

DELAWARE COUNTY
MENTAL HEALTH COURT

POLICY AND PROCEDURE MANUAL

ESTABLISHED JANUARY 201

INTRODUCTION

In January 2014, the Delaware County Mental Health Court Program was established to more effectively address the needs of participants with serious mental illness cycling through the court and prison system. This court represents collaboration between the Court, Office of the Public Defender, Office of the District Attorney, Office of Behavioral Health, the George W. Hill Correctional Facility, Office of Probation and Parole and Community Based Providers.

MISSION

The mission of the Mental Health Court Program is to enhance public safety and reduce recidivism of participants with serious mental illness by connecting them with community treatment services and supports and to find appropriate dispositions to their criminal charges by considering the participant's mental illness and the seriousness of the offense.

GOALS

1. Connect court participants who suffer from serious mental illness to treatment and support services in the community.
2. Reduce time spent involved with the criminal justice system.
3. Decrease time spent in jail by moving participants with serious mental illness expeditiously into appropriate community based treatment settings.
4. Promote employment and other evidences of recovery among participants served by the Mental Health Court Program.

OUR PROGRAM

The Mental Health Court Program (MHCPP) will accept referrals after criminal charges have been filed and the case has been forwarded to the Delaware County Court of Common Pleas for further disposition. Referrals will also be accepted for participants who are before the Court of Common Pleas for alleged violations of existing probation/parole sentences(Gagnon's).

Participation in Mental Health Court Program is voluntary. Informed consent will be obtained for evaluation and consideration by the Court Team and again at the point of acceptance into Mental Health Court Program.

Once a referral is made, the participant will be classified as "under consideration" for acceptance into the Mental Health Court Program. During this initial consideration period, the primary mechanism for supervision and compliance with recommended treatment will be the imposition of bail conditions. When the participant is formally accepted into Mental Health Court, the participant must enter a plea to certain agreed-upon charges. Thereafter the participant will proceed through the three phases of engagement identified in the Terms of Participation section herein. Sentencing may be

Punishment may be imposed. Upon successful completion of the Mental Health Court Program, participants that entered the program by way of a diversion case may have their charges reduced or dismissed. Those that have entered the program as a recovery case may have their period of supervision terminated.

Eligibility

The Mental Health Court Program is limited to residents of Delaware County who are 18 or older. In order to participate in the Mental Health Court Program the person must have a serious mental illness (SMI) diagnosis (schizophrenia, major mood disorder, psychoses NOS, borderline personality disorder) that contributed to the criminal behavior. Persons with co-occurring disorders (mental health and substance use disorder) will be evaluated for Mental Health Court Program if they meet the criteria for serious mental illness. The Court prefers to address non-violent offenses but other crimes will be taken into consideration on a case-by-case basis.

Exclusionary Criteria

While each case will be considered individually, the following offenses will typically be excluded from the Program :

- Felony sex offenses
- Felony crimes of violence
- Felony crimes of violence committed with a firearm
- Felony drug offenses
- Participants are considered ineligible if there are any unresolved out of county charges. It is the responsibility of the participant's counsel to resolve any pending out of county charges.
- Murder and Manslaughter will not be considered under any circumstances

Competency

If a participant is referred to MHCP and there is a suspicion that the participant is not competent, a competency evaluation will be expedited. Once competent, individuals will then continue in the MHCP process. If a participant is deemed incompetent and fails to respond to any measures to restore competency, the participant may not be considered for Mental Health Court program.

Application and Referral Process

The Delaware County Mental Health Court Program receives referrals from a variety of sources including the participant, arresting officers, probation/parole officers, District Justices, District Attorneys, Delaware County Correctional Facility, and the defense bar. Referrals are categorized into two types:

Diversion cases

These are new cases to the criminal justice system. They require an admission of guilt to the charges prior to being admitted to the program. Sentencing is deferred pending successful completion of the program or an Intermediate Punishment sentence may be imposed; the charges may be reduced or dismissed.

Recovery cases

These are participants currently under the supervision of the Delaware County Adult Probation and Parole Department. Upon successful completion of the program, they may earn the termination of their period(s) of supervision if all program conditions are met and all financial obligations to the Court are satisfied.

There will be continual contact between the Office of Behavioral Health and the prison system so that persons with a history of SMI who are taken to prison will quickly be referred to Justice Related Services and potentially to Mental Health Court.

All applications and referrals should be directed to the Office of Adult Probation.

At the point where the application or referral is received, an initial screen will be done to gather baseline information to present to the team. All applications and referrals will be reviewed by the team. The referral form needs to be accompanied by a recent psychiatric evaluation. If one is not included, the participant's attorney will be responsible for obtaining the evaluation for the Mental Health Court Program. After this first level of eligibility is determined, the treatment providers will meet with the participant to begin to develop a Community Living Plan. During this meeting, consent from the participant will be obtained to allow the exchange of information between the members of the team and any identified service provider.

The Referral and Community Living Plan will be presented to the Mental Health Court Team for review. It will include the participant's life goals and an assessment of their capabilities and needs. As treatment plans are developed with the community-based provider, they will include both short term and long-term goals.

In addition to the Community Living Plan, the following documentation will be submitted to the MHCP team:

- Psychiatric evaluation(s)
- History of Mental health treatment
- Criminal background history
- Summary of charge(s)

After the plan is submitted to the team, it will be reviewed by the team and a determination will be made.

Reconsideration Policy

The Delaware County Mental Health Court Program will consider all appropriate referrals on a case-by-case basis. During the consideration process, a myriad of factors are considered. Major emphasis is placed upon the offense as charged, the impact of the participant's SMI in regards to the offense, nature of the offense, prior record, and likelihood of success. This information is derived from police reports, criminal history inquiries, prior treatment, psychological evaluations, contacts with arresting officers and probation/parole records.

If a relevant party to the participant's case (attorney, judge, treatment provider, police officer, etc.) feels the Mental Health Court Team failed to consider a particularly important factor, he/she may make a written request for the case to be reconsidered. The reconsideration request must be submitted in writing to the Office of the District Attorney. The request must include supportive reasoning for reconsideration. Supportive reasoning is defined as mitigating circumstances pertaining to the crime, psychiatric/psychological reports that may not have been available for the initial consideration, or any other relevant information that can be placed in written format.

The decision by the Mental Health Court will be final.

ROLES OF THE MENTAL HEALTH COURT TEAM

Judge

The Mental Health Court Judge heads the collaborative team. The Judge regularly reviews the case status reports, leads the weekly team meetings and is the final arbiter in any decision on which there is not agreement of the team. During the court process the Judge administers graduated sanctions and incentives, based on input from the team, to increase each participant's accountability and to enhance the likelihood of long-term participation in treatment and recovery.

Court Coordinator

The Court Coordinator works in close consultation with the Judge. The Coordinator reviews all referrals to the court for initial eligibility and coordinates the assessment process. The Coordinator manages all information for new referrals to present to the court team and gathers relevant information for the weekly meetings of the team.

District Attorney

The District Attorney reviews all new cases concerning eligibility. The eligibility assessment includes a review of the participant's criminal history, consultation with victims, legal eligibility, and appropriate dispositions upon the participant's entry into

As part of the team, the District Attorney monitors the participant's progress and makes recommendations regarding sanctions and incentives. If a participant is re-arrested, the District Attorney investigates the new criminal charges and assesses the appropriateness of continued participation in the Mental Health Court Program.

Public Defender/Defense Counsel

The Public Defender/Defense Counsel represents and advises the participant in all court proceedings and protects the participant's constitutional rights and civil rights as a mental health consumer. The Public Defender/Defense Counsel seeks to find treatment solutions for the participant that minimize the participant's exposure to incarceration, reduce the risk of re-arrest or new charges, and mitigate the consequences of a criminal conviction.

Adult Probation

Specialized Probation Officers oversee participants in Mental Health Court Program. The Probation Officer works closely with participants and provides updates to the team regarding compliance with terms and conditions of probation. The Probation Officer focuses on community involvement, including meeting with clients in the field, interacting with community-based organizations, overseeing restitution, and networking with treatment providers.

Office of Behavioral Health

A representative from the Office of Behavioral Health participates in Mental Health Court Program proceedings to provide additional support and oversight, insuring the provision of recommended mental health services. The Behavioral Health representative works to facilitate collaboration between community provider agencies and Mental Health Court. Their role is to monitor the services Mental Health Court Program participants are receiving, to identify additional individual supports as needed, and to identify potential gaps in the service system that need to be addressed.

Treatment Providers

The Treatment Providers receive referrals from the Court Coordinator. They complete an initial assessment, community living plan, and obtain the appropriate releases to determine whether the participant meets the diagnostic eligibility criteria and where the participant will live. They present their findings to the team. Additionally, the treatment providers work with the participant to begin applications to all eligible programs.

Community Support Providers

Participants being served by Mental Health Court Program will receive their treatment services in the community provider system. These providers are responsible to work consistently with Adult Probation and treatment providers to provide updates on the participant's progress, challenges that have been encountered, and to keep the treatment providers and probation officer aware of any violation of the agreed upon plan for participating in Mental Health Court Program. Community Staff Providers will obtain necessary release of information forms from participants to allow their sharing of information.

Team Decision Making

The Mental Health Court Team will meet prior to each Mental Health Court Program session. At these meetings the team will review all cases on the docket for that day. The review will include a clinical report from the treatment provider for each case, as well as the reports from the Probation Officer and the Community Support Provider. The meeting is also used to assess the status of cases in which current treatment and supervision do not appear to be effective. Decisions are typically made by consensus.

Additionally, the team addresses administrative matters pertaining to program planning and administration, treatment and service delivery, training, policies and procedures, data collection, grants and special projects, and issues that may have arisen since the last meeting. Team members may also meet periodically to address treatment plans, community planning, funding and/or legislative processes, and to respond to problems that may arise. In addition, the team meets periodically for training and educational experiences.

TERMS OF PARTICIPATION

The Mental Health Court Team will meet weekly to review the status of participants scheduled for court that day and any other offenders who are having difficulty in the program.

At the time of acceptance into the Mental Health Court Program, all necessary consent

forms for waivers of confidentiality will be signed to allow all team members to communicate freely with each other and with the Mental Health Court Program participant. The Treatment Provider will obtain this release of information. This release of information form will extend to community-based mental health providers and if necessary, physical health providers as well.

The process of Mental Health Court Program consists of three phases. These phases are designed to focus more on positive rewards and strengths than on sanctions, though sanctions will be delivered as necessary. While movement through the phases will be individualized, the average length of participation in the court will be 24 months. The general structure of the phases is:

PHASE I

The following are standards for Phase I completion:

- Attend Mental Health Court weekly.
- Meet with their Probation Officer a minimum of once a week.
- Attend all appointments with appropriate treatment agencies.
- Follow through with treatment goals including attending appointments, taking medication, attending recovery support meetings, community service, etc.
- Demonstrate housing and financial management stability.
- Undergo urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from drugs/alcohol.
- Make consistent payments to ward court ordered restitution.
- Increase community activity through participation in volunteer activities, employment, education, and/or other training opportunities.

Participants will be permitted to move to Phase II when they have consistently demonstrated the following:

- Attendance at all appointments with the Court, the Office of Adult Probation and Parole, Treatment Providers and Community Support Providers.
- A commitment to and follow through with goal plans.
- Medication compliance
- Stability in financial management and housing.
- Remain drug/alcohol free: relapses are not necessarily cause for return to previous phase. The sanction for a relapse will be considered on an individual basis.

PHASE II

The following are standards for Phase II completion:

- Attend Mental Health Court Program every other week.
- Meet with Probation Officer a minimum of every two (2) weeks.

- Attend all treatment appointments
- Follow through with treatment goals including attending appointments, taking medication and attending recovery support meetings.
- Demonstrate ongoing stability with regards to housing and financial management.
- Comply with urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from drugs/alcohol.
- Make consistent payments towards Court ordered restitution.
- Increase community activity through participation in volunteer activities, employment, education, and/or other training opportunities.

Movement to Phase III happens when the participant has consistently demonstrated clear signs of stability in the following areas:

- Attendance at all appointments with the Court, the Office of Adult Probation and Parole, Treatment Providers and Community Support Providers.
- Following through with Mental Health Court goal plan and recovery plan developed with provider.
- Stability in housing and housing management.
- Stability in financial management.
- Remaining drug/alcohol free: relapses are not necessarily cause for return to previous phase. The sanction for a relapse will be considered on an individual basis.

PHASE III

Participants will be required to meet the following standards for Phase III compliance:

- Attend Mental Health Court Program once per month.
- Meet with Probation Officer a minimum of once a month.
- Attend all appointments with appropriate treatment agencies.
- Follow through with treatment goals including attending appointments, taking medication and attending recovery support meetings.
- Demonstrate ongoing stability with regard to housing and financial management.
- Comply with urine drug screens/breath tests as directed.
- Demonstrate continued abstinence from drugs/alcohol.
- Pay all court ordered restitution.

The Court Team will make the recommendation and decision for advancement for each phase.

Mental Health Court Standards on Medications

The Delaware County Mental Health Court Program prohibits the use of narcotics or other prescribed drugs with potential for abuse even when prescribed by a physician, without the prior consent of the probation officer. Over the counter medications must

also be approved for use by the probation officer in order to avoid any cross reactions that may result in positive drug tests. All participants are apprised of these prohibitions prior to entering the program and are responsible for notifying their physician when being treated. The physician treating the participant must understand and recognize their patient's addiction issues. The program will work with the physician to meet the needs of the participant while accomplishing the goals of the program.

The Role of Incentives and Sanctions

Throughout participation in Mental Health Court Program, incentives and sanctions will be used to support follow through with agreed upon goals and plans. These incentives and sanctions will be individualized according to the participant's plans, but may include the following:

Incentives

- Positive verbal feedback and/or handshakes from the judge
- Certificates of completion at set intervals
- Gift cards
- Symbols of accomplishments (i.e. key chains)
- Decrease in number of required appearances in court

Sanctions

- Increased appearances in court
- Increased participation in treatment activities
- Increased reporting to Probation Officer
- Community service
- Increased substance abuse testing
- Incarceration
- Termination from the program

The Mental Health Court team will determine on the particular incentive or sanction to be used. The incentives are positive motivators and the sanction chosen should also serve to increase the participant's likelihood of success in the program. For example, while increased attendance at treatment or reporting to the Probation Officer is listed as a sanction, it is a way of increasing the support the participant needs to allow them to succeed.

Voluntary and Involuntary Discharge from Mental Health Court

Mental Health Court Program is voluntary. The decision to discharge a participant either voluntarily or involuntarily is made by the Judge.

Diversion and Recovery Case Discharge

Voluntary Discharge

A participant is free to request a voluntary discharge from the program at any time. Diversion cases are relisted for sentencing. Recovery case participants are then sentenced on their outstanding charge of probation, parole, and/or intermediate punishment violation and may be incarcerated.

Involuntary Discharge

A participant may also be discharged involuntarily for violation of program rules and regulations and/or for new criminal charge(s). In the event of an involuntary discharge, diversion cases are relisted for sentencing. Recovery case participants are sentenced on their outstanding charge of probation, parole, and/or intermediate punishment violation and may be incarcerated.

Graduation

Any participant that successfully completes all three phases of Mental Health Court Program will be recognized during a short graduation ceremony. The Mental Health Court Team will make the determination when all program requirements have been satisfied.

Participants completing the Mental Health Court Program may have the court consider dismissing or reducing their charges for diversion cases, and having supervision terminated for recovery cases. The determination of these factors will be based on a case-by-case assessment of prior record and nature of the offenses by the Judge.

Confidentiality

The Mental Health Court Program proceedings shall be kept confidential unless otherwise ordered by the Court. No information disclosed shall be the basis for prosecution of new crimes and no participant shall be required to testify to any information discussed or disclosed during Mental Health Court Program hearings. None of the proceedings, other than guilty plea, sentencing, termination, and contested sanction hearings will be held on the record. Participants will be asked to sign a waiver authorizing the transfer of information among Mental Health Court Program participating agencies and court-approved observers.