completed to describe what the drug court accomplished. That is, what was the program’s effectiveness at reaching its operational goal of reducing recidivism among drug offenders? Specifically, this

outcome evaluation will examine the time while the participants are in the drug court as well as 1-year and 2-year intervals following the participants' discharge from the drug court. It will focus on examining multiple indicators of recidivism (i.e., rearrests, reconvictions, and reincarceration) and comparison of drug court graduates with drug court non-completers. If resources permit and one can be identified, a non-drug court comparison group will be identified and included in the comparisons. Questions for the outcome evaluation include:

- 1) What was the number/percentage of participants arrested for a new offense while in the program?
- 2) Does drug court graduation reduce the number and percentage of participants arrested for a new crime?
- 3) Does drug court graduation reduce the number and percentage of participants convicted for a new crime?
- 4) Does drug court graduation reduce the number and percentage of participants incarcerated for a new crime?

Data Collection Procedure

Near the end of the first year of program implementation and again in the third year of program implementation, near the end of the BJA funding, process data will be collected including (1) interviews with team members, (2) a focus group with the team, (3) self-assessments of drug court adherence to the 10 key components, (4) and program self-documentation. Additionally, data will be collected from the Wisconsin Court Consolidated Access Program (CCAP) on any new arrests, charges, convictions and incarcerations experienced by drug court participants once they entered the drug court program. If resources permit, these data also will be collected for a comparison group of drug offenders who did not participate in the drug court.

Face-to-face structured interviews, similar to those used by Logan and colleagues (2000), will be conducted by a Temple Research Team member with each stakeholder/staff to capture data and perceptions of the target population, screening and assessment, case processing, program length, urinalysis testing, treatment resources, ancillary services, court services, sanctions and incentives, and many more aspects of the program.

These interviews will be complemented with a structured focus group that develops a logic model of the program that captures the target population, therapeutic resources, short- and long- term goals, as well as the interrelationships among these (see Hiller,

Malluche, Bryan et al., 2010). Detailed notes of the discussion during the focus group will be taken by a research assistant.

The *Drug Court Components Questionnaire* (Hiller, Belenko, Taxman et al., 2010) will be administered to each team member following the interviews or the focus group to capture their impressions of how well they are adhering to the *10 Key Components*. This questionnaire will be completed in private by each individual who will not put any identifiers on it so it will be completely anonymous to help ensure frank responses from the staff.

In addition to the data collected during the interviews, the focus group, and the *Drug Court Components Questionnaire*, information also will be gleaned from several program-generated sources including the narrative of the grant application submitted to the Bureau of Justice Assistance, the policy and procedure manual, minutes of steering committee meetings, the participant handbook, and the intake application collected by case managers on individuals who request to be in the program.

Recidivism data will be abstracted from the publicly available information on the Wisconsin Consolidated Court Automation Program (CCAP) for every drug court graduate and dropout. If a non-drug court comparison group can be identified recidivism information also will be collected for them. A search for each individual will be conducted to identify offense date, conviction date, incarceration date, length of sentence, and incarceration information for any new cases for an individual in the CCAP system subsequent to the one that led to his or her participation in the drug court. Only information from criminal traffic cases (i.e., OWI and operating after revocation, OAR) and for other types of criminal cases (e.g., theft, assault, disorderly conduct, bail jumping) will be coded. Other information that will be coded for each offense will be the date of arrest, the charge, and the level of charge (misdemeanor or felony).

XVII. Ethics and Confidentiality

Drug Courts transition the roles of every member of the drug court team from their traditional separation and independence to a collaborative effort focused on the recovery of drug court participants. Judges become part of a collaborative decision-making team that includes prosecutors, defense counsel, and law enforcement agents. Prosecutors and defense counsel coordinate their efforts in new ways to achieve a participant's recovery from alcohol or drug addiction, muting their traditional

adversarial relationship. Typical courtroom decorum where lawyer-advocates speak on behalf of their clients may give way to direct conversations between the judge and defendant. Defendants become “participants” and may actively engage in discussions on their progress, or lack of progress, with a broader range of “actors” in the criminal justice system. Substance abuse treatment professionals actively engage with the Court and other members of the team far earlier than is the case in more traditional referrals from the court for treatment and monitoring. These and other transitions in the professional roles of judges, lawyers, treatment professionals, and law enforcement agents are crucial to the drug court model.

That transition from traditional roles, however, requires that drug courts be consciously aware of ethical and confidentiality considerations to ensure that those who enroll in the program are confident that each member of the drug court team maintains the highest standards of ethical conduct. Drug courts, forging new models of collaboration and information exchange, do not redefine the ethical standards of each profession involved in the drug court process. Properly understood, canons of ethics strengthen the drug court model by promoting each member of the team as a unique contributor to the recovery process.

As in any other criminal case, each member of the drug court team has a specifically defined role. Although the roles of the judge, prosecutor, defense attorney, treatment personnel, and law enforcement agents promote a unified interest in participant recovery and program success, they have not abandoned their roles as advocates for their respective disciplines. Rather, in the context of the drug court, that advocacy role broadens to reflect the benefit(s) that may accrue to the drug court participant, and the community, in the event the participant successfully graduates from the program and recovers from alcohol and/or other drug dependence.

Most often, the ethical issues related to drug court practices involve the *non-adversarial* nature of the proceedings. It is important to note that *non-adversarial* does not equate to *non-advocacy*. Rather, each member of the drug court team best represents his or her professional responsibilities by advocating a perspective that is consistent with their professional interests as members of a team who contribute equally, through the lens of their respective professions, to the outcome of recovery for every participant in the program. In the context of a drug court, the traditional concepts of the attorneys as “courtroom opponents” or “opposing counsel” give way to a common commitment to the best interests of the participant toward ending his or her addictive behaviors.

Similarly, although the drug court judge will have more intimate and direct involvement with program participants, their counsel, and the other members of the drug court team, the judge maintains his or her traditional role as an impartial, independent decision-maker who is advised by other professionals on his or her options to foster compliance with the terms and conditions of the plea agreement, and to strengthen each participant's capacity to engage in the drug court process and graduate from the program.

Substance abuse treatment professionals, operating from a medical, rather than a legal, model, most often interact with the criminal justice system through the process of reporting compliance with conditions imposed by the court or probation. Due diligence must be taken to ensure compliance with confidentiality requirements as the traditional insulation of treatment providers from the arena of the courtroom gives way to an active, advisory role to the judge on treatment options that most closely meet the goal of recovery for each participant.

To enhance awareness of the ethical standards and confidentiality requirements for every member of the team, and to be clear on the ethical dimensions involved in a drug court practice, the Waukesha County Drug Treatment Court program will:

- Promote and foster the duties of professional competence and due diligence from every member of the drug court team
- Maintain, recognize, respect, and value the distinct roles of every member of the team
- Foster a spirit of collaboration where every member of the team is expected to exercise independent professional judgement and render candid advice on how best to meet the treatment goals and expected outcomes for each participant in the program
- Add value to the drug court process by promoting authentic advocacy that is consistent with the professional responsibilities of each member of the drug court team
- Ensure that every member of the team is fully aware of the drug court model, how it operates, and be able to articulate its risks and benefits to program participants and to the community
- Promote competency and knowledge on professional ethics and confidentiality and how they may be consistently applied in a drug court setting
- Ensure that program participants are fully informed on the drug court process, that they give voluntary, informed consent to participate in the drug court

program, and that they are aware of the risks and benefits that are involved with their participation in the program

- Require that program participants sign appropriate Waivers of Confidentiality that demonstrate that the participant provides informed consent on the consequences of that Waiver, that it is given voluntarily, and that he or she has had the opportunity to discuss the terms and conditions of that Waiver with counsel
- Provide on-going education on the ethical and confidentiality dimensions of drug courts by directing members of the team to current research and writing that address the issues of ethics and confidentiality in drug courts
- Hold information discussed during pre-trial interviews, assessment, drug court team staffing meetings, drug court status hearings, and treatment sessions in confidence
- No results or statements made by participants during drug court proceedings shall be admissible against participants other than in drug court proceedings to prove a violation of the drug court rules or to establish grounds for termination of a defendant from the drug court program

To promote a full understanding of the discussions related to ethics and confidentiality in drug court programs, members of the team are directed to the following documents as sources of information and guidance on applied ethics in drug court programs. Through education and exposure to important areas of debate, the Waukesha County Drug Treatment Court Team will continue to demonstrate ethical standards that will withstand the scrutiny of professionals in the field, participants in the drug court program, and the community at large.

Ethical Considerations for Judges and Attorneys in Drug Court

National Drug Court Institute

October, 2002

<http://www.ndci.org/publications/monograph-series/ethical-considerations-judges-and-attorneys-drug-court>

Federal Confidentiality Rules and How They Affect Drug Court Practitioners

National Drug Court Institute

April, 1999

<http://www.ndci.org/publications/monograph-series/federal-confidentiality-laws-and-how-they-affect-drug-court-practitioners>