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Nora Borja

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE CNMI DRUG COURT PROGRAM POLICIES AND PROCEDURES

ADMINISTRATIVE ORDER 2017-ADM-0012-RUL

ORDER ADOPTING
INTERIM CNMI DRUG COURT PROGRAM POLICIES AND PROCEDURES

¶ 1 The Drug Court Act of 2015, as codified in 1 CMC §3207, was enacted on October 28, 2015. Pursuant to the Act, the CNMI Superior Court commenced the Drug Court Program using a collaborative non-adversarial system to effect the rehabilitation and recovery of drug offenders through continuous court monitoring, regular drug testing, and holistic drug dependency treatment.

¶ 2 A team of stakeholders in the drug court program, consisting of the Office of the Attorney General, the Office of the Public Defender, law enforcement agencies, treatment professionals, and Drug Court staff, developed proposed policies and procedures to standardize the process for entry into the Drug Court Program and conducting proceedings. To avoid any delay in proceedings, we find it necessary to adopt the proposed policies and procedures in the interim pending further review.

¶ 3 Therefore, it is hereby ordered that the CNMI Drug Court Program Policies and Procedures, attached as EXHIBIT A, is adopted in the interim, nunc pro tunc to December 15, 2016, pending further review by the Supreme Court.

SO ORDERED this 26th day of May, 2017.

/s/

ALEXANDRO C. CASTRO
Chief Justice

/s/

JOHN A. MANGLONA
Associate Justice

/s/

PERRY B. INOS
Associate Justice



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CNMI DRUG COURT PROGRAM

POLICIES AND PROCEDURES

Approved by the
COMMONWEALTH SUPREME COURT
May 26, 2017

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INTRODUCTION

The Drug Court Act of 2015, as codified in 1 CMC §3207, was enacted on October 28, 2015. It created the Drug Court Program (“Drug Court” or “Program”) which operates a collaborative non-adversarial system to effect the rehabilitation and recovery of drug offenders through continuous court monitoring, regular drug testing, and holistic drug dependency treatment.

The overall goal of Drug Court is to enhance efficiency and sustainability, as well as to increase public knowledge of treatment courts and to strengthen internal and external relations. Drug Court staff assists with day-to-day operations. Under the leadership of the presiding judge and the assigned Drug Court Judge, the Drug Court Manager ensures the successful implementation of the Program and other treatment programs. The staff also serves as liaison with other Drug Court Team agencies and community programs and handles data collection and analysis, grant writing, resource development, and public outreach and information.

Mission Statement

The mission of Drug Court is to improve the lives of individuals and their family by providing a multidisciplinary approach, integrating evidence-based and culturally sensitive treatment services, and promoting sobriety and positive behaviors.

Drug Court aims to accomplish its mission by:

- Establishing effective and sustainable drug court programs that reduce drug use, crime, incarceration rates, and criminal justice costs in the Commonwealth;
- Providing judicially supervised treatment as an alternative to incarceration;
- Providing rigorous case management to ensure that each participant complies with the treatment mandate;
- Helping all participants learn how to control their addictions so they can maintain long-term recovery and sobriety;
- Utilizing health education to reduce high-risk behaviors among offenders;
- Identifying and treating the health problems of high-risk offenders; and
- Linking participants to housing, vocational, educational, and employment services.

Vision Statement

The vision of Drug Court is to improve the quality of life for individuals and families affected by drugs and alcohol.

Drug Court aims to accomplish its vision by:

- Promoting rehabilitation by linking participants who suffer from serious substance abuse to treatment services in the CNMI;
- Ensuring community safety and reducing recidivism through appropriate substance abuse treatment and intensive community supervision; and
- Increasing collaboration between the court, counsel, law enforcement agencies, and community substance abuse and other treatment services.

Section 1. General Provisions

- (a) **Effective Date.** These policies and procedures are deemed effective as of December 15, 2016.
- (b) **Purpose.** These policies and procedures are intended to establish proper procedures, ensure timeliness regarding Drug Court cases, and reflect the best practices established by national organizations, including the National Association of Drug Court Professionals and the National Drug Court Institute.
- (c) **Construction.** These policies and procedures shall be construed to ensure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay.
- (d) **Conflict.** Nothing in these policies and procedures is meant to contravene established Commonwealth and federal laws or regulations, or other court policies and procedures.
- (e) **Definitions.** Unless defined below, any word found within these policies and procedures shall retain its commonly understood meaning. The following terms are defined as follows:
 - (1) **Drug Court.** Drug Court is a special problem-solving program within the Commonwealth Superior Court that provides a treatment-based alternative to incarceration for eligible criminal offenders with a substance abuse problem.

- (2) **Drug Court Team.** The Drug Court Team (or “Team”) is a continuing collaboration that includes the Drug Court Judge, Drug Court Staff (Drug Court Manager, Caseworkers, Compliance Specialist, and Community Supervision Provider), representatives from the Office of the Attorney General (OAG), Office of the Public Defender (PDO), Department of Public Safety (DPS), Department of Corrections (DOC), and designated, non-exclusive, treatment providers. Any mention of the above-stated agencies in these policies and procedures is made in reference to the agency’s representative on the Team.
- (3) **Drug Court Judge.** The Drug Court Judge (or “Judge”) heads the collaborative treatment Team. In this capacity, the Judge regularly reviews case status reports detailing each participant’s compliance with the treatment plan. During regular court appearances, the Judge administers graduated sanctions and incentives to increase each participant’s accountability, and to enhance the likelihood of long-term treatment compliance.
- (4) **Drug Court Manager.** The Drug Court Manager (or “Manager”) oversees the daily operations, including case flow, treatment planning, referrals to suitable treatment providers, and participant progress.
- (5) **Caseworkers.** Caseworkers refer participants to specific services based on participant needs, the service’s ability to comply with the Court’s reporting requirements, and the service’s capacity to provide appropriate care (e.g. mental or physical health, language, etc.). Caseworkers maintain close communication with service providers to report to the Court on a participant’s progress in treatment.
- (6) **Community Supervision Provider/Compliance Specialist.** The Community Supervision Provider and the Compliance Specialist work closely together with assigned law enforcement officers to ensure compliance with the terms and conditions of Drug Court, including public safety, monitoring and enforcing curfew, community supervision, advancing Drug Court

participants on calendar, documenting each Drug Court participant's requirements after each Court appearance, establishing contact with victims about fees/fines, and providing this information to the Court.

- (7) **Office of the Attorney General/Prosecutor.** The Office of the Attorney General assigns a prosecutor to Drug Court to act as a representative on the Drug Court Team. The role of the OAG in Drug Court differs from its role in a traditional adjudication process. In Drug Court, all parties and counsel share the common goal of helping participants successfully comply with treatment in a community setting. The assigned prosecutor reviews new cases concerning eligibility pursuant to the guidelines herein. As part of a collaborative Team with the Judge, defense attorney, and clinical staff, the assigned prosecutor monitors participant progress and can make recommendations regarding incentives and sanctions. If a participant is re-arrested, the prosecutor reviews the new case and assesses the appropriateness of the participant's continued participation. The prosecutor is also responsible for assisting the Team's law enforcement members with ensuring participants' continued coordination and the appropriateness of their ongoing participation in the Program.
- (8) **Office of the Public Defender.** The Office of the Public Defender Office assigns a public defender to Drug Court to act as a representative on the Team. The public defender represents and counsels the participant in Drug Court proceedings. The public defender seeks to find treatment solutions for the participant that minimize the participant's exposure to incarceration, reduce the risk of recidivism, and limit the consequence of a criminal conviction.
- (9) **Law Enforcement Officers.** Law enforcement officers are detailed to Drug Court from DPS and DOC and are

assigned exclusive Drug Court caseloads. Law enforcement officers work closely with the Compliance Specialists and Community Supervision Providers. The participants on an officer's caseload are those referred to the officer by the Manager or Caseworkers. Law enforcement officers work closely with the Team to enhance the likelihood of positive outcomes for each participant.

- (10) **Drug Court Treatment Providers.** Drug Court coordinates with both public and private treatment providers who work closely with the Team to coordinate and provide addiction treatment as well as physical and mental healthcare. Drug Court maintains partnerships with community-based substance abuse and mental health treatment providers. This approach is an evidence-based practice designed to assist participants in avoiding criminal recidivism, reducing harm from substance abuse while in recovery, and treating other mental and physical illness.
- (11) **Potential Participant.** A potential participant is an offender that is either being assessed for eligibility or is undergoing the entrance protocol, but has not yet been accepted into the Program.
- (12) **Staffing.** A staffing is a confidential Team meeting. The initial staffing is to discuss and report on a potential participant's eligibility and suitability. The weekly staffing is to discuss a participant's progress and compliance.
- (13) **Drug Court Hearings.** There are multiple types of hearings: (1) Initial Hearing; (2) Review Hearing; and (3) Order to Show Cause Hearing. The Initial Hearing is the first hearing where a potential participant submits a guilty plea to be held in abeyance. Review Hearings are weekly or monthly hearings mandated by Drug Court. The Order to Show Cause Hearing is held for a participant subject to termination to show cause why participant should not be terminated from the Program.

Section 2. Guiding Principles

Drug Court engages participants in a plea in abeyance model and structure supportive of success in recovery. The Program utilizes alternative treatment tracks appropriate for individualized interventions, taking into consideration the person's addiction, mental and physical health, and other factors which may prevent successful recovery. The Program utilizes incentives and strategic graduated sanctions to encourage the success of participants.

Drug Court makes every effort to identify all reasonably appropriate treatment options and encourage participants to continue their engagement in the treatment plan.

(a) Ten Key Components of Drug Court.

- (1) Drug Court integrates alcohol and drug treatment services with justice system case processing. The Program integrates treatment services with the criminal justice system.
- (2) Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights. OAG and PDO assign representatives to Drug Court.
- (3) Eligible participants are identified early and promptly placed in the Program. Participants are referred to Drug Court for immediate assessment and, if accepted, placed in treatment programs.
- (4) Drug Court provides access to a continuum of alcohol, drug, and other related treatment and rehabilitation services. Participants engage in treatment, largely provided by the State Substance Abuse Agency, for physical and mental health and substance abuse services. Drug Court coordinates with other providers to facilitate complimentary services.
- (5) Abstinence is monitored by frequent alcohol and drug testing. Participants undergo random and frequent testing. A series of timely progress reports coupled with court appearances encourage compliance with treatment protocols and judicial mandates.

- (6) A coordinated strategy governs Drug Court responses to participant compliance. Positive performance results in incentives including reduced supervision, moving phases, and eventually graduation from the Program. Sanctions, when needed, are imposed based on their therapeutic value.
 - (7) Ongoing judicial interaction with each participant is essential. Depending on their treatment stage and level of compliance, participants appear before the court weekly, bi-weekly, or monthly. Participants may be required to appear before members of the Team more frequently.
 - (8) Monitoring and evaluation measure the achievement of Program goals and gauge effectiveness. Drug Court utilizes information technology to manage and analyze data and client referral needs. Process evaluation is a continual procedure assessed quarterly.
 - (9) Promote training and education for effective planning, implementation, and operation. The Team and staff meet benchmarks by continuing to educate themselves through regional and national training conferences, studies, and research efforts.
 - (10) Forging partnerships among the Drug Court, public agencies, and community-based organizations generates local support and enhances Program effectiveness. The collaborative structure of Drug Court requires constant communication among the Team and other collaborative stakeholders to share information and to enhance Program effectiveness.
- (b) **Target Population.** Drug Court targets adult non-violent offenders where there is a reasonable assumption that the offender's criminal activity is connected directly to the ongoing, chronic, and habitual use of substances. The Program does not accept participants who are charged with violent or sexual assault offenses. On a case-by-case basis, the Program may accept participants who would otherwise be rejected if a significant period has elapsed since the violent crime charge was filed.

- (c) **Initial Program Requirement.** An intake interview, a full assessment of substance use disorder, criminogenic and treatment need, and bio-psychosocial and drug testing are conducted for all potential participants deemed legally eligible to enter Drug Court.

If accepted into Drug Court, the participant is expected to complete Phase One within the first month in the Program, which includes all initial assessments, screening, testing, and signing agreements and other documents. Participants immediately participate in treatment planning, transition into the Level of Care (American Society of Addiction Medicine Patient Criteria) identified by the clinician, and follow their treatment plan. As an additional treatment obligation, each participant is expected to submit to urinalysis testing on days assigned by the Team.

Out-of-custody participants are ordered to return for a weekly check-in pending the presentation of the assessment. The assessment is generally scheduled within three days from referral and/or the initial appearance in Drug Court.

Section 3. Eligibility and Entrance Protocol

- (a) **Eligibility** is a legal determination based on the nature and type of charges filed against a potential participant as well as the potential participant's criminal history. OAG makes the initial legal eligibility decision. The most significant components of eligibility are a demonstrated substantial substance abuse problem associated with criminal conduct and consideration of public safety.
- (b) **Suitability** is a comprehensive assessment. The Judge, in consultation with the Team, determines suitability. Suitability measures, among other considerations, the likelihood that an offender is ready to participate in and complete the Program. Suitability is determined based upon a person's level of addiction and treatment needs. An individual may be determined to be unsuitable for Drug Court participation when that person poses a danger to the physical or emotional well-being and

recovery efforts of themselves or other participants. For good cause, the Judge may suspend or cancel a potential participant’s legal or clinical assessments any time before entrance into Drug Court.

Admission is subject to limited availability and resources. If necessary, the Manager maintains a waiting list of referrals and potential participants.

(c) Eligibility Chart

Eligibility	1. Legal Eligibility	A. PDO or defense counsel submits written request to OAG for Legal Determination.
		B. OAG submits a Referral Form to Drug Court Manager with OAG’s determination.
	2. Clinical Eligibility	C. If OAG determines the potential participant is legally eligible, Drug Court Staff completes intake, screening, and assessment of potential participant.
		D. The potential participant is referred to the designated treatment provider, who conducts a bio-psychosocial assessment and reviews the Team’s screening and assessment results. E. If the treatment provider agrees that the potential participant is clinically eligible, the treatment provider recommends a treatment track. F. After receiving the treatment provider’s report, the Drug Court Manager assigns the potential participant a Caseworker. G. After reviewing the legal and clinical eligibility determination and receiving

		recommendations from the Team, the Drug Court Judge determines whether the potential participant is suitable.
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- (d) **Eligibility Process.** A potential participant must be deemed legally eligible before being assessed for clinical eligibility. A potential participant must be deemed legally and clinically eligible to be suitable for the Program.
- (e) **Legal Eligibility.** A potential participant's counsel submits a request for the OAG to make a determination of legal eligibility. OAG then determines a potential participant's legal eligibility.

(1) **Request for Legal Determination**

To initiate a determination of legal eligibility, a potential participant's counsel must submit a written request for legal determination to OAG and forward a copy to the Manager. The written request should be submitted after a potential participant has expressed sincere interest in entering Drug Court.

- i. **Substance.** The written request shall contain, at least, the following information about the potential participant: (1) name; (2) case number and/or DPS case number; (3) interest in Drug Court; (4) substance use history; and (5) proposed home placement.
- ii. **Form.** The written request to the OAG can be electronic. A copy of the letter must be forwarded to the Manager.
- iii. **Timing.** Requests should be made as early in the criminal process as possible. Requests may not be submitted after the entry of a guilty plea in the criminal docket in the pending matter.
- iv. **Good-Faith Belief.** Counsels requesting a legal eligibility determination understand that requests must be made with a good-faith belief that the potential participant is eligible.
- v. **Required Notification.** If counsel for potential participant, at any point after submitting a request but before the participant is accepted, find that the potential participant is no longer interested in entering Drug Court, counsel shall promptly notify

the Staff. After the Staff confirms that the potential participant is no longer interested in Drug Court, the entrance protocol ceases and any files regarding the potential participant are stored and/or destroyed in compliance with Commonwealth and federal rules. If the potential participant wishes to withdraw after being accepted, the Team follows the exit protocols.

- (2) **Determination of Legal Eligibility.** Legal eligibility is determined by OAG.
 - i. **Timing.** Upon receipt of a request for legal determination, the OAG has 14 business days to determine legal eligibility.
 - ii. **Criteria.** A potential participant is not legally eligible for Drug Court if they are currently charged with or have, within the last five years, been convicted of a violent crime or a sexual crime. All other participants are reviewed on a case-by-case basis.
 - iii. **Referral.** Once a legal determination is made, OAG shall submit one copy of the Referral Form to Manager and one to the requesting party (i.e., potential participant or his/her counsel).
 - iv. **Substance.** The Referral Form shall include the OAG's legal determination and contain all the information necessary for the Staff to identify and contact the potential participant, as well as: (1) potential participant's name; (2) potential participant's criminal case number and/or DPS case number; (3) the potential participant's interest in Drug Court; (4) the potential participant's substance use history; and (5) the potential participant's proposed home placement.

(f) **Clinical Eligibility.** The Staff and designated treatment provider(s) are involved in determining clinical eligibility. Clinical Eligibility is separated into the following two criteria.

- (1) **Criteria One.** Criteria One of the clinical eligibility consists of the following preliminary matters and clinical assessments made by the Staff.
 - i. **Preliminary Matters.** Upon receipt of the Referral Form, the Manager shall contact the potential participant's attorney to determine: (1) whether Drug Court may initiate contact with potential participant

- directly and (2) whether the potential participant wants counsel to be present at the Intake Interview. If participant wants counsel to be present during the Intake Interview, the Manager shall make every effort to include counsel. Counsel is not required to be present for the interview.
- ii. Intake Interview. During the Intake Interview, the Manager collects certain demographic information, orients the potential participant to Program requirements, and assesses whether the potential participant is seriously interested in Drug Court. If the potential participant wishes to proceed, the potential participant must sign requisite forms, including but not limited to, the Consent for Disclosure/Release of Confidential Information Form. After conducting the Intake Interview, the Staff schedules a screening and assessment with the potential participant.
 - iii. Screening. Following the Intake Interview, the potential participant's substance use disorder is assessed using a screening tool. To ensure the validity of the screening results, the potential participant's counsel may not be permitted to be present during the screening. Nothing from the screening process may be used against a potential participant if they are determined to be ineligible for or later terminated from Drug Court.
 - iv. Assessment. During the initial case planning appointment, the potential participant's criminogenic risk and need for treatment are assessed using an assessment tool. To ensure the validity of the assessment results, the potential participant's counsel may not be permitted to be present. Nothing from the assessment process may be used against a potential participant if they are determined to be ineligible for or later terminated.
 - v. Referral Packet. The Staff prepares and forwards a referral packet to the designated treatment provider for a review of the Staff's findings, regardless of the initial findings. The referral packet includes copies of the intake form, disclosure form, screening results, and assessment results. The Staff coordinates an appointment with the treatment provider for the potential participant.

(2) **Criteria Two.** Criteria Two of the clinical eligibility determination is performed by the designated treatment provider. To maintain accuracy of testing results, the designated treatment provider shall conduct the following tasks and assessments within seven business days from receipt of Drug Court's referral packet.

- i. **Bio-psychosocial Assessment.** After referral from Drug Court, the designated treatment provider shall interview the potential participant within seven (7) business days to evaluate a potential participant's mental health. This timeframe is meant to ensure the validity of assessment results.
- ii. **Confirmation of Screening.** After conducting the bio-psychosocial assessment, the designated treatment provider shall determine the accuracy of the participant's screening results.
- iii. **Treatment Plan.** Based on all the clinical information gathered, the designated Treatment Provider shall develop an individualized treatment plan for the potential participant.

(a) The treatment plan shall be submitted to the Manager within seven (7) business days from the time of referral.

(b) The Manager may contest the proposed treatment plan.

(g) **Initial Staffing.** After a participant's determinations of legal and clinical eligibility, an initial staffing is held to report the findings to the Judge.

- (1) **Summary of Findings.** The participant's assigned Caseworker shall compile the legal and clinical eligibility assessment results prior to the initial staffing, and submit a Summary of Findings report to the Manager utilizing the Summary of Findings Form.

The Summary of Findings report, and all other progress reports, shall be completed, reviewed by the Manager, and submitted to the Judge at least one (1) business day prior to the initial staffing.

- (2) **Presentation of Summary of Findings**

At the initial staffing, the assigned Caseworker shall present a Summary of Findings to the Judge. Other Team members are encouraged to contribute to the discussion.

(3) **Suitability; Drug Court Team and Judge's Decision**

During the initial staffing, the Judge considers Team Members' findings and recommendations regarding the potential participant's suitability for Drug Court. The Judge then decides whether the potential participant is suitable.

- i. **Timing.** Unless good cause is shown, the Judge's decision to accept or reject a potential participant is made during the initial staffing.
- ii. **Form.** The Judge documents his or her decision by completing the last portion of the Summary of Findings form.
- iii. **Next Steps.** If the Judge finds that the potential participant is suitable for Drug Court, the Judge shall order the participant to appear at the next scheduled Hearing. If the Judge finds that the potential participant is not suitable for Drug Court, the Manager informs the potential participant and the case proceeds in Superior Court.

- (h) **Initial Drug Court Hearing.** If the Judge finds that the potential participant is suitable, the Judge issues an Order to Appear at the next scheduled Hearing. The potential participant and his or her attorney must be present at the Initial Hearing. The Initial Hearing operates similar to a "Change of Plea." The potential participant is advised of their rights, waives said rights, and submits a guilty plea to be held in abeyance pursuant to NMI R. Crim. Pro. 11-1. Admission requires participants to sign and submit the Drug Court contract and Plea in Abeyance agreement.

If necessary, the Drug Court Clerk prepares any Orders triggering case assignment to Drug Court, release from custody, exoneration of bail or property, sealing of documents and/or vacating hearings in the criminal matter for the Presiding Judge's or Judge's review and approval.

Section 4. Program Components

Once a potential participant is accepted, orientation is scheduled to introduce participant to the Program components. In addressing a participant's addiction, Drug Court incorporates regular judicial interaction with substance use treatment, community supervision, and case management.

- (a) **Staffing and Judicial Interaction at Review Hearings.** Review Hearings occur regularly while a participant is in Drug Court. Prior to a Review Hearing, the Team participates in a staffing to discuss each participant's progress and compliance with Drug Court requirements. During the staffing, the Team discusses and offers recommendations to the Judge. Staffings are confidential, closed-door meetings for the Team.

During the Review Hearing, the participant interacts with the Judge, as well as other Team members. The participant discusses progress, addresses any Team concerns, and shares achievements. The Judge may award incentives or assess sanctions based on therapeutic value.

Participants refer to their Drug Court Phase/Track for review hearing frequency. In the beginning of the Program, review hearings are scheduled weekly and may be lessened or increased in frequency at the court's discretion. Typically, the number of review hearings declines based on the participant's performance in the Program. However, the Team may schedule additional hearings as needed.

The Judge may initiate, permit, or consider ex parte communications expressly authorized by law. In this capacity, the Judge may assume a more interactive role with parties, treatment providers, law enforcement officers, and other Team members.

- (b) **Treatment Plan.** The Drug Court treatment providers are charged with creating, developing, and modifying individual treatment plans for each participant.

Treatment plans are flexible and adjusted based on a participant's individual needs and goals or may be altered to reflect the participant's progress. While the Team typically defers to treatment providers, the Manager reserves the right to contest and/or amend treatment plans.

Treatment plans take into account the participant's baseline functioning, individual capabilities, addiction level, and physical, mental, and emotional needs. A participant's recovery support system, such as family members, friends, employers, etc., may also be significant to the treatment plan.

Initial treatment needs are determined during the clinical assessment. Needs are reviewed on a weekly basis and are often adjusted during the Program. Various treatment modalities are available and Drug Court endeavors to provide a full continuum of care to participants. Both individual and group therapies are employed to treat the whole addict, not just the addiction. Caseworkers work closely with treatment providers to determine the appropriate level of care.

If the treatment plan is inadequate to meet the participant's needs the Court must work to offer a better treatment plan, including a move from a community setting into a residential treatment program. If no reasonable treatment options are available to address the participant's addiction, or other personal needs, or to protect the safety of others, the court has the discretion to terminate participation and return the individual for traditional criminal court adjudication.

Funding for treatment is provided by private insurance, welfare assistance, and Drug Court. Confidentiality is maintained by providers, except where the continuum of care principle requires that information be shared.

- (c) **Alternative Tracks and Phases in Drug Court.** No one intervention is appropriately suited for all drug-involved offenders. The most effective and cost-efficient outcomes are achieved when treatment and supervision services are tailored to

the (1) prognostic risk level and (2) criminogenic needs of the participants. Drug Court participants are placed in one of four tracks based on their prognostic risk level and criminogenic needs. If there is a need to modify a track, a request from the Caseworker and treatment provider is submitted to the Team for approval. Tracks vary in length and phase requirements.

Drug Court participants are placed in a multi-phase treatment model that transitions the participant from alcohol and other drug use or dependence to successful recovery. Drug Court is designed to transition participants from recognition of their addiction, to active engagement in the therapeutic process based on their tracks, to sustained recovery and aftercare.

Individuals entering the Program should anticipate that they will be actively enrolled for at least eighteen months. 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 for failure to comply with requirements or if the participant will benefit from further or renewed participation in the lower phase of treatment.

- (d) **Case Management.** Drug Court follows the National Association of Drug Court Professionals' generalist model for case management. In this model, the Caseworker has five key functions in case management comprised of assessment, planning, linking, monitoring, and advocacy. Caseworkers work in collaboration with clinicians, Team members, and other service providers for the benefit of the participant. This aids in forming treatment strategies and identifying issues currently affecting the participant's recovery.
- (e) **Community Supervision.** Community supervision is an integral component in ensuring compliance and accountability of participants.

The Community Supervision Provider, Compliance Specialist, and DCP Team Law Enforcement Officers work together to

monitor participant's outside of court setting, promote public safety, hold a participant accountable for actions, acknowledge participant success, and follow evidence-based practices to maximize results. The positions work together in order to ensure a participant's compliance with the Program requirements and orders dictating curfews, restrictions and community service. These Team members also: (1) conduct random drug testing; (2) identify environmental threats; (3) stay alert to impending signs of relapse; (4) report investigative findings conducted by assigned Drug Court law enforcement officers; (5) enforce community obligations; and, (6) actively participate in Drug Court Staffings and hearings.

A participant's failure to comply with the terms of supervision is a violation. A violation may result in sanction, including incarceration, or termination of a participant from Drug Court. The participant is expected to bring in his or her community meeting attendance sheets or other proof of treatment compliance.

- (f) **Testing and Accountability.** Substance abuse testing is considered a cornerstone of the Program. Participants are subject to a random and frequent testing system.

Each participant is directed to call a random testing phone line daily between 8 a.m. and 11 a.m. to hear if they are directed to report for testing. Upon finding they are directed to report for testing, the participant reports to an assigned location during the designated hours. All testing is observed by the Compliance Specialist, Community Supervision Provider, law enforcement officer, or other certified testing agent.

The Judge may order a drug test at any time, without restriction, including during a hearing. A participant's failure to appear or submission of a diluted sample is considered a positive test result for Program purposes. A participant may contest the results of a drug test but, if a participant wishes to contest the results, the participant bears the cost of any additional testing and confirmation of results.

(g) **Incentives and Sanctions.** The Judge determines the appropriate incentives or sanction with recommendations from the Team.

(1) **Incentives.** Incentives compel compliance and drive success in case outcomes. Incentives are intended to promote and reward compliance with treatment requirements, and to build trust between the Team and the participant.

Accordingly, Drug Court utilizes incentives to assist the participant in achieving treatment goals. Incentives recognize, encourage and promote positive behaviors. Incentives include tangible rewards, like movie tickets or gas vouchers, and intangible rewards, like applause or words of affirmation.

(2) **Sanctions.** Sanctions are also used to assist the client in achieving treatment goals. Drug Court utilizes graduated sanctions to promote accountability and compliance. Sanctions may include loss of privileges, increased court appearances or testing frequency, or shock incarceration. Sanctions are imposed swiftly as needed.

Graduated sanctions are a structured and incremental response to non-compliant behavior and violations. By design, the sanction should be appropriate for the behavior, the individual circumstances, and the severity of addiction, mental health or physical health condition of the participant. Sanctions tend to be escalating in intervention.

When possible, shock incarcerations issued as sanction should be no more than five days at the Department of Corrections. If the participant has failed to make progress with requirements of the treatment plan, a participant may remain in custody until a residential treatment placement is available.

The Judge only imposes sanctions after hearing from the Team, the participant, and counsel. If the sanction subjects the participant to incarceration or termination from the Program, the participant is entitled to notice, a hearing, and an opportunity to be heard.

The time a participant spends incarcerated after entry into Drug Court not related to a new charge shall constitute time served.

A participant must not be subjected to a term of incarceration, either consecutively or cumulatively, which exceeds the maximum sentence for the charge to which the participant entered a plea in abeyance.

Section 5. Termination from Drug Court

(a) Types of Termination

- (1) **Self-Termination.** Participation in Drug Court is voluntary. Accordingly, a participant may self-terminate from Drug Court at any time. Participants who self-terminate are responsible for paying any outstanding fees.
- (2) **Court Termination.** As eligibility for Drug Court participation is not a right of the participant, Drug Court may terminate a participant at any time. The Court, at the request of a Team member, or on its own motion, may terminate a participant from the Program. A violation of treatment obligations may be grounds for termination. The seriousness of the treatment violation, repeated failures to comply, limitation of alternative treatment options, or other good cause may result in court termination.

(b) Grounds for Court Termination

- (1) **New Allegation of a Felony.** The Court may terminate a participant on motion of OAG, or on its own motion, if the participant is arrested and charged with a new felony

- at any time after entry into Drug Court. The Court shall terminate a participant on motion of OAG, or on its own motion, if the participant is arrested and charged with a new violent or sexual felony at any time after entry.
- (2) **New Allegation of a Violent Misdemeanor, or Felony.** The Court may terminate a participant on motion of the OAG, or on its own motion, if the participant is arrested and charged with a violent misdemeanor.
 - (3) **New Allegation of a Domestic Violence Offense.** The Court shall terminate a participant on motion of the OAG, or on its own motion, if the participant is arrested and charged with a domestic violence offense in any jurisdiction.
 - (4) **Violation of a Stay Away Order.** The Court may terminate a participant on motion of the OAG, or on its own motion, if the participant violates a stay away order. In the alternative, the Court may impose a period of incarceration, or other conditions, as a stipulation of further participation.
 - (5) **Administrative Termination.** A participant who has either voluntarily left the jurisdiction or is evading local authorities will be administratively terminated if a bench warrant remains outstanding thirty days after it is issued.
 - (6) **Other Reasons for Termination.** The Court may terminate a participant based on positive drug tests, prior failures in the treatment plan, lack of appropriate treatment services, other reasons related to the participant's compliance with treatment obligations, or for other good cause.
 - (7) **Withdrawals.** A participant may voluntarily withdraw by submitting a written request to the Team and participant's counsel. All fees must be paid before the request is approved.
- (c) **Termination Procedure.** When a recommendation for termination is made, an Order to Show Cause hearing is scheduled. The OSC hearing should be held within thirty days of the recommendation for termination. The participant may elect to waive his or her right to a hearing, however such waiver should occur only after a participant has had the opportunity to discuss options with counsel. If a hearing occurs, the participant

and counsel must be present at the termination hearing. If terminated, the Judge accepts the plea held in abeyance and the case proceeds to sentencing.

- (d) **Re-Entry into Drug Court.** If a participant who has been terminated wishes to re-enter Drug Court, such re-entry requires a new suitability assessment. The Judge may, at the Judge's discretion, refuse re-entry to any participant. At the Judge's discretion and with advice from the Drug Court Team, the Judge may establish conditions for re-entry. Any re-entry conditions must be clearly noted in the case file and forwarded to the participant, OAG, and any counsel for the participant. Re-entry may be barred for up to ten (10) years if a terminated participant is convicted of domestic violence or other violent crime. Re-entry may be permanently barred if a terminated participant is convicted of a sexual crime.
A Drug Court graduate is not eligible for re-entry into Drug Court.

Section 6. Successful Completion of Drug Court

- (a) **Graduation.** Graduation ceremonies are held to commemorate participants who have met the graduation requirements. Before graduation, the Team begins working with the client regarding transition to graduate status. This includes the preparation of a Graduation Life Plan (what was learned, plans to avoid relapse, and future goals), attendance at the Exit Seminar, and participation in a Relapse Prevention Program. The goal for each participant is to have in place a relapse prevention plan, stable housing, and a steady source of income.
- (b) **Graduation Requirements.** A participant must meet all of the following criteria to graduate:
- Successful completion of all Program requirements and payment of all costs;
 - Satisfactory completion of community service and other Program assignments;
 - Six consecutive months of sobriety, including clean urinalysis and negative breathalyzer results;
 - Completion of Graduation Life Plan Application and Exit Seminar;
 - Completion of an aftercare plan with the Caseworker;
 - Enrollment into a Relapse Prevention Program;

- A positive recommendation for graduation by the Team; and
 - The approval of the Judge.
- (c) **Substantial Completion.** The Judge, with the recommendation of the Team, may grant a successful completion of the Program without a formal graduation ceremony under the following circumstances:
- A participant's terminal illness has caused his or her health to deteriorate so severely that continued treatment compliance is impossible and there is no likelihood of future criminal conduct.
 - A participant has maintained at least six (6) months of continued sobriety, successfully fulfilled the graduation requirements, and demonstrates a compelling reason for early dismissal.
 - A participant diagnosed with a mental illness after entry, or whose pre-existing mental illness has significantly worsened, who represents no public safety risk and no likelihood for further criminal conduct, if the mental illness precludes further treatment compliance. The participant must have successfully engaged in treatment for at least 120 non-custody days at some time prior to dismissal.

Section 7. Drug Court Fees

Drug Court assesses and collects fees to cover Court services. Services may include: screening for eligibility and other appropriate services, clinical assessment, substance abuse education, referral and case management, and service coordination. This fee may be in addition to any other fee, fine, or cost that the court is authorized (or required) to assess and collect (such as treatment fees, community corrections fees, fines and costs, etc.) Any additional fees, fines, and costs are dictated by offense or status. Payment of fees, and/or restitution is an important part of a participant's treatment, but no one who is otherwise eligible should be denied participation solely based on inability to pay. Fees may be broken up into weekly or monthly payments.

Ideally the participant is expected to pay all fees in full prior to graduation. Fees may be broken down into monetary benchmarks a participant must achieve prior to promotion from one phase to another, or may be assessed monthly. Fees are paid at the Judiciary Cashier's Office.

Restitution and prior court fines associated with the criminal case that brought the participant into the Program must be paid prior to graduation. If necessary, payment plans are available.

Should a participant not pay all restitution prior to graduation the participant is subject to the issuance of a civil judgment for any outstanding balance. A participant may not receive the full benefit of completing the Program, which may include reduction and/or dismissal of his or her criminal charge. The Judge may also order a payment plan for any remaining restitution. If a participant is indigent at the time of graduation, the Judge may suspend or forgive any outstanding court fines and/or fees. If a participant is terminated from the Program all outstanding fees must still be paid.

Section 8. Confidentiality

Federal and Commonwealth laws of confidentiality govern the Drug Court and its treatment programs. Disclosure of information received in the course of treatment is strictly prohibited unless a court order “for good cause” is issued. Participants must authorize the disclosure of information regarding their diagnosis, attendance, scope of treatment, treatment progress, quality of participation, and termination or completion of treatment. This consent shall include authorization to conduct research of treatment success, costs, and recidivism rates for participants. All parties and counsel attending the staffing are obligated to sign and abide by a Confidentiality Form. At the discretion of the Judge, anyone outside of the Program can attend Drug Court hearings but attendees are obligated to sign and abide by a Confidentiality Form.

Section 9. Forms

Drug Court is authorized prepare applicable forms as necessary. Forms must be approved by the presiding judge or designee. Forms are available on the Judiciary’s website at www.justice.gov.mp.