

Where Treatment and Accountability Meet Justice



DRUG TREATMENT COURTS

Department of Judicial Services Office of the Executive Secretary, Supreme Court of Virginia

JUVENILE DRUG TREATMENT COURT STANDARDS

SUPREME COURT OF VIRGINIA

Adopted

December 15, 2005

(REVISED 10/07)

PREFACE*

As most juvenile justice practitioners know only too well, the populations and caseloads of juvenile court dockets have changed dramatically during the past decade. The nature of both the delinquent acts and the dependency matters being handled have become far more complex, entailing more serious and violent criminal activity and escalating degrees of substance abuse. Practitioners in the juvenile justice system also recognize that the situations that are bringing many juveniles under the court's jurisdiction are often closely linked with substance abuse and with complicated, and often multigenerational, family and personal problems. These associated problems must be addressed if the escalating pattern of youth crime and family dysfunction is to be reversed. Many justice system practitioners are also recognizing that, insofar as substance abuse problems are at issue, the "juvenile" and "criminal" dockets are increasingly handling the same types of situations, and often the same litigants.

The juvenile court traditionally has been considered an institution specifically established to address the juvenile's needs holistically. However, many juvenile court practitioners have found the traditional approach to be ineffective when applied to the problems of juvenile substance-abusing offenders. During the past several years, a number of jurisdictions have looked to the experiences of adult drug courts to determine how juvenile courts might incorporate a similar therapeutic approach to deal with the increasing population of substance-abusing juveniles more effectively. Development of juvenile drug courts is proving to be a much more complex task than development of the adult drug court. Juvenile drug courts require the involvement of more agencies and community representatives than adult drug courts. Most programs, for example, characterize the extent of drug use among the participating juveniles as increasingly more severe. Most also report the age at first use among participants to be between 10 and 14 years, although earlier use is being detected. During 1995 and 1996, when the first juvenile drug courts began, the primary drugs used by juvenile participants were reported to be alcohol and marijuana. More recently, there appears to be increasing use of other substances, particularly methamphetamine, crack/cocaine, heroin, and toxic inhalants.

In 2004, the Virginia General Assembly enacted the Drug Treatment Court Act, Virginia Code §18.2-254.1, in recognition of the growing number of drug treatment courts in the Commonwealth. Pursuant to Code §18.2-254.1, the Supreme Court of Virginia is the administrative body with specific responsibility for implementation of

* Background information obtained from a report prepared by the Office of Justice Programs Drug Court Clearinghouse and Technical Assistance Project at the American University, Washington, D.C.

the Drug Treatment Court Act. The Act requires the establishment of a state drug treatment court advisory committee to set standards for the planning and implementation of all drug treatment courts in the Commonwealth.

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PURPOSE

These standards are recommended to provide a general framework of common principles, policies and practices for the approval of new drug treatment courts in the Commonwealth of Virginia. They present a single orientation from which the judicial branch, including judges and all court personnel, can work with prosecutors, the defense bar, corrections officials, local government, law enforcement, department of social services, and public and private treatment providers to address problems of substance abuse which pervade the court system's criminal and abuse and neglect caseload. Each standard includes practices or recommended steps, consistent with public safety, for courts to take in responding effectively to the toxic mix of substance abuse and crime. The steps are stated broadly in order to leave room for each drug treatment court to meet local needs. This structure of standards and practices will:

- Minimize duplication of efforts and ensure greater coordination among all court supervised drug treatment programs throughout the Commonwealth;
- Maximize coordination and sharing of scarce treatment resources;
- Strengthen efforts to obtain federal funding; and
- Facilitate development of coordinated long-range plans for financing drug treatment court operations.

In addition to the standards and practices set forth in this document, localities seeking to establish a drug treatment court must meet all requirements set forth in Va. Code §18.2-254.1. The two significant statutory requirements are: (1) local officials must form local drug treatment court advisory committees composed of the persons specified in §18.2-254.1.G and set forth the means by which the local committees will ensure quality, efficiency and fairness in the planning, implementation, and operation of the program, and (2) local advisory committees must establish criteria for the eligibility and participation of participants in the programs, including screening for

violent offenders, as required in §18.2-254.1.H., and the amount of contributions required of offenders/participants to pay for substance abuse treatment services.

These standards reflect the existing benchmarks outlined in *Defining Drug Courts: The Key Components* published by the U.S. Department of Justice, Office of Justice Programs. They have been modified for use within the Commonwealth of Virginia. There are and will continue to be differences among individual drug treatment court programs based on the unique needs and operational environments of the local court jurisdictions and the target populations to be served. However, there is also a need for overall uniformity as to basic program components and operational procedures and principles. Therefore, this document is an attempt to outline those fundamental standards and practices to which all juvenile drug treatment courts in the Commonwealth of Virginia should subscribe.

STANDARD I

Drug treatment courts depend upon a comprehensive and inclusive planning process.

PRACTICE

- 1.1 The drug treatment court has demonstrated participation in a planning process to ensure a coordinated, systemic and multidisciplinary approach.
- 1.2 The planning group includes the judge, court administrator, clerk, social services, school system and/or guardian ad-litem, public defender or defense attorney, and representatives from the local community services board or other clinical services provider, law enforcement, secure detention, probation services, and other community-based organizations.
- 1.3 The planning group has a written work plan addressing the program's needs for operations, budget and resources, information management, staffing, community-relations, and ongoing evaluation. The work plan has specific descriptions of roles and responsibilities of each program component. For example, eligibility criteria, screening, and assessment procedures are established.
- 1.4 Both court and treatment case management procedures and information systems are developed.
- 1.5 Graduated responses to the participant's compliance and noncompliance are defined.

- 1.6 Treatment requirements and expectations are understood and agreed upon by the planning group.

STANDARD II

Drug treatment courts integrate substance abuse treatment services with adjudication of the case(s) before the court.

PRACTICE

- 2.1 The drug treatment court has a program description defining the court's mission, goals, eligibility criteria, operating procedures, and performance measures, that have been collaboratively developed, reviewed, and agreed upon by the team.
- 2.2 Criteria may include compliance with local program requirements, participation in treatment, employment, educational achievement, family reunification, restitution to the victim or to the community, and declining incidence of alcohol and/or other drug use, with eventual long-term recovery.
- 2.3 The court, supervision, and treatment providers maintain ongoing communication, including frequent exchanges of timely and accurate information about the individual participant's overall performance.
- 2.4 The judge plays an active role in the team process, frequently reviewing the participant's behavior and incidence of compliance with treatment options.
- 2.5 Interdisciplinary education is provided for every person involved in drug treatment court operations to develop a shared understanding of the values, goals, and operating procedures of both the treatment and justice system components.
- 2.6 Mechanisms for sharing decision making and resolving conflicts among drug treatment court team members, such as multidisciplinary committees, are established, emphasizing professional integrity.

STANDARD III

Drug treatment courts have published eligibility criteria that have been collaboratively developed, reviewed, and agreed upon by the drug treatment court team.

PRACTICE

- 3.1 Persons with a prior conviction for a violent offense (as defined in Va. Code §18.2-254.1.H.) are not eligible to participate.
- 3.2 Participation in a drug treatment court is voluntary and requires a written agreement among the participant, the Commonwealth and the judge.
- 3.3 Risk assessment factors that are crucial in determining a participant's suitability for the drug treatment court, such as family and community ties, mental health status, employment status, educational level and prior criminal history are weighed by the drug treatment court judge on a case-by-case basis.

STANDARD IV

Drug treatment courts incorporate a non-adversarial approach in which the judge, Commonwealth attorney, defense attorney and others promote public safety while protecting the rights of participants.

PRACTICE

- 4.1 Commonwealth's Attorneys and Public Defenders or defense counsel participate in the drug treatment court, including criteria for screening, eligibility, and policies and procedures, to safeguard due process rights and make sure public safety needs are served.
- 4.2 For consistency and stability in the drug treatment court operations, the judge, commonwealth attorney and defense counsel are assigned to the drug treatment court for a sufficient period of time to build a sense of teamwork and to reinforce a non-adversarial atmosphere.
- 4.3 Each drug treatment court has a written agreement setting forth the terms of collaboration among the clinical treatment provider, the Judge, and all participating agencies.

STANDARD V

Drug treatment courts emphasize early identification and placement of eligible participants.

PRACTICE

- 5.1 Eligibility screening is based on established written criteria pursuant to Va. Code § 18.2-254.1. Criminal justice officials or others (e.g. probation services) are designated to screen cases and identify potential drug treatment court participants. Certified or licensed addictions/mental health professionals provide additional screening for substance use disorders and suitability for treatment.
- 5.2 Once accepted for admission, the participant is enrolled immediately in substance abuse treatment services and placed under supervision to maintain compliance.
- 5.3 An approved consent form is completed, to provide communication regarding participation and progress in treatment and compliance with 42 CFR, Part 2 (regulations governing confidentiality of substance abuse treatment records) applicable state statutes, and HIPAA regulations.

STANDARD VI

Drug treatment courts provide access to a comprehensive continuum of substance abuse treatment and rehabilitation services.

PRACTICE

- 6.1 Participants are initially screened and thereafter periodically assessed by both court and treatment personnel to ensure that treatment services and individuals are suitably matched.
- 6.2 All substance abuse and mental health treatment services are provided by programs licensed by the Virginia Department of Behavioral Health and Developmental Services pursuant to Va. Code § 37.1-179 or persons licensed by the Virginia Department of Health Professions.

- 6.3 Each participant contributes to the cost of the substance abuse treatment he/she receives while participating in the drug treatment court.
- 6.4 Treatment services are comprehensive.

STANDARD VII

Abstinence is monitored by frequent alcohol and other drug testing.

PRACTICE

- 7.1 Drug treatment courts have written policies and procedures for the frequency of drug screening, sample collection, sample analysis, and result reporting
- 7.2 The testing policies and procedures include a coordinated strategy for responding to noncompliance, including prompt responses to positive tests, missed tests, and fraudulent tests.
- 7.3 The testing policies and procedures address elements that contribute to the reliability and validity of a urinalysis testing process, which may include:
 - a. *Direct observation of urine sample collection;*
 - b. *Verification of temperature and measurement of creatinine levels to determine the extent of water loading;*
 - c. *Quality control and quality assurance procedures for ensuring the integrity of the process; and*
 - d. *Procedures for verifying accuracy when drug test results are contested.*
- 7.4 The scope of testing is sufficiently broad to detect the participant's primary drug of choice as well as other potential drugs of abuse, including alcohol. Each drug treatment court program has breathalyzer capability.
- 7.5 Test results are available and communicated to the court and the participant within a brief period, recognizing that the drug treatment court functions best when it can respond immediately to noncompliance.

STANDARD VIII

A coordinated strategy governs responses from the drug treatment court to each participant's performance and progress.

PRACTICE

- 8.1 A participant's progress through the drug treatment court experience is measured by his or her compliance with the treatment and supervision regimen.
 - 8.2 Treatment providers, the judge, supervision staff and other program staff maintain frequent, regular communication to provide timely reporting of progress and noncompliance and to enable the court to respond immediately. Procedures for reporting noncompliance are clearly defined in the drug court's operating documents.
 - 8.3 Responses to compliance and noncompliance (including criteria for expulsion) are explained orally and provided in writing to drug treatment court participants during their orientation. Periodic reminders are given throughout the treatment process.
 - 8.4 Coordinated responses for compliance or noncompliance are graduated and consistent with the infraction or accomplishment.
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STANDARD IX

Ongoing judicial interaction with each participant in the drug treatment court is essential.

PRACTICE

- 9.1 Regular status hearings are used to monitor participant performance:
 - a. *Frequent status hearings during the initial phases of each participant's program establish and reinforce the drug treatment court's policies and ensure effective supervision of each drug treatment court participant. Frequent hearings also give the participant a sense of how he or she is doing in relation to others.*
 - b. *Having a significant number of drug treatment court participants appear at a single session gives the judge the opportunity to educate both the participant at the*
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bench and those waiting as to the benefits of program compliance and consequences for noncompliance.

- 9.2 The court imposes appropriate incentives and sanctions to match the participant's treatment progress.
- 9.3 Payment of fees, fines and/or restitution is part of the participant's treatment. The court supervises such payments and takes into account the participant's financial ability to fulfill these obligations.

STANDARD X

The drug treatment court has results that are measured, evaluated, and communicated to the public.

PRACTICE

- 10.1 The goals of the drug treatment court program are described concretely and in measurable terms. Minimum goals are:
 - a. *Reducing drug addiction and drug dependency;*
 - b. *Reducing crime;*
 - c. *Reducing recidivism;*
 - d. *Reducing drug-related court workloads;*
 - e. *Increasing personal, familial, and societal accountability among participants;*
 - f. *Promoting effective planning and use of resources among the criminal justice and social services systems and community agencies; and*
 - g. *Encouraging education by reducing truancy, reducing drop out rates, and increasing the number of juveniles receiving diplomas, GED's and completing vocational programs.*
- 10.2 The drug treatment court has an evaluation and monitoring protocol describing measurement of progress in meeting operational and administrative goals, effectiveness of treatment, and outcomes.
- 10.3 Information systems adhere to written policies consistent with state and federal guidelines that protect against unauthorized disclosure.
- 10.4 The drug treatment court must use and maintain current data in an information technology system as prescribed by the Office of the Executive Secretary.

STANDARD XI

The drug treatment court requires continuing interdisciplinary education and program assessment.

PRACTICE

- 11.1 Key personnel have attained a specific level of basic education, as defined in staff training requirements and in the written operating procedures. The operating procedures define requirements for the continuing education of each drug treatment court staff member.
 - 11.2 All drug treatment court personnel attend continuing education programs. Regional and national drug court training programs provide critical information on innovative developments across the nation. Sessions are most productive when drug treatment court personnel attend as a group.
 - 11.3 Continuing education institutionalizes the drug treatment court and moves it beyond its initial identification with the key staff that may have founded the program and nurtured its development.
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STANDARD XII

The local advisory committee interacts in a vital and meaningful way with staff of the drug treatment court.

PRACTICE

- 12.1 The local advisory committee conducts regular meetings attended by drug court staff.
 - 12.2 Representatives of the court, community organizations, law enforcement, corrections, prosecution, defense counsel, supervisory agencies, treatment and rehabilitation providers, educators, health and social service agencies, and the faith community have opportunity to contribute to the ongoing improvement of the drug treatment court program.
 - 12.3 Staff of the drug treatment court engages in community outreach activities to build partnerships that will improve outcomes.
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