

FY21 Oklahoma Criminal Justice Programs' Manual

OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES

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CHAPTER 1: GENERAL PROVISIONS

1-1 PURPOSE

This manual identifies the requirements for treatment courts and other diversion programs funded by the Oklahoma Department of Mental Health and Substance Abuse Services (ODMHSAS).

Adult Drug Courts: Adult drug courts in Oklahoma follow the “[Drug Court Ten Key Components](#)” developed by the Bureau of Justice Assistance in collaboration with the National Association of Drug Court Professionals or, as applicable, the “[Tribal Healing to Wellness Courts Key Components](#)” developed by the Tribal Law and Policy Institute.

Mental Health Courts: Oklahoma mental health courts follow the “[Essential Elements of a Mental Health Court](#)” developed by the Council of State Governments Justice Center for the Bureau of Justice Assistance.

Misdemeanor Diversion Programs: Misdemeanor diversion programs provide behavioral health services to individuals with misdemeanor crimes and can operate under multiple legal authorities including, but not limited to, law enforcement diversion, pretrial services, deferred prosecution agreements, and plea agreements.

Juvenile Diversion Programs: Juvenile diversion programs provide behavioral health services to juveniles involved with the criminal justice system and can operate under multiple legal authorities including, but not limited to law enforcement diversion, deferred prosecution agreements, and juvenile drug courts.

1-2 DEFINITIONS

Any terms not defined below shall use definitions in the applicable chapters in OAC Title 450.

“**Active Participant**” is a month to month ODMHSAS-funded status of a participant who receive behavioral health services provided by an Approved Treatment Entity, or is in aftercare phases at any point during the month, and whose information has been updated in the identified ODMHSAS administrative database in the past 60 days. Active participant status is met for participants who have graduated, terminated or absconded but whom otherwise met the above criteria at any point in the month. Active participant status is not met for participants who are court-mandated to facilities which require labor in exchange for housing, with the exception of ODMHSAS-certified half-way house programs.

“**Approved Treatment Entity**” means a behavioral health treatment agency which is certified by the ODMHSAS for mental health and/or substance abuse treatment services, a federally recognized tribal entity providing services on tribal land, or state or federal Veteran’s Affairs.

“Criminogenic Risk” means the measure of likelihood that an individual will commit a criminal offense in the future.

“Criminogenic Risk Assessment” means a validated instrument that ascertains criminogenic risk.

“WEBS” means the ODMHSAS web-based reporting system which serves as a basis for data evaluation, reporting, and funding for many ODMHSAS criminal justice programs.

“Diversion Program” means a structured method of legal and behavioral health responses following a set of evidence-based or research-supported strategies to reduce likelihood of recidivism.

“Participant” means a justice-involved individual whom is accepted by the diversion program and whom has entered into a legal agreement to receive structured behavioral health services.

“Recidivism” means the repeat criminal offenses of an individual whom has had prior offenses.

“Responsivity Needs” means needs which are not related to criminal reoffending, but failure to adequately treat or address will reduce the likelihood of program success.

“Risk Need Responsivity” means a model of offender management which incorporates criminogenic risk, treatment needs, and identification of those services should be provided in order to decrease the likelihood of the participant reoffending.

“Treatment Court” or **“Specialty Court”** means a drug or mental health court program, including veteran dockets and co-occurring dockets, which incorporates treatment services and judicial supervision in lieu of traditional sentencing.

“Treatment Court Personnel” means any staff or contractor which performs any portion of the responsibilities and who receives compensation funded all or in part through the ODMHSAS Drug Court or Mental Health Court Administrative Contract.

CHAPTER 2: ADULT TREATMENT COURT PROGRAMS

SUBCHAPTER 2-1: ADULT TREATMENT COURT STRUCTURE

2-1.1 GOVERNANCE

Treatment court programs, described in Title 22 O.S. §471.1 and Title 22 O.S. §472, shall be highly structured and specialized dockets wherein defendants with behavioral health treatment needs are offered an opportunity to participate in court-supervised treatment in lieu of traditional adjudication and sentencing processes. The court is operated through joint efforts of criminal justice and treatment services staff in order to provide a collaborative approach at reducing recidivism and increasing treatment participation. Treatment courts shall have current policy manuals and participant handbooks in place. Any revisions shall be submitted to the ODMHSAS within seven (7) days. Policy manuals guide the internal practices of the treatment court program. Participant handbooks provide information to prospective and active participants, as well as their families, about the treatment court and their general expectations and responsibilities. Participant handbooks shall be written at no higher than a 6.0 Flesch-Kincaid Grade Level.

2-1.2 TREATMENT COURT TEAM

A treatment court team shall be the group of professionals who are primarily responsible for the day to day operations of the program and administering the treatment and supervisory interventions. It is recommended that the treatment court team establish Memoranda of Understanding (MOUs) with each relevant agency and office in order to identify expectations of each team member's involvement. The National Drug Court Institute has published the "[Core Competencies Guide](#)" for each team member. The team members shall consist of:

- Treatment Court Judge: The judge is the leader of the treatment court team.
- District Attorney Representative/Prosecutor: The district attorney representative serves as the gatekeeper for admission into the program and participants, in a non-adversarial manner, in order to focus on the benefits of providing a therapeutic environment and enhance positive program outcomes.
- Defense Representative: The defense representative provides information to the participant about the rigors of the treatment court, preserves all legal rights of the client, advocates for fair and equal treatment of client, participates in team meetings and attends non-adversarial court proceedings.
- Treatment Court Coordinator: The treatment court coordinator oversees the activity of the team, conducts quality assurance of each team member, maintains client data, remains informed regarding budgetary concerns of the treatment court and coordinates services from each discipline, and the local community, in a manner that is most therapeutic to the participant. Coordinators shall:

- Participate fully as a treatment court team member, attending staffing and dockets;
 - Manage the daily operations of the program;
 - Maintain and email address and internet access;
 - Ensure the preparation of the program docket containing all essential information as required by the team;
 - Ensure the collection of data for evaluation purposes including, but not limited to, updates in ODMHSAS WEBS prior to the first of each month;
 - Act as liaison between ODMHSAS and team;
 - Establish and coordinate networking within the community, local agencies, outreach programs, and state agencies to assist with resources and referrals for participants;
 - Ensure orientation and graduation processes are developed and followed;
 - Complete the ODMHSAS Conflict of Interest statement annually;
 - Attend at least six (6) hours of program-related trainings annually; and
 - Not provide direct care treatment services to program participants.
- Treatment Court Service Provider: The treatment court service provider provides rehabilitative therapy sessions, case management, and monitoring for treatment court participants in keeping with the holistic recovery of the participants.
 - Treatment Court Community Supervision Provider: The treatment court supervision provider actively monitors participants outside of the treatment court setting including conducting home and job visits. All client contact is documented and visits logged to help encourage positive participant behavior.

2-1.3 POLICY MANUAL REQUIREMENTS FOR TREATMENT COURT TEAM

The treatment court policy manual shall:

- Identify each member of the treatment court team;
- Identify the roles of each member of the treatment court team;
- Identify the continuing education expectations for each team member;
- Be signed by each member of the treatment court team;
- Identify the approved procedure when the treatment court judge is not available for staffing or court hearings.

SUBCHAPTER 2-2: PROGRAM PHASES

2-2.1 PROGRAM PHASES

Treatment courts provide a phased structure toward program completion. Generally, the first phase of the program focuses on orientation and stabilization with phase goals becoming progressively more difficult.

2-2.2 PHASE COMPLETION REQUIREMENTS

Phase completion requirements shall include:

- Progress toward treatment goals;
- Compliance with court orders; and
- Reasonable, measurable expectations that align with overall program goals (ex. an early phase may require one month of appointment attendance while a later phase may commonly require employment).

2-2.3 HANDBOOK REQUIREMENTS FOR PROGRAM PHASES

The treatment court participant handbook shall include the requirements to complete each program phase which:

- Are clearly defined and measurable;
- Are standardized, but have the ability to be modified in order to best meet participants' needs and serve diverse populations;
- Include supervision requirements, including random substance testing as appropriate, and home compliance checks;
- Identify basic treatment requirements which are consistent with Section 5-1 of this manual;
- Identify any program fee requirements and anticipated payment schedule; and
- Identify the process of phase advancement.

SUBCHAPTER 2-3: ADMISSION PROCEDURES

2-3.1 REFERRAL AND ELIGIBILITY

Prompt identification and placement of eligible offenders into the treatment court program is a priority in order to enhance positive outcomes. Treatment courts shall prioritize moderate to high criminogenic risk, moderate to high treatment need defendants for participation in the program. Candidates shall not be disqualified from participation because of co-occurring mental health, substance abuse, medical condition or because they have legally prescribed psychotropic or addiction medicine.

In order to make the most efficient use of diversion resources in a community, the treatment court shall, when such programs exist in the community, work collaboratively with Offender Screening programs, as defined in Title 43A O.S. 3-704, reviewing criminogenic risk assessment and treatment screening information to determine if additional screening or assessment is needed to determine eligibility. If the information collected is more than six (6) months old or otherwise in need up updating due to significant changes in potential participant's status, an additional screening may be conducted. If additional screening is required a contracted treatment agency shall, within five (5) days, use a validated substance use disorder screening tool and an ODMHSAS-approved criminogenic risk assessment instrument, completed by a clinician meeting minimum qualifications for Screening and Referral, as identified in the most recent version of the

Services Manual, and trained to administer the instrument, to make eligibility recommendations to the treatment court.

(Mental Health Court Only) Treatment contractors shall provide assessment services to program referrals that do not have a current, as identified by an assessment being completed or treatment services being provided by the contractors within the previous six (6) months, mental health diagnosis. Treatment contractors are encouraged to collaborate with county jail medical providers to consider diagnostic information while incarcerated.

2-3.2 POLICY MANUAL REQUIREMENTS FOR REFERRAL AND ELIGIBILITY

The treatment court policy manual shall identify eligibility and exclusionary criteria:

- Which are based on validated eligibility tools; and
- Minimally include criminogenic risk assessment and clinical information.

2-3.3 PARTICIPANT ORIENTATION

Treatment court participants shall be informed of their choices to decline or accept participation into the program. In order for applicants to make an informed decision regarding program participation, applicants shall receive a complete orientation to the program prior to plea.

2-3.4 POLICY MANUAL REQUIREMENTS FOR PARTICIPANT ORIENTATION

The treatment court policy manual shall identify the procedures for participant orientation which:

- Identify the team member(s) responsible for completing program orientation;
- Are provided to all participants within the designated time period;
- Include the distribution and review of the participant handbook; and
- Identifies the documentation of a signature and date that participant has been provided the orientation and a copy of the participant handbook.

SUBCHAPTER 2-4: SUPERVISION

2-4.1 SUPERVISION

Reliable monitoring of participant behavior is a vital component of the success of a treatment court program. Occurring in both office settings and in participants' home and job, supervision shall be performed in a respectful manner. According to the NDCI, community supervision has seven (7) identified functions: (1) Protection of the public; (2) Providing accountability; (3) Enhancing drug refusal skills; (4) Identifying environmental threats; (5) Catching impending signs of relapse; (6) Partnering with treatment; and (7) Enforcing community obligations.

Frequent and accurate reporting to the treatment court team enhances program accountability. Supervision staff shall document all supervision contacts with program participants in accordance with program policies.

Supervision staff shall minimally report:

- Drug and alcohol test results, including efforts to defraud or invalidate said tests;
- Compliance with electronic monitoring, home curfews, travel limitations, and geographic or association restrictions;
- Commission of or arrests for new offenses; and
- Menacing, threatening, or disruptive behavior directed at staff members, participants or other persons.

2-4.2 POLICY MAUAL REQUIREMENTS FOR SUPERVISION

The treatment court policy manual shall include supervision information which:

- Describes the communication requirements between supervision staff and the treatment court coordinator, or designee, minimally occurring on a weekly basis; and
- Identifies the documentation requirements of supervision contacts with participants.

2-4.3 HANDBOOK REQUIREMENTS FOR SUPERVISION

The treatment court participant handbook shall include:

- A specialized set of terms and conditions for community supervision which shall be reviewed with participants at regular intervals.; and
- Provisions for home compliance visits

2-4.4 SUBSTANCE TESTING

Frequent and random substance testing is an essential element of the supervision of treatment court participants identified with substance use disorders. Substance testing shall be used as a tool to support recovery and engagement, not solely as a means to support sanctions. The treatment court shall rely on medical input to determine whether a prescription for an addictive or intoxicating medication is medically indicated and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available. Test results, including the results of confirmation testing, should be available to the treatment court within forty-eight (48) hours of sample collection.

Treatment court shall utilize at least five percent (5%) of administrative contract funds to support the costs of indigent drug testing.

2-4.5 POLICY MANUAL REQUIREMENTS FOR SUBSTANCE TESTING

The treatment court policy manual shall identify the process of substance testing including:

- Method(s) of testing which are (a) scientifically valid; (b) legally defensible; and (c) therapeutically beneficial;
- Identification of the individual(s) responsible for collection of samples. If an employee of a treatment agency, ODMHSAS shall be notified in writing within thirty (30) days of contract execution;
- Chain of custody process for sample collection, including storage of samples;

- Minimal frequency of substance testing is no less than twice per week until the last program phase for all drug court participants or mental health court participants identified as having a severe substance use disorder
- Process for random, unpredictable selection of participants for substance testing;
- Process for reporting results; and
- Process for lab confirmation upon participant objection to test results.

2-4.6 HANDBOOK REQUIREMENTS FOR SUBSTANCE TESTING

The treatment court handbook shall identify the participant requirements for substance testing including:

- Method by which participant will be notified to submit to testing and timeline by which they must respond, typically no more than eight (8) hours after being notified to test for urine specimens and no more than four (4) hours after being notified for oral fluid tests;
- Consequence of not submitting to a substance test;
- Explanation of dilute sample and consequence of submitting a dilute sample;
- Consequence of submitting a modified or tampered sample;
- Established rules for collection of sample;
- Identification of any restrictions to over the counter (OTC), prescription (Rx) medications, supplements, or other substances; and
- Process for requesting lab confirmation, including any required fee to do so.

SUBCHAPTER 2-5: TREATMENT

2-5.1 TREATMENT SERVICES

Behavioral health treatment services are a vital component of the success of a treatment court program. Individualized to each participant's needs, treatment services shall be based in sound theory and provided through evidence-based interventions. According to NDCI, behavioral health treatment services have three (3) identified functions: (1) Motivation; (2) Insight; and (3) Behavioral Skills.

Treatment courts shall verify that all entities providing treatment services to participants are Approved Treatment Entities. Verification shall be documented in the treatment court office for inspection and review by ODMHSAS. Treatment courts shall participate in all ODMHSAS participant count verifications.

Treatment services shall:

- Provide a continuum of care for substance use disorder treatment. Level of care decisions are based on the ASAM Patient Placement Criteria;
- *(Drug Court Only)* Be provided in a structure which makes available, as defined in the participant handbook, six (6) to ten (10) hours of services per week, during the initial phase

of treatment, and 200 hours over nine (9) to twelve (12) months, and includes at least one (1) individual session per week during the first phase of the program;

- Not include incarceration to achieve clinical or social service objectives, such as obtaining access to detoxification services or sober living quarters.
- Be available to participants regardless of their work schedule. Treatment agency contractors shall be available for services at least forty (40) hours per week, with the exception of state and federally designated holidays.
- Utilize Risk, Need, Responsivity principles in targeting criminogenic and non-criminogenic/responsivity needs of participants. Treatment shall ordinarily be sequenced to first address responsivity needs such as housing, mental health symptoms, cravings, withdrawal, etc. (phase 1), then criminogenic needs such as criminal thinking, delinquent peer interactions, and family conflict (interim phases), and lastly long-term functioning needs such as vocational, educational services (later phases);
- Use evidence-based criminal thinking interventions after participants are stabilized clinically and no longer experiencing acute symptoms of distress such as cravings, withdrawal, or depression;
- Include substance use treatments that are manualized and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system;
- Include medications, as clinically appropriate based on medical necessity as determined by a treating physician with specialized behavioral health expertise;
- Be available to applicants immediately upon identification of clinical eligibility (prior to plea);
- Provide group-based and individual-based interventions for all participants;
- Include the following services:
 - Gender Specific
 - Parenting
 - Anger Management
 - Family-based Services
 - Trauma-Specific Interventions
 - Skill Building/Problem Solving
 - Relapse Prevention
 - Mental Health Treatment
 - Prevention of Health-Risk Behaviors
 - Overdose Prevention and Reversal
 - Peer Recovery Support Services
 - Aftercare, follow-up contact with participant available through at least the first ninety days after discharge.
- If multiple treatment providers are utilized, the treatment court shall have a policy which identifies the process by which the treatment agency is selected for each participant.

2-5.2 SERVICE COLLABORATION

In addition to behavioral health treatment needs, treatment court participants frequently have multiple needs requiring service agency collaboration (ex. housing, medical, transportation, vocational, etc.). Holistic care is recognized as the standard of care in treatment court programs. ODMHSAS encourages the use of peer support resources such as Alcoholics Anonymous, Narcotics Anonymous, SMART Recovery, Double Trouble in Recovery, NAMI support groups, Celebrate Recovery, etc. However, if attendance at a peer support program is mandated, treatment courts shall offer both secular and non-secular options for attendance.

2-5.3 POLICY MANUAL REQUIREMENTS FOR SERVICE COLLABORATION

The treatment court policy manual shall include service collaboration information which:

- Identifies the vocational and educational support provided to participants; and
- Identifies the collaborations between the court and other social service providers in the community. The treatment court is encouraged to develop MOU's to formalize partnerships.

2-5.4 TREATMENT REPORTING

Frequent and accurate reporting to the treatment court team enhances program accountability. Treatment staff shall document all services in accordance with ODMHSAS. Additionally, treatment staff shall submit regular treatment reports to program coordinators, or designees, prior to each treatment court staffing.

Treatment staff shall minimally report:

- Assessment results pertaining to participants' eligibility for the treatment court, including treatment and supervision needs;
- Attendance at scheduled appointments;
- Attainments of treatment plan goals, such as completion of a required treatment regimen;
- Evidence of symptom resolution, such as reductions in drug cravings, withdrawal symptoms, or mental illness symptoms;
- Evidence of treatment-related attitudinal improvements, such as increased insight or motivation for change;
- Attainment of phase requirements, such as obtaining and maintaining employment or enrolling in educational program;
- Adherence to legally prescribed and authorized medically assisted treatments;
- Procurement of unauthorized prescriptions for addictive or intoxicating medications;
- Commission of or arrests for new offenses; and
- Menacing, threatening, or disruptive behavior directed at staff members, participants or other persons.

2-5.5 POLICY MANUAL REQUIREMENTS FOR TREATMENT REPORTING

The treatment court policy manual shall include treatment reporting information which describes the communication requirements between treatment staff and the treatment court coordinator, or designee, minimally occurring on a weekly basis.

2-5.6 HANDBOOK REQUIREMENTS FOR TREATMENT SERVICES AND REPORTING

The treatment court participant handbook shall identify:

- Typical treatment requirements by program phase;
- Contact information for the participant's treatment provider;
- The treatment provider's reporting requirements to the treatment court team; and
- Types of treatment services available.

SUBCHAPTER 2-6: STAFFING AND COURT DOCKETS

2-6.1 TEAM STAFFING

Frequent staffing provides an open forum in which everyone involved in a case can share information, discuss issues, and reach consensus on the next steps toward a participant's successful rehabilitation and completion of the program.

The treatment court team shall have team staffing prior to the treatment court docket. At a minimum, staffing's should include the judge, coordinator, and a representative from the defense counsel, the district attorney's/prosecutor's office, treatment, and supervision. To the greatest extent possible, the same representative should attend regularly to insure the greatest level of teamwork and continuity. The program models support all members of the team having input with the judge being ultimate arbiter of factual controversies and making the final decisions concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. While the specific roles of the team members differ, the goal of maintaining a therapeutic environment shall be forefront in decisions.

2-6.2 POLICY MANUAL REQUIREMENTS FOR TEAM STAFFING

The treatment court policy manual shall identify the process of team staffing including:

- Addressing participants on an individual basis;
- Holding team discussion on the implementation of incentives and sanctions;
- Holding team discussion of treatment and support service needs;
- Allowing input from all team members;
- Resolving disagreements between team members so as to present a united front in court;
- Frequency of team staffing;
- Location and time of team staffing; and
- Team members whom regularly attend.

2-6.3 HANDBOOK REQUIREMENTS FOR TEAM STAFFING

The treatment court participant handbook shall identify the process of team staffing including the purpose of team staffing.

2-6.4 STATUS HEARINGS

The treatment court shall hold court hearings no less frequently than every two weeks for those in the first phase of the program and no less than every four weeks from the second phase until participants are in the last phase of the program. Frequent court hearings establish and reinforce the treatment court's policies, ensure participants' needs are being met, and provide supervision and accountability of each participant. Participants shall ordinarily appear in front of the same judge throughout their enrollment in the treatment court program.

2-6.5 POLICY MANUAL REQUIREMENTS FOR STATUS HEARINGS

The treatment court policy manual shall identify the process for court dockets including:

- Frequency of court dockets;
- Location and time of court dockets; and
- Team members whom are expected to attend court dockets.

2-6.6 HANDBOOK REQUIREMENTS FOR STATUS HEARINGS

The treatment court participant handbook shall identify the participant requirements for court dockets including:

- Typical attendance requirements by program phase;
- Location and time of court dockets; and
- Any rules or restrictions set by the treatment court with regard to behavior, attire, and attendance expectations.

2-6.7 INCENTIVES, SANCTIONS, and THERAPEUTIC ADJUSTMENTS

The treatment court model is based on the principle of behavior modification, rewarding positive behavior and sanctioning criminal behavior or administrative program violations. Research identifies that certainty and immediacy of team responses to behavior are the two most important factors in the successful administration of incentives and sanctions.

Participants shall receive consequences without regard to their gender, race, ethnicity, nationality, socioeconomic status, or sexual orientation. Sanctions shall be provided without expressing anger or ridicule. Participants shall not be shamed or subjected to foul or abusive language. It is recommended that incentives be provided at a greater frequency than sanctions by a four (4) to one (1) ratio.

Participants are given an opportunity to explain their perspective concerning factual controversies. The judge is the ultimate arbiter of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that effect a participant's legal status or liberty.

Incentives: The treatment court places as much emphasis on incentivizing productive behavior as much as reducing crime and substance use. Incentives should take into account the proximal and distal goals of each participant. (Ex. Proximal (short term) goal: incentive low; Distal (long term) goal: incentive high.)

Progressive Sanctions: Jail sanctions shall be imposed judiciously and sparingly, and should not exceed five (5) days per sanction. Unless a participant poses an immediate risk to public safety, jail sanctions are imposed after less severe consequences have been ineffective at deterring infractions. Treatment courts should impose sanctions in advance of a participant's regularly scheduled court hearing. Sanctions should only be imposed by treatment court judges' order. Sanctions imposed may include termination from the program. Sanctions should take into account the proximal and distal goals of each participant. (Ex. Proximal (short term) goal: sanction high; Distal (long term) goal: sanction low, if at all.)

Therapeutic Adjustments: Therapeutic adjustments are appropriate if participants are not responding to their treatment interventions. Such therapeutic adjustments include modification of the treatment plan and may impact intensity or type of services provided. Modifications in treatment services shall consider recommendations of the treatment professional.

2-6.8 POLICY MANUAL REQUIREMENTS FOR INCENTIVES, SANCTIONS, and THERAPEUTIC ADJUSTMENTS

The treatment court policy manual shall identify the process for implementation of sanctions and incentives which:

- Identifies the regular monitoring of the delivery of incentives and sanction to ensure they are administered equivalently to all participants.
- Identifies the opportunity for participants to be heard to explain their perspectives concerning factual controversies and the imposition of incentives, sanctions, and therapeutic adjustments.
- Identifies that participants will receive a clear justification for why a particular consequence is or is not being imposed; and
- Identifies a written schedule of predictable sanctions and the right of the treatment court team to use a reasonable amount of discretion to modify a presumptive consequence in light of circumstances presented in each situation.

2-6.9 HANDBOOK REQUIREMENTS FOR INCENTIVES, SANCTIONS, and THERAPEUTIC ADJUSTMENTS

The treatment court participant handbook shall identify the process for implementation of incentives and sanctions which identifies:

- Behaviors which may elicit an incentive, sanction, or therapeutic adjustment;
- Identifies the range of consequences that may be imposed;
- Phase advancement and graduation criteria, including the legal and collateral consequences. Graduation criteria shall typically include (*modifications allowable and necessary on an individualized basis*) a requirement for at least ninety (90) days of sobriety, employment or school attendance, and sober housing;
- Termination criteria and the legal and collateral consequences;
- The right of the treatment court team to use a reasonable amount of discretion to modify a presumptive consequence in light of circumstances presented in each situation; and
- (*Drug Court Only*) Identifies that a participant may be sanctioned to serve a term of confinement of six (6) months in an intermediate revocation facility operated by the Department of Corrections.

SUBCHAPTER 2-7: PARTICIPANT RIGHTS

2-7.1 CONFIDENTIALITY

Open communication between multiple agencies and offices is a hallmark of the treatment court program models. However, much of the information necessary to discuss, such as all information related to identity, diagnosis, prognosis, or treatment of any patient, is protected by state, federal, and tribal laws. As such, treatment court programs shall maintain the ability to communicate this protected health information through appropriate participant written consent. A consent for release of information shall not be valid if (a) the expiration date has passed, (b) the release has not been filled out with all required information identified in 7-1.2, or (c) the participant does not give consent freely and voluntarily.

The treatment court shall utilize consents of release of information which include:

- The statement, in bold font, “The information authorized for release may include records which may indicate the presence of a communicable disease”;
- The specific name or general designation of the program or person permitted to make the disclosure;
- The name or title of the individual or the name of the organization to which disclosure is being made;
- The name of the consumer whose records are to be released;
- A description of the information to be disclosed;
- The dated signature of the consumer, or authorized representative, or both when required;
- Purpose of the disclosure;

- An expiration date, event, or condition which shall ensure release will last no longer than reasonably necessary to serve the purpose for which it is given; and
- If the release is signed by a person authorized to act for a consumer, a description of the authority of such person to act.

2-7.2 POLICY MANUAL REQUIREMENTS FOR CONFIDENTIALITY

The treatment court policy manual shall identify the confidentiality practices of communication which requires the use of consents for release of information, prior to disclosure of the information.

Policy shall include:

- Identification of the team member responsible for collection of consents for release of information; and
- Identification of the secure storage procedure of any records which contain protected health information.

2-7.3 HANDBOOK REQUIREMENTS FOR CONFIDENTIALITY

The treatment court participant handbook shall identify confidentiality information including:

- A brief description of protected health information;
- The role of consents for release of information in the treatment court program; and
- The limits to confidentiality.

2-7.4 CONSUMER RIGHTS

Respectful treatment of program participants is a best practice which has been proven to enhance positive outcomes. It is also a right of program participants to be treated with respect and have interactions with treatment court team members free from foul or abusive language.

Dual relationships are a consumer rights' issue which is expected to occur from time to time. Especially in rural areas, former interactions between treatment court team members and participants (ex. employee/employer, familial, etc.) should be recognized as an important issue to the treatment court team and steps taken to minimize the impact on the participant should occur.

Each treatment court program shall have a grievance procedure available to program participants. Grievance procedures are a means by which participants can formally notify team members of potential rights violations or general concerns regarding their treatment. Formal grievance processes assist in holding team members accountable to high ethical standards of care and protect both the program and the participants.

2-7.5 POLICY MANUAL REQUIREMENTS FOR CONSUMER RIGHTS

The treatment court policy manual shall identify consumer rights information which:

- Identifies that treatment team members shall not create new dual relationships with participants (ex. employee/employer relationships excluding certified peer recovery support opportunities, sexual relationships, etc.); and
- Establishes agreed upon guidelines by the treatment court team for instances of prior relationships between team members and participants. This shall include notification and documentation requirements and steps to minimize impact of prior relationships on participation.

2-7.6 HANDBOOK REQUIREMENTS FOR CONSUMER RIGHTS

The treatment court participant handbook shall identify consumer rights information which:

- Identifies the participant's rights to respectful treatment while in the program;
- Identifies a grievance process which:
 - Identifies the method by which participants can file a grievance;
 - Includes a timeframe for the grievance process which allows for an expedient resolution (not to exceed 14 days);
 - Includes the provision of written notification to the participant of the outcome; and
 - Identifies the mechanism by which the participant can appeal the outcome.
- Includes the phone number to the ODMHSAS Consumer Advocate's Office.

SUBCHAPTER 2-8: FISCAL RESPONSIBILITIES

2-8.1 PARTICIPANT FEES

Treatment court programs shall follow the requirements identified in ODMHSAS contracts and applicable state and federal laws with regard to the charging and collection of participant fees and copayments. Treatment services shall not be contingent on paying any required fee or copay.

2-8.2 POLICY MANUAL REQUIREMENTS FOR PARTICIPANT FEES

The treatment court policy manual shall identify:

- The procedures for the collection of participant fees, including who payments are made to, methods of payment accepted, storage of payments collected, and deposit process of payments collected; and
- The amount of participant fees to be charged to program participants.

2-8.3 HANDBOOK REQUIREMENTS FOR PARTICIPANT FEES

The treatment court participant handbook shall identify:

- Amount of participant fees, detailed by type of fee (ex. program fee, supervision fee, etc.)
- Required schedule for payment of fees; and
- Participant expectation for fee collection process, including who payments are made to, methods of payments accepted, and how receipts for payments will be issued.

2-8.4 ACCOUNTING PROCEDURES

Treatment court programs shall follow sound accounting procedures, including state purchasing requirements. Adult drug court programs shall follow the most recent version of the “Recommended Drug Court Accounting Procedures” published by the State of Oklahoma Auditor and Inspector (SAI) (*Drug Court only*). Treatment court programs shall comply with ODMHSAS and SAI audit requests, including making all program account information accessible by ODMHSAS and SAI.

2-8.5 EXPENDITURE REPORTS

Treatment court programs shall submit quarterly expenditure reports to ODMHSAS within 45 days of the close of each quarter and shall comply in a timely manner with any follow-up requests.

SUBCHAPTER 2-9: TREATMENT COURT PERSONNEL AND PURCHASED SERVICES

2-9.1 TREATMENT COURT PERSONNEL

Treatment courts shall have Treatment Court Personnel which minimally perform the duties identified in ODMHSAS Administrative Contracts.

2-9.2 POLICY MANUAL REQUIREMENTS FOR TREATMENT COURT PERSONNEL

The treatment court policy manual shall identify:

- The employment status of each Treatment Court Personnel (ex. contractor, county employee, etc.);
- The immediate supervisor of each Treatment Court Personnel; and
- The requirement of submission of timecards, documenting hours spent on program-related tasks, which shall be reviewable by ODMHSAS upon request.

2-9.3 HANDBOOK REQUIREMENTS FOR TREATMENT COURT PERSONNEL

Treatment court participant handbook shall identify the contact information for the designated Treatment Court Coordinator.

2-9.4 PURCHASED SERVICES

Treatment courts using any program funds, including those provided by ODMHSAS contracts, to purchase services to carry out any portion of those duties required in ODMHSAS Drug Court or Mental Health Court Administrative Contracts (ex. supervision, drug testing, etc.) shall follow all applicable purchasing requirements.

2-9.5 POLICY MANUAL REQUIREMENTS FOR PURCHASED SERVICES

The treatment court policy manual shall identify:

- The method by which the provider(s) of the purchased services shall be selected and monitored;
- The requirement of all service providers to post the grievance process and ODMHSAS Consumer Advocate’s contact information at any service location which participants are required to report to; and

- The requirement of submission of written agreements and invoices for payment which include individual cost of service, number of services provided, dates of services, and signature of service provided with attestation.

SUBCHAPTER 2-10: EVALUATION and PERFORMANCE IMPROVEMENT

2-10.1 DATA REPORTING

Treatment courts shall participate in the ODMHSAS required data reporting and evaluation process. This shall minimally include: (a) coordinators enter required data into the web-based reporting systems by the 1st of each month; and (b) treatment providers enter data into the Medicaid Management Information System (MMIS) in accordance with established procedures. It is recommended that documentation occurs within forty-eight (48) hours of respective events, but shall be entered within 7 days. Records not updated within 60 days shall not be counted active for purposes of funding. All team members shall have access to enter and review information in WEBS.

2-10.2 POLICY MANUAL REQUIREMENTS FOR DATA REPORTING

Treatment court policy manual shall identify an internal review process which:

- Ensures the accurate reporting of participant's active status;
- Includes an, at least, quarterly review by an individual other than the person whose regular responsibility it is to report data; and
- Reports any errors in reporting to ODMHSAS within 7 days.

2-10.3 PERFORMANCE IMPROVEMENT

Evaluation and performance improvement are important components of treatment court programs. Research identified that programs which utilize data to impact program functions have better outcomes than those programs which do not. Further, treatment court programs which meet outside of traditional staffing and court hearings to target performance improvement measures similarly show improved results.

ODMHSAS provides outcomes and other select reports, on at least a quarterly basis, to each treatment court program. Many program evaluation reports are available on the web-based systems and additional information may be requested from ODMHSAS to assist with program evaluations.

2-10.4 POLICY MANUAL REQUIREMENTS FOR PERFORMANCE IMPROVEMENT

The treatment court policy manual shall identify business meetings on at least an annual basis which:

- Includes all treatment court members;
- Includes a review of program outcomes and other data reports;
- Focuses on performance improvement;
- Reviews in-program progress and outcomes of historically disadvantaged groups; and
- Includes a review of the policy manual, participant handbook, and team organizational process.

SUBCHAPTER 2-11: DOCUMENTATION

Treatment court programs shall maintain documentation requirements which minimally include:

Treatment court file: The treatment court file shall be stored separately from treatment and public records and shall be maintained in a secured, locked environment not accessible to individuals whom are not a part of the treatment court team, including program participants. The treatment court has documentation which shall minimally include:

- Plea date;
- Current case number;
- Current program phase;
- Current status (ex. AWOL, In-custody, Active, IRF, etc.)
- Graduation/Revocation date, as applicable;
- Signed acknowledgement of participant handbook receipt;
- Signed participant contract;
- Documentation of final disposition, as applicable;
- Chronological reports which contain information regarding supervision contact with a participant including: (a) date, (b) time, (c) location, and (d) team members' signature. This includes, but is not limited to, home visits, office visits, substance testing, missed appointments, and telephone calls, unless entered into WEBS. If supervision is provided by staff of state or municipal supervision entities, such as Department of Corrections, their documentation requirements shall supersede this section;
- Screening reports from treatment providers, unless entered directly into WEBS;
- Treatment update reports from treatment providers, unless entered directly into WEBS;
- Consents for release of information;
- Requests for travel, if the treatment court program requires such requests;
- Documentation signed by participant, or a copy provided to the participant at the time of sanctioning, identifying violation and requirements of completing sanction including date sanction is to be completed;
- Substance testing records which identifies: (a) substance tested for, (b) method of testing, (c) results, (d) signature of individual administering test, and (e) participant signature; and
- Copies of participant receipts, when treatment court fines or fees are not collected directly by the court clerk.

Treatment record: The treatment records shall maintain the original treatment documentation and shall remain with the respective treatment agency in accordance with applicable sections of OAC Title 450.

Public court record: The public court record shall be stored separately from the treatment court file and treatment record in accordance with applicable state and federal laws.

SUBCHAPTER 2-12: SPECIAL POPULATIONS/DOCKETS

2-12.1 VETERAN/ACTIVE DUTY POPULATIONS

Oklahoma has a significant number of veterans and active duty military personnel relative to the overall population. While most of these individuals will never be involved in the criminal justice system, some individuals may face criminal charges and ultimately end up in treatment court programs due to service-related treatment needs. Because of the significant sacrifice made by this population, treatment court programs may choose to invest resources into a voluntary program distinction identified as Zone4Vets (Z4V).

While any treatment court programs can serve veterans and active duty military personnel, those identified as a Zone4Vets have met the current requirements identified by the ODMHSAS Zone4Vets criteria to receive special recognition status for this population.

2-12.2 CO-OCCURRING POPULATIONS

A significant percentage of treatment court participants have co-occurring disorders, serious mental illness and substance use disorders. Treatment courts may choose to designate a specialized docket in the program to serve their co-occurring participants. Co-occurring dockets target offenders with moderate to high treatment needs in both substance use and mental health areas.

While all treatment courts are encouraged to follow the information in this section for their co-occurring participants, programs with specialized co-occurring dockets shall follow all general treatment court requirements in addition to the requirements below (*adapted from NDCI and GAINS Center: Six Steps to Improve Your Drug Court Outcomes for Adults with Co-Occurring Disorders*):

Early identification of participants' needs through:

- Screening processes which identify co-occurring treatment needs prior to program admission;
- Screening processes which identify trauma-related treatment needs at admission;
- Program intake processes which includes (a) mental health and substance use disorder diagnosis, (b) interaction between mental health and substance use disorder, (c) information on functional impairments that could impact participation in the program (ex. stress tolerance, attention, concentration, etc.), and (d) other psychological areas that are likely to affect engagement and participation in the program (ex. criminogenic needs, motivation for treatment, literacy, transportation, and major medical problems).

Adaptation of the court structure through:

- Participation in court staffing and dockets by an agency certified by the ODMHSAS to provide mental health treatment services;
- Increased periodic reviews of treatment court program requirements;
- Cross-training, either formal or informal in-service training opportunities, of treatment court staff on criminal justice, mental health, and substance use disorder treatment;
- Integration of support groups which target co-occurring treatment needs, as available;
- Flexibility of court appearance requirements to meet the individual needs of participants;
- Integration of family-based educational services;

- Integrated treatment approaches which are individualized to each participant’s needs;
- Flexibility of phase progress and anticipated goals which may include (a) determined period of sobriety and medication compliance, (b) reduction in mental health symptoms, (c) continued engagement and progress in treatment, (d) stable home plan, (e) establishment of a support network, (f) completion of special probation terms such as paying program costs, making restitution, or participating in community service;
- Consequences associated with non-compliance with mental health treatment; and
- Encouragement of reduction of hospitalizations, improved role functioning at work, school, or parenting, and increased independent living skills.

Expansion of treatment options including:

- Enhancement of independent living skills, including financial management;
- Focus on improved role functioning at work, school, or parenting;
- Integration of family-based, and other social support, services;
- Evidence-based services for serious mental illness including, but not limited to medications, and social skills training; and
- Case management including, but not limited to, housing, vocational and educational services, and primary healthcare.

Community supervision which:

- Is dictated by assessed risk for recidivism, with more intensive supervision to those assessed as higher risk and less intensive supervision for those with lower risk;
- Takes into consideration the abilities and functioning of the participant (ex. memory deficits, time management challenges, and medication adherence); and
- Includes a problem-solving approach to noncompliance.

CHAPTER 3: MISDEMEANOR DIVERSION PROGRAMS

SUBCHAPTER 3-1: MISDEMEANOR DIVERSION STRUCTURE

3-1.1 GOVERNANCE

Misdemeanor Diversion programs provide behavioral health services to individuals with misdemeanor crimes and can operate under multiple legal authorities including, but not limited to law enforcement diversion, pretrial services, deferred prosecution agreements, and plea agreements. Misdemeanor programs operating as misdemeanor drug courts shall operate independently from any operating felony drug court programs and shall follow guidelines as referenced in Chapter 2, with the exception of program length and phase structure. Other program models shall follow the statutory requirements of the specific legal structure that best describes the operating program’s structure.

3-1.2 PARTICIPATING ENTITIES

Participating entities within each jurisdiction will vary based on the program model followed. For all program models, minimally the district attorney, public defender, and presiding district judge shall be provided information about the program when one exists in a jurisdiction.

SUBCHAPTER 3-2: TREATMENT

3-2.1 TREATMENT SERVICES

Treatment contractors shall provide screening services within five (5) days of admission to the program for the purpose of determining program requirements and case planning. The screening shall minimally include a validated substance use disorder screening tool and an ODMHSAS-approved criminogenic risk assessment instrument, completed by a clinician meeting minimum qualifications for Screening and Referral, as identified in the most recent version of the Services Manual, and trained to administer the instrument.

Treatment service requirements shall be provided within requirements of general substance abuse or mental health statements of work. Services shall be provided regardless of income level and shall not be contingent upon payment of program fees or copays.

Misdemeanor Diversion programs shall verify that all entities providing treatment services to participants are Approved Treatment Entities. Verification shall be documented in the office for inspection and review by ODMHSAS.

Treatment services shall:

- Be provided within requirements of general substance abuse or mental health statements of work;
- Not include incarceration to achieve clinical or social service objectives, such as obtaining access to detoxification services or sober living quarters;
- Be available to participants regardless of their work schedule. Treatment agency contractors shall be available for services at least forty (40) hours per week, with the exception of state and federally designated holidays;
- Utilize Risk, Need, Responsivity principles in targeting criminogenic and non-criminogenic/responsivity needs of participants;
- Use evidence-based criminal thinking interventions after participants are stabilized clinically and no longer experiencing acute symptoms of distress such as cravings, withdrawal, or depression;
- Include substance use treatments that are manualized and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system; and
- Include medications, as clinically appropriate based on medical necessity as determined by a treating physician with specialized behavioral health expertise.

3-2.2 TREATMENT REPORTING

Frequent and accurate reporting to the program enhances program accountability. Treatment staff shall document all services in accordance with ODMHSAS. Additionally, treatment staff shall submit regular treatment reports to program coordinators, or designees, as required. Treatment staff shall report information consistent with 2-5.4.

SUBCHAPTER 3-3: SUPERVISION

Supervision is not a required component of the Misdemeanor Diversion program. If the program includes supervision, the program shall provide supervision consistent with the level identified as necessary in the criminogenic risk assessment. Programs not requiring supervision may disregard this subchapter.

If the Misdemeanor Diversion program includes substance testing, it shall follow requirements as identified in 2-4.4 and 2-4.5

SUBCHAPTER 3-4: EXPENDITURE REPORTS

Misdemeanor Diversion programs shall submit quarterly expenditure reports to ODMHSAS within 45 days of the close of each quarter and shall comply in a timely manner with any follow-up requests.

CHAPTER 4: JUVENILE DIVERSION PROGRAMS

SUBCHAPTER 4-1: JUVENILE DIVERSION PROGRAM STRUCTURE

4-1.1 GOVERNANCE

Juvenile Diversion programs provide behavioral health services to juveniles involved with the criminal justice system and can operate under multiple legal authorities including, but not limited to law enforcement diversion, deferred prosecution agreements, and juvenile drug courts. Juvenile Diversion programs operating as juvenile drug courts shall operate independently from any operating adult drug court programs and shall follow guidelines as referenced in Chapter 2, with the exception of any statutes specific to juvenile case processing. Goals include decreasing involvement with the criminal justice system, increasing engagement with treatment services, reducing substance use, and overall cost savings.

4-1.2 PARTICIPATING ENTITIES

Participating entities within each jurisdiction will vary based on the program model followed. For all program models, minimally the district attorney, public defender, and presiding district judge shall be provided information about the program when one exists in a jurisdiction.

SUBCHAPTER 4-2: TREATMENT

4-2.1 TREATMENT SERVICES

Treatment contractors shall provide screening services within five (5) days of admission to the program for the purpose of determining program requirements and case planning. The screening shall minimally include a validated substance use disorder and mental health screening tool.

Treatment service requirements shall be provided within requirements of general substance abuse or mental health statements of work. Services shall be provided regardless of income level and shall not be contingent upon payment of program fees or copays.

Juvenile Diversion programs shall verify that all entities providing treatment services to participants are Approved Treatment Entities. Verification shall be documented in the office for inspection and review by ODMHSAS.

Treatment services shall:

- Involve multiple systems impacting children including, but not limited to, family, school, child welfare, and criminal justice;
- Not include incarceration to achieve clinical or social service objectives, such as obtaining access to detoxification services or sober living quarters.
- Be available to participants regardless of their school schedule. Treatment agency contractors shall be available for services at least forty (40) hours per week, with the exception of state and federally designated holidays.
- Include substance use treatments that are manualized and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system; and
- Include medications, as clinically appropriate based on medical necessity as determined by a treating physician with specialized behavioral health expertise.

4-2.2 TREATMENT REPORTING

Frequent and accurate reporting to the program enhances program accountability. Treatment staff shall document all services in accordance with ODMHSAS. Additionally, treatment staff shall submit regular treatment reports to program coordinators, or designees, as required. Treatment staff shall report information consistent with 2-5.4.

SUBCHAPTER 4-3: SUPERVISION

Supervision is not a required component of the Juvenile Diversion program. If the program includes supervision, the program shall provide supervision consistent with the level identified as necessary in the criminogenic risk assessment. Programs not requiring supervision may disregard this subchapter.

If the Juvenile Diversion program includes substance testing, it shall follow requirements as identified in 2-4.4 and 2-4.5.

SUBCHAPTER 4-4: EXPENDITURE REPORTS

Juvenile Diversion programs shall submit quarterly expenditure reports to ODMHSAS within 45 days of the close of each quarter and shall comply in a timely manner with any follow-up requests.

CHAPTER 5: MUNICIPAL DIVERSION PROGRAMS

SUBCHAPTER 5-1: MUNICIPAL DIVERSION STRUCTURE

5-1.1 GOVERNANCE

Municipal Diversion programs provide behavioral health services to individuals with municipal crimes and can operate under multiple legal authorities including, but not limited to law enforcement diversion, pretrial services, deferred prosecution agreements, and plea agreements. Program models shall follow the statutory requirements of the specific legal structure that best describes the operating program's structure.

5-1.2 PARTICIPATING ENTITIES

Participating entities within each jurisdiction will vary based on the program model followed. For all program models, minimally the presiding judge, city attorney, court staff, jail staff and police department shall be provided information about the program when one exists in a jurisdiction.

SUBCHAPTER 5-2: TREATMENT

5-2.1 TREATMENT SERVICES

Treatment contractors shall provide screening services within five (5) days of admission to the program for the purpose of determining program requirements and case planning. The screening shall minimally include a validated substance use disorder screening tool and an ODMHSAS-approved criminogenic risk assessment instrument, completed by a clinician meeting minimum qualifications for Screening and Referral, as identified in the most recent version of the Services Manual, and trained to administer the instrument.

Municipal Diversion programs shall verify that all entities providing treatment services to participants are Approved Treatment Entities. Verification shall be documented in the office for inspection and review by ODMHSAS.

Treatment services shall:

- Not include incarceration to achieve clinical or social service objectives, such as obtaining access to detoxification services or sober living quarters.

- Be available to participants regardless of their work schedule. Treatment agency contractors shall be available for services at least forty (40) hours per week, with the exception of state and federally designated holidays.
- Utilize Risk, Need, Responsivity principles in targeting criminogenic and non-criminogenic/responsivity needs of participants;
- Use evidence-based criminal thinking interventions after participants are stabilized clinically and no longer experiencing acute symptoms of distress such as cravings, withdrawal, or depression;
- Include substance use treatments that are manualized and have been demonstrated to improve outcomes for addicted persons involved in the criminal justice system; and
- Include medications, as clinically appropriate based on medical necessity as determined by a treating physician with specialized behavioral health expertise.

5-2.2 TREATMENT REPORTING

Frequent and accurate reporting to the program enhances program accountability. Treatment staff shall document all services in accordance with ODMHSAS. Additionally, treatment staff shall submit regular treatment reports to program coordinators, or designees, as required. Treatment staff shall report information consistent with 2-5.4.

SUBCHAPTER 5-3: SUPERVISION

Supervision is not a required component of the Municipal Diversion program. If the program includes supervision, the program shall provide supervision consistent with the level identified as necessary in the criminogenic risk assessment. Programs not requiring supervision may disregard this subchapter.

If the Municipal Diversion program includes substance testing, it shall follow requirements as identified in 2-4.4 and 2-4.5.

SUBCHAPTER 5-4: EXPENDITURE REPORTS

Municipal Diversion programs shall submit quarterly expenditure reports to ODMHSAS within 45 days of the close of each quarter and shall comply in a timely manner with any follow-up requests.