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REVIEW OF THE ADULT DRUG, MENTAL HEALTH, AND VETERANS TREATMENT COURTS IN DELAWARE: OBSERVATIONS AND RECOMMENDATIONS

Presented to the Delaware Criminal Justice Council of the Judiciary

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I. INTRODUCTION

This report presents a summary of the review of the Adult Drug, Mental Health, and Veterans Treatment Courts in the Superior and Common Pleas Courts of Delaware which was conducted by the Bureau of Justice Assistance Drug Court Technical Assistance Project at American University during the period June 1 – November 15, 2015. This review was undertaken at the request of Judge William Carpenter, Co-Chairman of the Delaware Criminal Justice Council of the Judiciary.

A. Focus of the Study

In his January 28, 2015 letter requesting the study, Judge Carpenter asked American University to address issues noted in the Administrative Directive 186 issued by Chief Justice Strine, including:

> "... review [of] each of the problem-solving courts ... to determine how efficiently the problem-solving courts are operating, whether standards for statewide operation should be developed, and the effect they have on key partners in the criminal justice arena ... [with the] ultimate goal ... to ensure we are engaging in the best practices identified nationally for those courts..."

In conducting the study, American University also took into account issues referenced by Chief Justice Strine in the initial mandate for the Council provided in the Administrative Directive, including the degree to which problem-solving courts are improving "public safety, the rehabilitation of offenders, and the efficiency of ..." judicial system resources.

Although a number of problem-solving courts operate in Delaware – juvenile drug courts, DUI courts, re-entry courts, for example – American University's review has been restricted to the Adult Drug, Mental Health and Veterans Treatment Courts in the Superior and Common Pleas Courts in each of the three counties because of the limited resources available. For the purpose of this report, these programs will be referred to as "drug courts" unless specifically noted.

B. Study Team

The study team, listed below, was composed of experienced drug court practitioners representing both the judicial and treatment perspectives and a range of jurisdictional environments in which drug court and related programs operate. The expertise of the consultant team was augmented by that of American University staff who have extensive national experience with drug court programs.

Consultants:
Judge Dennis Fuchs (Ret.), Salt Lake City, Utah
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C. Framework for Analysis and Programs Reviewed

The framework for the study team's review and analysis has been the *Ten Key Components*[1], summarized in Appendix A, with additional reference to relevant evidence based practices, research findings, standards of practice and effective program operations that have emerged since the Key Components were published:

The following 17 programs were reviewed:

- Adult Drug Courts in the Superior and Common Pleas Courts
  New Castle County: Superior Court: Track 2[2]; CCP Court
  Kent County: Superior Court: Tracks 1 and 2; CCP Court
  Sussex County: Superior Court: Tracks 1 and 2; CCP Court
  Total Adult Drug Courts Reviewed: 8

- Mental Health Courts in the Superior and Common Pleas Courts
  New Castle County: Superior Court and; CCP Court
  Kent County: Superior Court: and CCP Court
  Sussex County: Superior Court and CCP Court
  Total Mental Health Courts Reviewed: 6

- Veterans Treatment Courts in the Superior Court[3]
  New Castle County
  Kent County
  Sussex County
  Total Veterans Treatment Courts Reviewed: 3

D. Site Schedule and Scope of Review

In addition to a planning meeting with the Judge Carpenter and others involved with Delaware's problem-solving court programs in March 2015, American University conducted follow up meetings with judicial system, probation, treatment and others involved with the problem-solving courts in each of the counties during April – June to provide an overview of the study, its focus, and the subsequent follow-up the study team planned with the programs in each of the counties. To assist the study team in scheduling its on-site review, Judge Carpenter designated the following individuals in each county to serve as the study team's Point of Contact:

Kent County: Judge William Witham
New Castle County: Judge Robert Surles
Sussex County: Commissioner Alicia Howard

[1] See: *Defining Drug Courts: The Key Components.* National Association of Drug Court Professionals. U.S. Department of Justice. 1997.
[2] Track One refers to the program primarily for probation violators and contemplates more seriously involved offenders who would, it is assumed, most likely require intensive outpatient and other services; Track Two focuses on offenders eligible for diversion who general participate in an educational program of approximately 12 weeks.
[3] Veterans Treatment Courts do not operate in the Court of Common Pleas in any of the three counties.

Their assistance was invaluable on many levels, including making it possible for the study team to meet with the range of personnel involved with each of the 17 programs reviewed and to observe as many of the drug court hearings and staffings as possible while on site in each county. The site visit to each county followed the general guidelines American University uses for the drug court program reviews conducted nationally. These entailed:

- Individual meetings with
  - the drug court judge(s)
  - the public defender(s)
  - the prosecutor(s)
  - representative(s) from Probation
  - representative(s) from TASC
  - administrative staff of the court
  - treatment agency staff[4]
  - Veterans Justice Outreach (VJO) staff
- Observation of the drug court staffing
- Observation of the drug court hearing[5]

In addition to the introductory meetings conducted with the drug court teams and others involved with the programs reviewed in each county during March – June, four members of the study team spent a minimum of three days on site in each county, resulting in a total of 36 consultant days plus additional staff time spent on site, with substantial additional consultant and staff time devoted to reviewing observations, materials, and reporting.

E. Materials Reviewed

The following is a representative listing of materials relevant to the Delaware problem solving courts that were reviewed:

State Materials:

Administrative Directive 186. Chief Justice Leo Strine
American Bar Association Judicial Division, Standards Relating to Trial Courts: Standard 2.77 Procedures in Drug Treatment Court[6]
DSAMH Treatment Eligibility Form and Placement Procedures
DSAMH Scope of Services Documents.
Statewide Prison Treatment Programs including CREST Guidebook, GreenTree Orientation Packet
Superior Court Veterans Treatment Court Contract
Superior Court Veterans Treatment Court Mentor Application

[4] As further discussed in this report, despite numerous requests, the study team was never able to meet with any of the treatment providers for the Track One participants – e.g., those with ostensibly more severe drug problems by virtue of their offense --in any of the counties or to develop any sense of the services being provided to these participants.

[5] Although scheduling did not permit the study team to observe the court hearing and staffing for each of the 17 programs reviewed, the study team observed at least one staffing and hearing for each type of problem-solving court program at each level of court studied.

[6] http://courts.delaware.gov/superior/pdf/drugctstandfinal.pdf

Superior Court Veterans Treatment Court Participant's Handbook
Superior Court Veterans Treatment Court Program Manual,
TASC Case Management Plan
TASC Report Procedures Given at Entry
TASC Orientation Packet
TASC Risk Assessment and Classification

Kent County:
Participant Tracking Spreadsheets Maintained by Judge Anne Riegle, Court of Common Pleas
State Provided Drug Court Screening Form
Superior Court Drug Diversion Program Handbook
Superior Court Mental Health Court Implementation Packet

New Castle County:
Brandywine Counseling Initial Client Packet for CCP and SC Drug Court Participants
Superior Court Mental Health Court Probation Program Manual
Superior Court Mental Health Court Participant's Handbook
Superior Court Mental Health Court Peer Mentor Description
Superior Court Mental Health Court Referral Process
Superior Court Drug Diversion Petition, Waiver, and Agreement (English and Spanish)
Superior Court Drug Diversion Participant's Handbook

Sussex County:
Court of Common Pleas Drug Diversion Participant's Handbook
Superior Court Drug Diversion Participant's Handbook
Superior Court Drug Diversion Waiver and Agreement
Threshold's Contract Work Plan
Threshold's Jeopardy Contract for Participants

The study team's observations and recommendations resulting from their review are presented in the following sections of this report, along with an assessment of the degree to which the drug courts reviewed in this study are presently achieving the goals of the *Key Components*. Although detailed notes were compiled relevant to each of the programs observed in the three counties visited, the focus of our report is upon the overall structure, services, and operations of the drug courts reviewed in keeping with the issues outlined in Chief Justice Strine's Administrative Directive and Judge Carpenter's letter of request. The recommendations presented are designed to provide a road-map for instituting the improvements necessary to promote the efficiency and benefits of Delaware's drug courts, through the provision of necessary statewide coordination and support while, at the same time, strengthening local capacity in each county to develop and sustain drug courts that are responsive to local justice system needs and draw on the resources of the local community.

II. SUMMARY OBSERVATIONS

During the course of this study, it became apparent to the study team that Delaware's drug courts were, at one time, national exemplars of soundly designed multi-disciplinary programs that reflected both the vision and the reality of the tremendous impact a well-developed drug court program could have in reaching the offenders needing services, reducing the prison population, and promoting public safety. Over the years, however, the collaborations and services that made these outcomes possible, dissipated, with the result that many of the current drug courts are shells of what they once were. [7] With concerted, multi-agency effort, however, all of the state's drug courts should again be in a position to provide the quality and continuum of services defendants need and the public deserves.

The following summary comments provide the context for the more specific recommendations presented in Section III.

General Comments:

(1) Delaware has the potential, substantial existing resources, and a major need to develop strong, effective drug courts. However, without the multi-agency collaboration, management infrastructure, attention to nationally accepted evidence based practices, and ongoing personnel training essential for effective drug courts, this potential is not being realized.

Virtually all of Delaware's drug court programs are served by judges and representatives from other supporting agencies who demonstrate a commitment to the goals of the drug court and are trying as best they can to effectively serve the participants.

However the programs are greatly handicapped by the inadequate management infrastructure for the programs, both within each county and statewide; the lack of operational guidelines for each program, including eligibility criteria, articulated program phases; the lack of a systematic screening and assessment process that can identify the "high need/high risk" participants the program should target and match participants with appropriate treatment and mental health services, and, conversely, avoid mixing "high need" participants with low need ones; the lack of dedicated treatment providers; and absence of training provided to drug court judges and team members.

(2) There appears to be no clearly articulated target population the drug courts are charged to serve and no priority – or even attention – given to the "high need/high risk" participants that both research and experience has shown to benefit most from the intensive supervision and treatment services drug courts can provide.

Drug courts nationally are focusing resources on the "high need/high risk" offenders who have been deemed to benefit most frequently from the intensive supervision and treatment services drug court

[7] The problem solving courts that were developed more recently, such as the Veterans Treatment Courts, and the New Castle County Mental Health Court, appear to have been developed with a close grounding in relevant evidence based practices and therefore have not suffered the deterioration that many of the drug courts have experienced.

provide and were, in fact, the focus of Delaware's first drug court in New Castle County[8] Presently, there is no systematic process in place to determine the nature and extent of substance abuse, mental health, and other disorders participants present in the Delaware drug courts, with the result that participants are accepted into the program and only afterward assessed to determine whether they have a drug problem and, if so, the level of care needed. The result is that the overall structure for the programs is a "one size fits all" approach, mixing individuals of high need and risk with those of lower need and risk, which is diametrically opposed to research findings calling for individualized services geared to the "need" and "risk" presented by each participant and the importance of avoiding mixing "high need/high risk" participants with those of lower need and risk. Different tracks are needed for different populations, based on the *risk* they present for continuing drug use and *need* for services to address the criminogenic factors[9] which, left unaddressed, will reduce the impact of the substance abuse/mental health services being provided.

(3) The treatment services upon which Delaware's Drug Courts depend are inadequate at best and are not providing the services Delaware's drug courts need. [Key Components One and Four]

Evidence based treatment services, individually tailored to the needs of each drug court participant, are the core of an effective drug court. Ongoing communication between the treatment provider and the court regarding the progress, or lack of progress, of each participant and guidance to the drug court judge on ways the court can support treatment services and promote the participant's recovery are essential. Regular written reports from the treatment provider regarding the participant's progress in treatment need to be provided to the drug court team in advance of the staffings so that the team, with the treatment representative, can determine how best the program can support the treatment process and address any difficulties being encountered. Not only does none of this occurs in Delaware's drug courts, but, despite multiple requests to meet with the treatment providers for the Track One participants – e.g., those with ostensibly more severe drug problems by virtue of their offense -- the study team was never able to meet with any treatment provider in any of the counties. While meetings were held with the providers of psycho-educational services for participants lasting 12-14 weeks, the study team was unable to meet with any providers of intensive outpatient services that are geared to addressing the intensity of services higher need and risk participants require.

> *Note: In an effort to assist the study team in making contact with the treatment providers for the Track 2 participants and obtaining other information relating to treatment services, Judge Jurden connected the study team with Frann Anderson, Director of Alcohol and Drug Services (DSAMH), who provided available information relating to service providers, protocols and curriculum being used, contracts in place, and urine screens. Review of these documents and discussions with Ms. Anderson indicated, however, that (1) there are no dedicated treatment services for the drug courts or protocols to be used for drug court participants; (2) there are no requirements that drug court participants be assessed for "risk" and "need although it is recognized that some courts have attempted to do this; and, most significantly, (3) that it is the policy of the state DSAMH to limit the slots for criminal justice involved individuals so as not to take the space from those not involved with the criminal justice system. While these issues will be*

[8] These findings are actually an outgrowth of evaluation studies conducted by Dr. Douglas Marlowe of the New Castle County Drug Court that operated in the Court of Common Pleas during the 2000-2005 period when a defined program structure, monitoring capability, and court supervised treatment service component was in place.

[9] Criminal justice researchers have identified the following eight criminogenic needs that contribute to the likelihood of reoffending which should be targeted in risk assessments conducted for substance users and built into the treatment plan; (1) antisocial peers; (2) antisocial attitudes; (3) antisocial behavior; (4) antisocial personality; (5) substance use; (6) family/marital situation; (7) leisure activities/recreational patterns; and (8) involvement in school and/or work.

discussed further in Section III "Recommendations", the urgency of promptly reviewing the treatment services available to drug court participants cannot be overstated.

Apart from investigating the specific implications of the state's policy of limiting the availability of state funded treatment services to criminal justice participants vis a vis the drug courts and how available treatment services are determined and allocated, the following are core questions the study team would have posed had they been able to identify treatment providers serving the drug court participants requiring intensive treatment services:

- How are treatment providers selected to provide treatment services to drug court participants?
- Are individual treatment providers licensed or certified to do treatment under the state guideline, law or certification guidelines?
- What criteria are used to match participants with individual providers?
- Are any M.O.U.'s in existence?
- Are mechanisms in place to ensure the quality of treatment services provided to each participant? If so, what are these?
- What is the length of treatment services? Family involvement?
- Does the range of treatment providers in each county provide for a continuum of services?
- Is a treatment plan developed for each participant? If so, is the plan provided to the Judge? The team? The participant?
- Does the treatment agency use ASAM Patient Placement Criteria at all?
- Does the treatment provider provide the judge and the team substantive reports regarding the participant's progress (or lack thereof), issues he/she may be encountering in carrying out his/her treatment plan, and recommendations to the court on what the judge can do at the hearing to reinforce the treatment process?
- Does the treatment provider maintain data of the services provided, results of drug testing, qualitative and quantitative outcomes of each participant's progress in treatment?
- Does the treatment provider have a Q.A. or C.Q.I. program or a Utilization Review policy?
- Are the treatment providers following evidenced based practices, with manualized curriculum?
- Is there any monitoring of the Medically Assisted Treatment Protocol? Does anyone interview the Dr. for Continuing Education on M.A.T.?

(4) *Aftercare/continuing care services need to be incorporated into the treatment continuum to promote longer term recovery after participants have left the drug court. [Key Component Four]*

Research during the past decade has stressed the chronic nature of the disease of addiction and the critical importance of providing aftercare/recovery support services following the period of drug court participation. Nationally, drug courts are increasingly using a variety of aftercare services, including alumni groups, telephone check-ins for one to two years following graduation, and other strategies, generally involving participant relationships with the recovery community. This does not appear to be occurring in Delaware. Recovery support and aftercare services need to be built into the treatment continuum in the early phases of the program so that participants have developed skills in anticipating and addressing situations that may trigger relapse and have established relationships with the recovery community that can be further nurtured when they complete the drug court program.

(5) *The absence of ongoing communication between Probation, TASC, Treatment and the Court is another significant factor greatly hampering the ability of the drug courts to be effective. [Key Component One]*

Drug courts rely on an integrated team approach involving multiple service providers dealing with the participant from their different perspectives, continually sharing information and working together under the leadership and oversight of the court and the judge. This ongoing interagency communication is not occurring in Delaware's drug courts, resulting in dysfunction on many levels. Two examples are: (1) delays in reporting drug test reports to the judge until the hearing, which may be days if not weeks after the test, making it difficult for the judge to respond timely to the negative behavior; and (2) the absence of the treatment provider at the drug court staffing or hearing to provide first-hand information regarding a participant's progress.

Without ongoing communication with the various service providers, the ability of the drug court judge to meaningfully work with participants is severely limited.

(6) *With the exception of the Veterans Treatment Courts and the Mental Health Court in New Castle County, the present organization of drug courts in Delaware appears to be ad hoc, lacking a systematic structure, process, and support service components.*

With the exception of the Mental Health Court in the New Castle County Superior Court and the Veterans Treatment Courts, which appear to have followed a fairly systematic process for development, incorporating national experience and evidence based practices, it appears that each of the programs has developed/evolved ad hoc with little or no coordination with the county, let alone among the three counties. There do not appear to be regular schedules for drug court hearings, which are critical to the structure and supervision drug court participants need, and when they are conducted they do not provide the frequency of contact necessary.

(7) *Accurate Information needed to assess the cost-effectiveness – and other impacts – of Delaware's drug courts is not maintained – but should be.*

One of the issues raised by Chief Justice Strine in his Administrative Directive was the need to determine whether the drug and related problem solving courts in Delaware are cost-effective. This is a critical issue and one which the study team was not able to adequately address for a number of reasons relating to both the absence of necessary information compiled and inaccuracies in the data that was compiled. Among the underlying factors contributing to this situation include: (1) the absence of an information system that would accurately identify each individual who is in the drug court; (2) the lack of available information on the services that have been/are being provided for each drug court participant (see below); (3) the lack of information documenting the performance of participants while they are in the drug court (e.g., degree to which they continue to use drugs as reflected in drug tests, commit crime, etc.), and/or the pro-social benefits that might be accruing (e.g., maintaining/gaining employment; retaining/regaining custody of their minor children; obtaining housing, medical services, etc.); and (4) the absence of treatment and other services dedicated to drug court participants. It was not uncommon during court sessions for the study team to hear reference to a defendant being in "drug court" when, in fact, that defendant was to be incarcerated without reference to receiving any drug court services or appearance at drug court hearings.

(8) *Opportunities to increase information exchange among the programs to identify common issues emerging, tasks that can be jointly addressed, and other areas of common interest should be developed.*

Recognizing the importance for each county to design and maintain oversight for the drug court(s) operating within the county, opportunities should be explored to eliminate duplication of effort (e.g., forms, participant information, procedural manuals, etc.) and strengthening the operation of local programs through multi-county interchange – such as for training, developing data collection capabilities and drug testing protocols, for example.

(9) Developing community partnerships should be a priority. [Key Component Ten]

Drug courts rely on developing relationships with their local communities to develop support for the program and obtain the array of resources needed (e.g., housing, job training, employment, education, dental and medical services, etc.). With the exception of the Veterans Treatment Courts, these partnerships have yet to be developed. Consideration should be given to establishing specialty court policy committees in each county that can include both justice system stakeholders as well as representatives from various segments of the local community – business, faith, medical, educational, housing services, etc.

(10) Providing ongoing education and training of all involved with the drug court programs should also be a priority. [Key Component Nine]

Delaware's drug courts, like all drug courts, need to develop continuing education and training programs for drug court personnel to keep abreast of relevant developments, promising practices, emerging issues, and strategies for addressing critical issues. While some judges and others have attended conferences sponsored by the National Association of Drug Court Programs (NADCP), more vigorous, developed and ongoing training programs are needed. There are numerous webinars archived on the websites of NADCP, American University, and other organizations, and an online training program available free of charge through the Center for Court Innovation – which can be accessed by individuals as well as serve as the focus for a brown bag lunch series. Local experts may also be available to meet with drug court personnel regarding resources their respective agencies can make available as well as learn about the services the drug court is providing. Knowledge about the science of addiction associated co-occurring disorders, post-traumatic stress disorders (PTSD), and allied syndromes, and Medication Assisted Treatment is evolving daily. Last year's "best practice" may no longer be relevant today.

III. RECOMMENDATIONS

One of the challenges in conducting this study has been not only the lack of communication among the key stakeholders involved – or who need to be involved – with the local drug courts but also the difficulty of the study team in obtaining information regarding the specific services each stakeholder provides, changes being contemplated, and other information that would help frame the current picture of Delaware's drug courts and refinements being considered. As referenced earlier, this is particularly true regarding the management of treatment services and related functions which appear to be performed without reference to the needs of the drug court or the goal of the drug court model. Shortly before this report was drafted, the study team became aware of changes being considered in various components that affect drug court operations – drug testing, assessment, funding of treatment services, for example. While the details of the proposed changes being considered are not fully known but it does not appear that the perspective and recommendations of drug court officials have been actively solicited to inform them of these proposed changes and ensure that the needs and potential impact on drug courts of these changes are taken into account.

A well-functioning drug court depends upon the solid working partnership of its constituent stakeholders working together under the leadership of the court. Without that collaboration and on-going communication, a drug court cannot function effectively. With that premise, the following recommendations are submitted, designed to improve the overall structure, operations, and services of the drug, mental health and veteran's treatment courts in Delaware. If adopted, a detailed action plan will need to be developed, as further discussed in Section IV.

A. Organizational Structure

Recommendation One: *Consolidate programs within each county that have a similar focus.*

The seventeen programs operating in the three counties that were the subject of this study should be consolidated within each county to provide for an Adult Drug Court, with multiple tracks, as appropriate; a Mental Health Court, and a Veterans Treatment Court.

Recommendation Two: *Each county should have a designated Drug Court Coordinator for the Adult, Drug, Mental Health and Veterans Treatment Court programs, who brings experience/expertise with the criminal justice system and substance abuse treatment.*

The functions of the county drug court coordinator would include: providing necessary administrative support for the program (e.g., maintaining necessary interagency communication, reporting, and coordination; scheduling of regular as well as emergency review hearings; data collection; program/ participant monitoring; facilitation of evaluations, including program performance, costs, impacts, etc., and reporting the results to the appropriate audiences; developing/maintaining requisite relationships with and reporting from the treatment providers; developing/maintaining relationships with community agencies; maintaining/updating policy and procedures manuals and participant materials; and developing requisite resources (grant, community and other), etc. Being aware of best practices and evidenced based protocols and treatment modalities the coordinator should have the ability to insure the treatment providers maintain fidelity to the evidenced base model of treatment being used.

Recommendation Three: *In addition to the designation of a drug court coordinator in each county, a statewide administrative coordinator should be designated.*

Responsibilities of the statewide coordinator – a position that exists in many other states – would focus on functions that can be provided at the state level to augment the resources available in each county and to address common functions that can more efficiently be addressed at the state level. The tasks performed by the statewide coordinator could include: development/maintenance of a statewide information and data collection system; planning and conduct of ongoing training programs (both in person and periodic web meetings); addressing issues of statewide import, such as developing an effective – both from the perspective of programmatic requirements and costs (see below) – drug testing capability; and ensuring that treatment services, which are provided through state contracting, adequately meet the needs of the local drug courts. The statewide drug court coordinator should also develop (a) a statewide drug court policy manual with recommended statewide best practices; and (b) establish a means of ensuring that treatment teams maintain fidelity to the treatment model by implementing a verification process by means of evaluation, monitoring or a Q.A. methodology.

Recommendation Four: *Clarify the leadership role of the drug court judge, the requisite composition of the drug court team, and the respective role(s) of the team members.*

The drug court model is premised on a multi-disciplinary team approach that provides the judge the opportunity to obtain the perspectives of the critical stakeholders involved with the drug court process – at a minimum, the prosecutor, defense, treatment, and entity providing supervision. Essential for the team to function is the clear definition of the role each plays in the process and the ongoing exchange of information among team members so that the judge, in making ultimate decisions, has had the benefit and insights of each team member.

Recommendation Five: *Develop Memoranda of Understanding (MOUs) with all participating agencies.*

MOUs should be developed with each participating agency to define the nature and extent of their participation and services they agree to provide for the drug court. The value of an MOU is not only to document the present understanding(s) of the agency leaders regarding their role in the drug court but to also provide a foundation to sustain the future support of each agency when agency leadership and/or priorities may change (examples can be found on the American University website: www.american.edu/justice/spa/jpo).

Recommendation Six: *Clarify the operations, timeframes, and procedures applicable to the drug courts in each county.*

The programs in each county, while reflecting local resources and priorities, should follow a clearly defined structure and timeline in terms of (a) eligibility requirements; (b) referral processes; (c) screening and assessment process (and forms); (d) program phases, services, and duration; (e) hearing schedule; and (f) sanctions/incentives matrices. With the exception of the Veterans Treatment Courts, there does not appear to be a structure for the operations of most of the drug courts the study team reviewed. The timeline for referrals, operational procedures and required period of participation, for example, appear to vary within programs and among them, with no objective rationale for the variance.

B. Defining the Target Population(s) *[Key Component Three]*

Recommendation Seven: *Define the target population the drug courts are intended to serve and focus on the "high need/high risk" participants.*

As noted earlier in this report, national experience, as well as that of the early Delaware drug courts, has shown that those who benefit most from the intensive treatment, ancillary and supervision resources the drug provides are the "high need/high risk" offenders. These individuals should comprise the target population for Delaware's drug courts. . Drug courts are not educational programs but rather a long term treatment protocol to produce recovery and compliance of individuals addicted to drugs and to provide a stabilization platform for the participant to build on.

Presently, the drug courts in Delaware neither focus on the "high need/high risk" participant, nor explicitly require treatment within the services required. This situation is diametrically opposed to the purpose of a drug treatment court which, by definition, must always provide treatment. Even where an educational program is recommended, drug court participants in Delaware drug courts may choose not to attend, with no repercussions -- a situation that is also diametrically opposed to the standards of practice drug courts follow which include the requirement that participants follow program rules and attend mandated treatment; it is not up to them.

Defining the appropriate target population for Delaware's drug courts should therefore receive urgent attention with those participants who have no substance abuse problem or have "chosen" not to attend mandated educational programs removed and efforts undertaken to develop appropriate assessment mechanisms to promptly identify the "high need/high risk" offenders who need the drug court services (they will also need more monitoring of their treatment needs as they progress or digress).

Recommendation Eight: *Clearly articulate the eligibility criteria for each program and ensure that these criteria are consistently applied.*

Ideally these criteria should apply statewide with whatever local policies may be applicable county by county to reflect the nature of drug use in each county and available services.

C. Screening, Assessment, and Referral to the Drug Court

Recommendation Nine: *Institute procedures to ensure prompt, systematic screening of all arrestees and probation violators for potential eligibility for the drug court.*

Procedures should be developed to institute universal systematic screening of all potentially eligible arrestees and probation violators to identify those who meet program eligibility criteria and fall within the target population. The universal screening process should ensure that the demographics of the drug court population reflect those of the general arrestee and probation violator populations.

Recommendation Ten: *Utilize a validated screening tool to identify eligible participants, their criminal history and potential clinical disqualifications, if any, for the drug court program.*

This tool should be used to screen participants' appropriateness for the drug court program based on the legal and clinical eligibility criteria articulated.

Recommendation Eleven: *Conduct a comprehensive assessment of each participant's treatment and related needs as soon as possible after the eligibility determination as well as an individualized treatment plan designed to address his/her substance abuse treatment, mental health, and ancillary service needs.*

To provide the target population with the services they need, comprehensive and ongoing assessments must be made regarding the substance abuse, potentially co-occurring disorders, and criminogenic needs each participant presents, with individualized treatment plans developed to address these needs. Where necessary, multiple tracks within the drug court may need to be developed, to avoid a "one size fits all" approach. For example, sentenced participants – who may constitute a substantial proportion of the "high need/high risk" participants targeted, may need to be treated differently procedurally than those in diversion.

D. Treatment Services *[Key Component Four]*

Recommendation Twelve: *Detailed documentation of current treatment services available to drug court participants should be developed, with a plan for addressing the gaps identified in order to develop an adequate continuum of treatment services for drug court participants.. A sound quality assurance mechanism should also be in place.*

Despite the extensive effort made by the study team to ascertain the nature, extent and quality of treatment services being provided to drug court participants in Delaware, no information could be obtained regarding the services provided or, in fact, the identity of the providers involved for any services other than short term psycho-educational services provided to diversion participants in Track One of the New Castle County Superior Court or participants in the Court of Common Pleas drug courts.

The study team has concluded that the reasons for this situation appears to be the grounded in the fact that there are no dedicated treatment services for drug court participants in Delaware; any services that might be provided to them are those that are provided to the general criminal justice population, with no special protocols in place for participants in drug courts. There is also no information maintained on recipients of state treatment services who are in the drug court vs. not in the drug court.[10] Similarly, no data is maintained on drug tests administered for drug court participants, either the volume or the results or the

[10]Any services that might be provided to drug court participants in Delaware are those that are provided to the general criminal justice population, with no special protocols in place for participants in drug courts; (additionally all clients offered treatment at these agencies are combined in groups with non-drug court individuals). While Brandywine and Threshholds provide the pscycho-social-educational services for the CCP and Track One, if participants need anything else they are referred out -- but no clear record of where they are referred to or for how long they receive services is maintained. The average duration for Intensive Outpatient Services (IOP) is four weeks although it can range between two and eight weeks; the average duration for IOP services in the drug court is generally 12-14 months;

The policy of the state Department of Substance Abuse and Mental Health (DSAMH) is to limit the treatment services provided to criminal justice populations; the extent and criteria used to determine these limits are not known.

tests being done. There is also no information regarding the frequency with which participants are tested (recommended practice is twice weekly), or whether any checks are made for adulterants, creatine levels or other qualitative measures employed.

Apparently for some time, judges have been requesting information from treatment providers but treatment providers reportedly do not want to be providing reports and apparently the state agency does not see itself as having the authority to require such reporting.

At the study team's request, Frann Anderson, Director of Alcohol and Drug Services (DSAMH, provided copies of DSAMH protocols for treatment providers which included the required use of standardized screening instrument, the RANT assessment, provision of services to address criminogenic needs, and protocols for related services (see *Appendix B).*

In reviewing the provisions of these documents relating to treatment services for drug court participants, the study team found no evidence that the prescribed protocols were being followed among the treatment providers contacted. For example, the use of the RANT was found in only one county, and often after judicial disposition or at the time of judicial disposition. Similarly, the study team found no evidence that therapeutic services to address criminogenic needs were being provided or an appropriate curriculum was being used to address these needs. Reference was made to the use of the "Living in Balance" curriculum but that is not only insufficient for this purpose but, in fact, is described in another "Appendix B" provided to the study team as a psycho-educational group model and "not therapy"" No information was provided on any treatment models, protocols or evidence-based manualized curricula being used in the Outpatient and Intensive Outpatient programs.

In addition to the issues referenced above, (1) the role of TASC is not defined in these two appendices for either the diversion program or in the probation and parole assessment model; and (2) the role of the "Drug Court" is not referenced in the probation and parole assessment project.

The study team was not able to obtain any information regarding Outpatient or Intensive outpatient services or any Scopes of Services that described such treatment services.

The 5th bullet is information from Frann. We were not able to get any information regarding OP and IOP treatment programs during our site visits. Nor did Frann provide any Scopes of Services that described such treatment services.

Recommendation Thirteen: *A multi-agency task force under the leadership of the Court should be created to design the structure, policies, procedures, and services of a program of drug courts in Delaware that can effectively serve the "high need/high risk" population who should be targeted for the program with the individualized continuum of services the participants require.*

Delaware has the resources to develop a strong drug court program that can again serve as a national model, provide that the stakeholder agencies work together under Court's leadership to develop programs that comport with evidence based practices and nationally accepted standards.

E. Staffings and Review Hearings *[Key Components Two and Seven]*

Recommendation Fourteen: *Significantly increase the frequency of drug court staffings and hearings.*

Status hearings should be held much more frequently – every other week at a minimum – at least during the initial phases of the program, providing the judge the opportunity to review/reinforce with the participant his/her progress in the program as well as address difficulties some participants may be encountering. Review hearings for the mental health court, for persons with co-occurring disorders, and for other participants who need closer judicial interaction should be held more frequently, at least initially.

Currently, only the veterans' court and the Mental Health Court program conducted by Judge Jurden appeared to require status hearing every two weeks. Most of the other courts observed appeared to require participants to appear only once per month and, even with that articulated policy, there appeared to be no set advance schedule for the hearings. The schedule for review hearings for each program type in each county should be published and maintained so that participants as well as the other stakeholders are on notice of the hearing schedule and when they need to appear.

Recommendation Fifteen: *Staffings should be held prior to the court hearing and have in attendance the prosecutor, defense counsel, treatment representative and judge and probation, if applicable. The hearings should also include these representatives. At the staffing, treatment should provide a current summary of the participant's progress in achieving the milestone(s) designated in their treatment plan.*

As noted earlier, the staffing provides the opportunity for key team members to discuss the progress of each participant, and provide the judge with the recommendations of the team as well as individual team members if no consensus is reached regarding the appropriate response for the court to a participant's progress, or noncompliance. In only the Veterans Treatment Courts and one of the Mental Health Courts did the study team observe the entire drug court team attend the staffing and the court session. The study team was also told by most of the judges interviewed that formal pre-court staffings are not regularly conducted and that the attorneys do not generally attend the status hearings.

Recommendation Sixteen: *Provide an opportunity for each participant to discuss their progress with the drug court judge at the drug court hearing and ensure that each participant is represented by counsel.*

The drug court hearing should allow the opportunity for participants to discuss their progress (or lack of progress) with the judge, including any situation for which there may be a possibility of imposition of sanctions, with the assistance of their attorney at the hearing. Since attorneys are not present in most of the court sessions the study team observed there was no opportunity for a participant to even consult with counsel.

Recommendation Seventeen: *If a jail sanction is to be imposed, participants should be given access to counsel to discuss their situation and, if warranted, address the issue at the court review hearing.*

While counsel was present at termination and violation hearings, there was no counsel present for all hearings in which a jail sanction might have been imposed.

F. Use of Sanctions and Incentives *[Key Component Six]*

Recommendation Eighteen: *A schedule of graduated sanctions and incentives for the program's response to participant progress and/or lack of progress or noncompliance should be developed, reflecting proximal and distal behavioral goals, and consistently applied.*

An important component of an effective drug court is the behavioral modification strategies that are imbedded in the program's policies and procedures, generally documented in a matrix of "sanctions" and "incentives" with applicable conduct delineated. Underlying the development of the "sanctions" and "incentives" matrix should be the concept of "proximal" vs. "distal" behaviors – e.g., conduct that can be reasonably expected during the early phases of the program vs. conduct that cannot reasonably be expected until a participant has been engaged in the program and the recovery process for some time. The program's response to a participant's conduct early in his/her period of participation would not necessarily be the same as a response during a later period of participation – for example a positive drug test.

Except in situations of willful noncompliance, sanctions and incentives should be therapeutic rather than punitive – essays, community service, etc. rather than jail.

The systematic application of sanction and incentives throughout Delaware's drug courts is generally lacking. While the state manuals reviewed listed intermediate sanctions, the courts did not follow them and there did not appear to be a standard or evidence based method for determining how they were imposed. For example, a sanction which was used often referred a participant from the regular status calendar to the termination calendar.

Recommendation Nineteen: *Provide ongoing communication with the court regarding situations warranting prompt imposition of sanctions or incentives.*

A major impediment to the application of an effective sanction and incentive scheme in the Delaware drug courts is created by the lack of ongoing communication between probation, TASC, treatment and the court, which generally does not receive information about participants using drugs and/or exhibiting other non-compliant behavior for up to one month when the next drug court hearing is scheduled, rendering the imposition of whatever sanction might be applied fairly ineffective. Conversely, the important role which the drug court plays in reinforcing participant progress at drug court hearings is significantly curtailed with the present schedule for drug court hearings limited to once each month.

Recommendation Twenty: *In developing a structure for the drug courts, a framework should be created that provides an indication of the milestones and anticipated timelines applicable to each phase of the program that can also be used to determine "incentives" – e.g., recognition that participants should receive.*

Currently, there is no meaningful structure in place to apply incentives since hearings are held only monthly and no phased structure is in place which could provide a framework for determining whether an individual had accomplished certain stated milestones within each phase. The most typical incentive was reported to be a certificate for completion. Goals for clients should be established and the judge should be notified when a client reaches these goals so that he/she can be recognized in court.

G. Drug Testing *[Key Component Five]*

Recommendation Twenty-One: *An effective random drug testing program, with prompt reports to the judge, needs to be developed in each county.*

An adequate random drug testing capability with prompt reports to the judge is the cornerstone of an effective drug court and a major component of the behavioral modification drug courts are designed to achieve. In order to provide effective court responses to new or continued drug use or, conversely, to a participant's demonstrated efforts to stop drug use the judge needs the test results immediately.
Presently, there appear to be several agencies that perform drug testing (probation, TASC, treatment) with no coordination in scheduling or reporting of the results to the court. In many instances the tests are sent to Redwood Toxicology, resulting in the time for returning the tests exceeding four or more days, not to mention the high costs for this process. Drug testing also does not appear to be random, is not conducted twice weekly as is the recommended practice, is not available on weekends and holidays, a situation participants are aware of only too clearly. The collection of urine samples is also not always observed by same sex individuals.

This overall administration of the drug testing function may be more cost-effectively developed at the state level and, depending on current costs, may potentially be designed to save significant future costs if the present practice of sending out all tests to the Redwood Toxicology Lab is replaced by other more cost effective drug testing strategies that are used in other jurisdictions – particularly those that have the testing volume comparable to Delaware's.

H. Need for an Adequate Management Information System *[Key Component Eight]*

Recommendation Twenty-Two: *An adequate management information system needs to be developed and utilized by each of the drug courts in Delaware to enable them to monitor their operations and services being provided, impacts being achieved, and problems that may arise so that they can promptly respond.*

The study team was informed that at one time a Drug Court Information System (DCIS) was developed but that it never worked and no one has ever used it. Apart from the lack of a user-friendly MIS, critical issues that urgently need to be addressed include: (a) identifying the data the programs need to collect; (b) the source(s) to be used for data collection; (c) who will be responsible for entering the information into whatever MIS is developed, and (d) most significantly, quality assurance procedures to ensure that the present inaccuracies as well as gaps in information are addressed.

I. Developing Community Outreach and Partnerships *[Key Component Ten]*

Recommendation Twenty-Three: *An advisory committee composed of criminal justice system stakeholders and other community representatives should be established in each county to provide guidance and support to the local drug courts on relevant community needs and available resources to support the drug court programs.*

Drug courts need to be closely integrated with the community to ensure that the community – with its broad array of resources – understands the services the drug court is delivering, the benefits it is providing, and the resources it requires to effectively operate. The establishment of an advisory committee in each county composed of a cross section of community representatives – critical justice,

education, business, medical, faith, general government, and others – would provide a framework for nurturing the community relationships that the drug courts need.

Recommendation Twenty-Four: *Develop a plan for orienting and involving the community to the drug court program(s) in each county that includes regularly disseminating information about the drug courts' activities, periodic appearances at community events, and familiarizing the media with what the drug courts do.*

Effective drug courts across the country have utilized an array of strategies to educate the community about what they do and to involve the community in providing support they need. Inviting local government officials as well as the media to drug court graduations, working with the business community to provide bicycles for participants who have driver's license or have no transportation for other reasons, or with the faith and/or local housing authorities to arrange for sober housing – are but a few examples of the drug court/community partnerships that have been developed.

J. Training *[Key Component Nine]*

Recommendation Twenty-Five: *A comprehensive training plan for all judges and other personnel involved with the drug court should be developed and implemented promptly. The training plan should include the (1) the neurobiology of addiction and the chronic nature of the disease; its effects on cognitive functions, and relevant research findings relating to the pathology of substance abuse, associated mental health and other disorders; and (2) drug court program operational issues, including team roles and relationships.*

A comprehensive training plan for the judges and others involved with Delaware's drug courts is essential to ensuring that relevant evidence based practices, nationally accepted standards of operation, and the critical knowledge for effectively delivering drug court services is in place. The training plan should focus on resources that can be accessed locally, without additional cost through, for example, a brown bag lunch series with invited experts, and/or accessing the wide array of archived webinars available on the websites of the National Drug Court Institute (NDCI), American University, the Center for Court Innovation, and other organizations. Examples of topics that would be useful include:

- *The drug court model and the therapeutic orientation it entails, including "sanctions and incentives*
- *Neurobiology of addiction and the effects on cognitive functioning*
- *Interdisciplinary training on team roles, functions and the decision making process*

K. Coordination, Information Sharing, and Eliminating Duplication of Efforts

Recommendation Twenty-Six: *An inventory should be conducted promptly of the various functions state and local agencies currently perform and/or are proposing that effect drug court operations and/or services, identify those that are duplicative as well as those for which information is not shared, with appropriate remedial action taken.*

A theme throughout this report has been the lack of coordination, information sharing, and duplication of effort that appears to permeate much of what constitutes drug court activity in Delaware. For example,

multiple agencies perform drug testing – the function which provides the framework for the ongoing supervision, provision of treatment, and credibility of drug court programs – with no apparent rationale for the schedule(s) they use, and no consistent required reporting of the results. Both TASC and the treatment providers apparently duplicate assessments (the ASI) but don't share the information. Recently, the study team learned that the Probation Department is planning to change the Risk/Needs assessment from the LSI-R to a new risk assessment questionnaire process but no information regarding these changes appeared to have been communicated to the courts or their input solicited.

The study team also recently became aware of plans of the DSAMH and Probation and Parole to roll out a new RNR ("Risk/Need/Responsivity") model that may impact the "high need/high risk" population the drug court need to serve. Despite visiting every county and talking with a multitude of judges, prosecutors, defense attorneys, psycho-education providers, TASC, and probation staff, the development of this new R-N-R model was never mentioned. Are the judges aware of this impending role-out?

*****

The study team recognizes that there have been recent statutory changes, or at least proposals that may impact the structure of drug courts and related problem solving courts in Delaware and which will warrant further discussion regarding moving forward on these recommendations. Limited additional technical assistance is available to address the implications of these developments on the recommendations submitted in this report.

IV. MOVING FORWARD

As noted throughout this report, the "drug court concept" requires multiple agencies to work continuously together under the leadership of the court to provide the substance abuse, mental health and other services program participants need. The role of each agency must be defined and an infrastructure must be in place that ensures appropriate management, monitoring, and accountability of both the progress of the participants and the agencies providing services. Information must be continually collected to document that the program is operating as intended, and the outcomes being achieved, with mechanisms in place to ensure that all aspects of the program are conforming with evidence based practices.

For Delaware's drug courts to move in this direction, a task force should be established under the leadership of the Court, to develop the framework for a redesign of the current drug courts to incorporate the critical functions essential to an effective program. The planning process must draw on all of the agencies who may play a role in the drug court and have services to contribute. As noted in Recommendation 13, the goal should be a drug court program that is treating individuals assessed to be "high need/high risk" for an average of fourteen – sixteen months, with ASAM criteria for placement, evidence based treatment protocols, a phased treatment regime and continuum of services, with strong aftercare/recovery support services built in from the start. The recommendations provided in this report should serve as a blue print for this effort.

As a start, the following immediate actions will set in motion the tasks necessary to ensure that Delaware's drug courts are serving the volume of participants who need these services and achieving the public safety, rehabilitation, and cost efficiencies the drug court model is designed to achieve.

- Establish a multi-agency task force, under the leadership of the Judiciary, and composed of representatives of all agencies who need to be involved in implementing the recommendations submitted in this report and ensuring that the necessary resources for effective drug courts in Delaware are dedicated to the drug court program
- Designate a statewide drug court coordinator to provide the administrative support, coordination, and infrastructure necessary for the effective and efficient operation of the drug courts in Delaware. The statewide coordinator should address tasks and functions that can be more efficiently addressed at the statewide level, such as developing appropriate training programs, apply for grants, preparing appropriate forms and manuals, ensuring an adequate management information system, and related functions.
- Designate a local Drug Court Coordinator in each county to perform the management, coordination, reporting, and other functions required at the county level in support of the local drug courts operating in each county.
- A priority issue the task force should address is the availability of treatment, mental health, and related services for drug court participants.
- The task force should meet regularly -- by weekly at first -- to review progress in implementing the report recommendations, identifying and addressing any progress that may develop.
- In addition to addressing that tasks relating to carrying out the *Key Components*, the implementation plan should also include the role of the court and the judicial leadership required to sustain the drug court and ensure that it is operating as intended and achieving the goals it is designed to serve, including: achievement of public safety, offender rehabilitation, and therapeutic, evidence based services for individuals with chronic substance use and mental health disorders who are involved with the criminal justice system.

Limited follow up technical assistance is available through BJA's Drug Court Technical Assistance Project at American University for implementing the report recommendations and an array of training services is available through the National Drug Court Institute (NDCI) to launch a training program on current recommended practices.

V. ASSESSMENT OF THE DEGREE DELAWARE DRUG COURTS ARE ACHIEVING THE KEY COMPONENTS

The study team has prepared a composite assessment of the degree to which the 17 drug court programs reviewed during this study are achieving the *Ten Key Components,* summarized below. Where variation was noted among counties or among programs within counties, multiple ratings are provided to indicate these variations.[11] Comments are also provided for each *Component* to indicate major areas needing attention.

As reflected in the *Key Components Summary Assessment*, by far, the most urgent need facing the drug courts in Delaware is the lack of dedicated treatment services for drug court participants. The availability of a comprehensive continuum of treatment services, integrated into the court process, is the heart of a drug treatment court program and what distinguishes a drug court from the traditional adjudication process. Closely related is the absence of the organizational structure, infrastructure, information sharing and coordination that drug courts require in order to provide the multi-disciplinary therapeutic services participants need.

All of the programs suffer from the lack of a (1) designated coordinator in each county who can address many of the day-to-day operational, information sharing, data compilation, and program evaluation functions that are needed, as well as a (2) statewide coordinator to address issues relevant to all of the programs, particularly the development of adequate management information system capabilities, quality treatment services, drug testing, and other necessary resources.

The state's policy to limit services provided to individuals involved with the criminal justice system, and the wholesale lack of information regarding treatment services provided to drug court participants currently available should be addressed with priority in any follow up efforts to design/redesign an effective drug court program in Delaware.

Key Component One: DRUG COURTS INTEGRATE ALCOHOL AND OTHER DRUG TREATMENT SERVICES WITH JUSTICE SYSTEM CASE PROCESSING

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Identifying the appropriate target population for drug courts to serve; focusing on those who are determined to be high need/high risk through a systematic, validated assessment process at the time they are identified as being eligible for the program.

[11] As noted earlier, the Veterans Treatment Courts and the Mental Health Court in the New Castle County Superior Court, having been developed more recently, appear to operate with greater structure and evidence based practices.

- Establishing multiple tracks within each program, as appropriate, to distinguish the varying level(s) of supervision and services participants require and ensure that high need/high risk populations are not mixed with those of lower need and risk.
- Utilizing validated assessment instruments to determine level of treatment needed prior to program entry.
- Developing/revising program descriptions, policy and procedures manuals, participant handbooks, forms and other essential materials for each court program to reflect current designs and standards by which they will operate.
- Developing mechanism for on-going sharing of information with the team, including assessments, case management plans, treatment plans, probation supervision/service plans, and drug testing results.
- Developing program phases and integrating them with treatment milestones.
- Defining the membership of the drug court team who will work under the leadership of the drug court judge, and the specific role(s) and responsibilities of each.

Key Component Two: USING A NON-ADVERSARIAL APPROACH, PROSECUTION AND DEFENSE COUNSEL PROMOTE PUBLIC SAFETY WHILE PROTECTING PARTICIPANTS' DUE PROCESS RIGHTS

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Ensuring that both defense counsel and prosecution, but particularly defense, attend all staffings and hearings.
- Ensuring that the rights and responsibilities of program participants are thoroughly explained to all participants prior to program entry, particularly pro se defendants.
- Developing and articulating a clear policy regarding confidentiality of information gathered during the drug court process and its use.

Key Component Three: ELIGIBLE PARTICIPANTS ARE IDENTIFIED EARLY AND PROMPTLY PLACED IN THE DRUG COURT PROGRAM

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Identifying the earliest point in the criminal justice process when defendants eligible for the drug court can be identified, keeping in mind that this timeframe should be as soon as possible after arrest or probation violation in order to maximize the impact of drug court services.
- Ensuring that the procedure for screening and identifying eligible defendants is systematically, transparently, and consistently employed.

Key Component Four: DRUG COURTS PROVIDE ACCESS TO A CONTINUUM OF ALCOHOL, DRUG AND OTHER RELATED TREATMENT AND REHABILITATION SERVICES

____ Fully Achieved
XXX Substantially Achieved
XXX Moderately Achieved
____ Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Providing an array of evidence-based treatment services to match the needs of each participant.
- Providing appropriate treatment based upon valid assessment instruments.
- Ensuring active, ongoing participation of treatment representatives in the drug court program, including attendance at staffings and hearings
- Regular written reports from treatment providers to the drug court judge and team in advance of the staffing which provide substantive information regarding each participant's progress in treatment and suggestions on ways the judge and others can support treatment goals and address any difficulties the participant may be encountering
- Ensuring ongoing assessments and review/revision of treatment plans based on the progress of participants in the program.
- Providing comprehensive ancillary support services.
- Developing aftercare plans.

Key Component Five: ABSTINENCE IS MONITORED BY FREQUENT ALCOHOL AND OTHER DRUG TESTING

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Ensuring that drug testing is random, performed seven days weekly with a minimum of twice weekly tests throughout the period of program participation.
- Ensuring that drug tests are observed with proper written procedures regarding sample collection and chain of custody and integrity of the drug testing process.
- Ensuring that drug test results are communicated to the judge as well as the team promptly – in less than 24 hours and more quickly if possible.

Key Component Six: A COORDINATED STRATEGY GOVERNS DRUG COURT RESPONSES TO PARTICIPANTS' COMPLIANCE

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Providing the drug court team training regarding principles of behavioral modification/change.
- Developing an evidenced-based strategy for the delivery of incentives and sanctions which takes into account the concepts of "proximal" and "distal" behavioral goals and which is consistently applied.
- Ensuring that participant noncompliance is addressed promptly. Where necessary, special hearings should be scheduled to address immediate issues.

Key Component Seven: ONGOING JUDICIAL INTERACTION WITH EACH DRUG COURT PARTICIPANT IS ESSENTIAL

____ Fully Achieved
____ Substantially Achieved
____ Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Ensuring that adequate information is provided to the drug court judge to productively converse with the participants at the hearing, and promote the goals of the treatment program and the milestones each participant is currently addressing.
- Ensuring that court hearings are held at least twice monthly, and more frequently, if needed, especially during the earlier phases.

Key Component Eight: MONITORING AND EVALUATION MEASURE THE ACHIEVEMENT OF PROGRAM GOALS AND GAUGE EFFECTIVENESS

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
____ Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Developing a comprehensive Management Information System (MIS), accessible by all team members, that will provide the program with the capability to monitor its operations and services, ensure that it is operating as planned (e.g., engaging the targeted population, ensuring that the demographics of the population are reflective of the arrestee and/or probation violation population who should be served), and identify issues relating to the delivery of services, participant performance, and related matters that warrant the court's prompt attention.
- Ensuring that accurate and comprehensive data needed to assess the impact of the drug court on public safety, offender rehabilitation, social re-integration, and other benefits, as well as its cost benefits, is compiled on an ongoing basis
- Developing an evaluation strategy to address the impact of the various types of drug courts operating in Delaware.

Key Component Nine: CONTINUING INTERDISCIPLINARY EDUCATION PROMOTES EFFECTIVE DRUG COURT PLANNING, IMPLEMENTATION, AND OPERATIONS

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
____ Not Addressed at this Point

Major Areas Needing Attention:

- Providing ongoing training on a broad range of subject areas relevant to drug court program operations and services, including:
  - The "key components," drug court philosophy and principles;
  - Physiological effect of drugs, addiction behavior, relapse;
  - Relevant national standards, best practices, current evidence based or science principles;
  - Constitutional and legal requirements;
  - Behavioral change/effective application of sanctions and incentives;
  - Drug testing in a drug court setting;
  - Ethical Issues; and
  - Confidentiality
- Developing a training plan that includes multiple audiences and venues
- Ensuring that judges and others receive appropriate training before taking on the drug court assignment

Key Component Ten: FORGING PARTNERSHIPS AMONG DRUG COURTS, PUBLIC AGENCIES, AND COMMUNITY-BASED ORGANIZATIONS GENERATES LOCAL SUPPORT AND ENHANCES DRUG COURT EFFECTIVENESS.

____ Fully Achieved
____ Substantially Achieved
XXX Moderately Achieved
XXX Minimally Achieved
XXX Not Addressed at this Point

Major Areas Needing Attention:

- Developing community advisory, policy or steering committees to provide long-term support and resources.
- Developing plans to ensure that ongoing information is provided to all segments of the community regarding the drug court program – its purposes, who it is serving, the benefits it is providing, and ways the community can be involved.

APPENDICES

A. *The Ten Key Components*

B. Department of Substance Abuse and Mental Health Services (DSAMH)Appendix B: *Scope of Services: "Drug Court Diversion Program Services" and "Probation and Parole Assessment Program":* Study Team's Comments

Appendix A

BJA-American University Drug Court Technical Assistance Project

THE TEN KEY COMPONENTS*[12]

*"...What we are doing is a statement of our belief in the redemption of human beings. It is a pronouncement from those in authority to some of our least powerful and most ignored citizens that we care about you and want to reach out and help you: your lives and well- being are important to us. The truth of the matter is that this may be the first time in the lives of many of these people that someone is actually listening to them - hearing what they are saying and telling them that they care about them and what happens to them is important. You know, there is a mathematical equation that for every action there is an opposite and equal reaction. I believe this is also true in human affairs. We tell them we care about them and they begin to feel worthwhile. Some pretty important people (judges, lawyers, and others in authority) are telling them we don't want them to fail- they begin to believe they can transcend. ...."**

* Judge Herbert Klein, Senior Judge, Circuit Court for Miami-Dade County, credited for creating the drug court concept. Keynote Speech, "The Power of Connection: Fuel for Drug Courts". 1996 Florida Drug Court Conference.

Key Component 1: Drug Courts integrate alcohol and other drug treatment services with justice system case processing

Key Component 2: Using a nonadversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights

Key Component 3: Eligible participants are identified early and promptly placed In the drug court program

Key Component 4: Drug courts provide access to a continuum of alcohol, drug and other related treatment and rehabilitation services

Key Component 5: Abstinence is monitored by frequent alcohol and other drug testing

Key Component 6: A coordinated strategy governs drug court responses to participants' compliance

Key Component 7: Ongoing judicial interaction with each drug court participant is essential

Key Component 8: Monitoring and evaluation measure the achievement of program goals and gauge effectiveness

Key Component 9: Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations

Key Component 10: Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.

[12] *Defining Drug Courts: The Key Components*. Office of Justice Programs, U.S. Department of Justice. 1997 (first publication)

Appendix B

Department of Substance Abuse and Mental Health Services (DSAMH) "Appendix B: *Scope of Services: "Drug Court Diversion Program Services" and "Probation and Parole Assessment Program":* Study Team's Comments

*"**Appendix B: Scope of Services: "Drug Court Diversion Program Services"***
Relevant provisions include reference to the following:

- Standardized screening instruments are to be used that will assess all participants for mental illness and a history of trauma and/or PTSD. The study team, however, found no evidence that such instruments were being used.
- "All participants will complete a RANT assessment to determine risk and need": The study team found only limited use of the RANT in one county, and often after judicial disposition or at the time of judicial disposition.
- The Drug Court Diversion Program will focus on the following criminogenic risks/needs, in addition to substance abuse treatment: (1) antisocial attitudes/personality, (2) antisocial peers, (3) family/marital problems. (4) education, (5) employment, and (6) prosocial leisure activities. The study team, however, saw no evidence that this was occurring, nor did the major providers provide a curriculum they used to address these issues. The referenced "Living in Balance" is insufficient for this purpose. In fact, in another Appendix B provided to the study team describing the Probation and Parole Assessment program, "Living in Balance" is described as a psycho-educational group model and "not therapy, but rather an enhancement of the therapeutic process that expands awareness about the behavioral, medical, and psychological consequences of substance abuse.... A prime goal is to motivate the client to enter the recovery-ready stage of treatment." No information was provided on any treatment models, protocols or evidence-based manualized curricula being used in the Outpatient and Intensive Outpatient programs.
- There is also no description of an Outpatient or Intensive Outpatient program in either of the Appendix B's. The most that is said is that Brandywine Counseling Services (BCCS) can refer participants to programs that offer such levels of treatment.

"Appendix B: Scope of Services (Probation and Parole Assessment program):
Two significant concerns are among those raised in review of this document:

- Reference is made to an RNR model to be rolled out in the new year for persons in the criminal justice system. The lead sentence in the first paragraph states that the "proposed assessment tools described below in detail will be utilized in this project. The assessment instruments detailed include the ASI, ASAM, and the Burns Depression Checklist and Burns Anxiety Inventory. However there is no mention of a risk/needs assessment being used (and no mention of the RANT.)
- The description of this project is also silent regarding the treatment models/protocols that will be used for Outpatient and Intensive Outpatient treatment services.

Delaware's drug courts need a more comprehensive program of services than what seems to be contemplated in Appendix B describing the Probation and Parole Assessment project. However, it also raises the possibility that probationers will be placed into Substance Abuse treatment without going into the drug court program -- and without the involvement of the court.