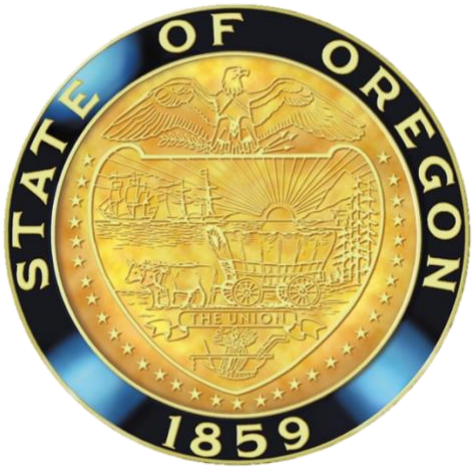

OREGON SPECIALTY COURT STANDARDS

Adult Drug, Mental Health, Family, Veterans, Juvenile, and DUII

January 2018

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Note: The 10 key components identified below quote directly from the National Association of Drug Court Professionals (NADCP) document and use the term "drug court."[1] Oregon's Specialty Court Standards (Standards) are a collaborative effort to provide statewide guidance, further defining best and promising practices by which the specialty courts can be held accountable in a manner to achieve the outcomes promised by each component. The Standards have been developed to be applicable to all specialty courts regardless of type (such as adult, mental health, family, juvenile, veteran, and DUII). Throughout the document, items that have special notes based on population or program type are indicated by a MH (Mental Health), FDC (Family), V (Veterans), JDTC (Juvenile), or DUII (Driving While Intoxicated), and corresponding information is included for each standard.

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[1] Bureau of Justice Assistance. (2004) *Defining Drug Courts: The Key Components*. Accessed August 2017 from https://www.ndci.org/wp-content/uploads/Key_Components.pdf

INTRODUCTION

The Oregon Criminal Justice Commission's (CJC) purpose is to improve the legitimacy, efficiency, and effectiveness of state and local criminal justice systems by providing a centralized and impartial forum for statewide policy development and planning. CJC is charged with developing a long-range public safety plan for Oregon that includes making recommendations on the capacity and use of state prisons and local jails, implementation of community corrections programs, and methods to reduce future criminal conduct.

Oregon values and relies on research findings to guide public safety investment decisions. CJC provides grants to improve the effectiveness and efficiency of state and local criminal justice systems. It is critical that public safety investments demonstrate cost-effectiveness and derive benefits for Oregon citizens.

In 2013, the Oregon Legislative Assembly's adoption of HB 3194 expanded the CJC's charge to include serving as a *"clearinghouse and information center for the collection, preparation, analysis and dissemination of the best practices applicable to specialty courts"* (ORS 137.680). This clearinghouse function includes coordinating research and distributing research results; coordinating specialty court-specific trainings; and supporting the implementation of programs and evidence-based practices. CJC is also required to develop evidence-based standards for specialty courts with the goal of reducing recidivism and targeting medium to high-risk offenders, in consultation with the Oregon Judicial Department.

The 10 key components are the core framework for specialty courts. These broad principles are defined in the Standards through appropriate practices which provide guidance on how to operationalize these guidelines. The Standards are intended to create consistent practices and provide guidance to all types of specialty courts, including adult drug, mental health, juvenile drug, family dependency, veteran, and DUII (also known as DWI). As written, the Standards are intended to serve as ideal expectations and CJC encourages specialty courts to adopt these recommendations, with a focus on continuous improvement. CJC recognizes that different types of specialty courts (also known as treatment courts and problem-solving courts) may have unique practices that may not be found in these Standards. Caution shall be exercised when deviating from the Standards, although exceptions may be necessary due to local circumstances, resource challenges, and the target population's specific needs.

The Standards describe best practices associated with a successful specialty court program and align with:

- The 10 Key Components of Drug Courts[2]
- Adult Drug Court Best Practice Standards Volume I[3] and II[4]
- Guiding Principles of DUII Courts[5]
- Juvenile Drug Court Strategies in Practice[6] and Juvenile Drug Treatment Court Guidelines[7]
- Recommendations for Developing Family Drug Court Guidelines[8]
- The Essential Elements of a Mental Health Court[9]

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[2] Bureau of Justice Assistance. (2004) *Defining Drug Courts: The Key Components*. Available from https://www.ndci.org/wp-content/uploads/Key_Components.pdf (last accessed August 2017)

[3] National Association of Drug Court Professionals. (2013) *Adult Drug Court Best Practice Standards Volume I.* Available from http://www.nadcp.org/sites/default/files/nadcp/AdultDrugCourtBestPracticeStandards.pdf (last accessed August 2017)

[4] National Association of Drug Court Professionals. (2014) *Adult Drug Court Best Practice Standards Volume II*. Available from https://ndcrc.org/resource/nadcp-adult-drug-court-best-practice-standards-volume-ii (last accessed August 2017)

[5] National Center for DWI Courts. *The Guiding Principles.* Available from http://www.dwicourts.org/uncategorized/guiding-principles (last accessed August 2017)

[6] Bureau of Justice Assistance (2003) *Juvenile Drug Courts: Strategies in Practice.* Available from http://www.ncjfcj.org/sites/default/files/16%20strategies.pdf (last accessed August 2017)

[7] Office of Juvenile Justice and Delinquency Prevention. (2016) *Juvenile Drug Treatment Court Guidelines*. Available from https://www.ojjdp.gov/pubs/250368.pdf (last accessed August 2017)

[8] Office of Juvenile Justice and Delinquency Prevention. (2015) *Guidance to States: Recommendations for Developing Family Drug Court Guidelines.* Available from http://www.cffutures.org/files/publications/FDC-Guidelines.pdf (last accessed August 2017)

[9] Bureau of Justice Assistance. (2007) *Improving Responses to People with Mental Illnesses: The Essential Elements of a Mental Health Court.* Available from

Key component #1: Drug courts integrate alcohol and other drug treatment services with justice system case processing.

1-1 The specialty court team shall integrate alcohol and other substance use disorder services and/or mental health services with justice-system case processing by establishing a specialty court "team." The team shall include the following roles/agencies: judge, prosecuting and defense attorneys, treatment provider, court coordinator, case manager, probation, and law enforcement. Depending on local program design, other appropriate key stakeholders shall be added to the team (such as child welfare professionals or housing providers).

MH: The team also includes mental health providers and substance use disorder treatment providers.

FDC: The team shall include a child's attorney or guardian ad litem, a parent's attorney, *and* a child-welfare case manager. It may also be appropriate to include Court Appointed Special Advocates (CASA), a domestic violence advocate/service provider, and a mental health provider.

JDTC: The team includes a school representative, to help overcome educational barriers, and a representative from child welfare.

1-2 The specialty court team shall develop, review, and agree on program processes that demonstrate a commitment to evidence-based practice (such as mission, goals, eligibility criteria, operating procedures, performance measures, orientation, drug testing, and program structure guidelines). The team shall create a program policy manual and update it annually. In addition, each program is expected to establish a Policy Committee and an Advisory Committee. [10]

MH: Information concerning a defendant's referral to mental health court shall be closely guarded and there shall be no public discussions about a defendant's mental illness while that person is being considered for mental health court or after a decision is made. Discussion of diagnosis and medication can be conducted in closed staff meetings but shall not be discussed in "open court." Clinical documents shall be maintained separately from criminal files, to prevent medical information from becoming part of the public record.

FDC: The team must agree on who is viewed as the primary client and determine the availability of treatment/services for children and parents.

The program shall comply with the Indian Child Welfare Act (ICWA) in applicable cases. The federal ICWA establishes standards and procedures to protect the right of an Indian child to live with an Indian family, and to foster tribal sovereignty.[11]

www.bja.gov/Publications/MHC_Essential_Elements.pdf (last accessed August 2017)

[10] For additional information about these groups, see Key Component #10.

[11] National Indian Law Library. *ICWA Guide Online/Introduction.* Available from http://www.narf.org/nill/documents/icwa/ch1.html (last accessed August 2017)

1-3 The specialty court team shall develop a written agreement (a Memorandum of Understanding) among all participating parties, identifying the roles and responsibilities (duties and tasks) of all parties, as well as the information to be shared among team members (confidentiality and communication guidelines). The MOU shall be reviewed annually.

MH: Clinical information shall be discussed in closed pre-court staff meetings and not in open court status hearings.

FDC: Program prioritizes access to substance use treatment for those defendants who are pregnant and using substances.

Agreements and information sharing policies address the needs of children, such as visitation for children with incarcerated parents and confidentiality provisions of child welfare, substance use disorder treatment, and the dependency court.

1-4 All specialty court team members are expected to attend and participate in every scheduled pre-court staff meeting and status hearing. At a minimum, a pre-court staff meeting shall occur prior to each scheduled court status hearing.

1-5 Treatment providers shall communicate with the specialty court team and report on defendant progress and/or concerns in treatment prior to status hearings.

1-6 The specialty court team ensures that specialty court defendants from groups that have historically experienced sustained discrimination or reduced social opportunities receive equal access to program admission, treatment, and availability of incentives and sanctions.

1-7 The specialty court has a written consent and/or release of information form. Defendants provide voluntary and informed consent about what information is shared among team members.

MH: Defendants shall be allowed to review the form with the advice of defense counsel, treatment providers, or both. The mental health court shall develop guidelines to identify and expeditiously resolve competency concerns. Defendants shall not be asked to sign release of information forms until competency issues have been resolved.

Key Component #2: Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

Note: With respect to family drug courts, for any of the standards in this section, references to "counsel" include the child's attorney or guardian ad litem, when appropriate, and the parent's attorney, in addition to or in lieu of the prosecutor or defense attorney.

2-1 The prosecutor and defense counsel shall be members of the specialty court team and shall participate in the design, implementation, and enforcement of the program's screening, eligibility, and case-processing policies and procedures.

2-2 The prosecutor and defense counsel shall coordinate their efforts in pursuit of achieving a shared goal allowing for the pursuit of justice, protection of public safety, and the preservation of the constitutional rights of the defendant.

2-3 The prosecutor and defense counsel shall attend all team meetings (pre-court staff meetings and court/status hearings).

2-4 The prosecutor shall review cases and determine whether a defendant is eligible for entry into the specialty court program; file all required legal documents; stipulate that a positive drug test or open-court admission of substance use shall not result in the filing of additional drug charges based on that drug test or admission; and work collaboratively with the team to decide on a team response to a defendant's behavior, including incentives, sanctions, and when or whether termination from the program is warranted.

2-5 The defense counsel shall review the police reports, arrest warrant, charging document, all program documents, and other relevant information; advise the defendant as to the nature and purpose of the specialty court, the rules governing participation, the merits of the program, the consequences of failing to abide by the program rules, and how participation or non-participation shall affect the defendant's interests; provide a list of and explain all rights that the defendant shall temporarily or permanently relinquish; advise the defendant on alternative options; explain that the prosecution has agreed that a positive drug test or admission to drug use in open court shall not lead to additional charges - and therefore encourage truthfulness with the judge and treatment staff; and inform the defendant that he or she shall be expected to take an active role in status hearings, including speaking directly to the judge as opposed to doing so through an attorney; and working collaboratively with the team to decide on the team's response to the defendant's behavior, including incentives, sanctions, and when or whether termination from the program is warranted.

2-6 Both the prosecution and the defense attorney shall perform their tasks as part of the program eligibility and admission process as expeditiously as possible, including working with stakeholders in the legal system to eliminate undue delay in admission into the specialty court.

FDC: It is the responsibility of the child welfare agency to perform its initial investigations swiftly to allow an efficient program-entry process.

2-7 The specialty court structure can allow defendants with non-drug charges and different levels of criminal charges (misdemeanor or felony) to participate, and does not automatically disqualify individuals with a current charge or criminal history associated with drug dealing or violence. The program shall disqualify individuals based on a current or prior offense only if empirical evidence from the clinical assessment and available treatment services suggest that they cannot be safely and/or effectively managed in the specialty court program. With regard to specialty court eligibility, assessed risk and need levels are more important than charges.

> **FDC:** Eligibility may be based on child welfare allegations rather than criminal charges. Programs are encouraged to allow parents who also have criminal charges to participate, and to coordinate the cases and court requirements whenever possible.

2-8 The defense counsel shall ensure that all defendants receive a participant handbook upon accepting the terms of participation and entering the program.

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

3-1 Defendant eligibility criteria for identifying potential participants shall be defined by the specialty court team, documented, and communicated to potential referral sources.

MH: Clinical eligibility criteria shall be well defined and consider the availability of community-based treatment.

JDTC: Defendants are 14 years and older.

3-2 The specialty court may be designed to admit eligible defendants pre-plea, post-plea, or may operate with a combination of pre- and post-plea defendants.

FDC: Although accessing services as early as possible is desirable, programs may be designed to admit eligible defendants at any time throughout the adjudication process. Having a formal process to review petitions for substance use as a factor is suggested. Motivational elements shall be implemented during intake to promote program acceptance.

3-3 The specialty court shall use standardized, objective, validated risk and need screening and assessment tools (such as LSI-R, LS-CMI, or PSC) to assess the risk and need of the potential specialty court candidates. Screening and assessment results shall be used to determine program eligibility and to determine level and type of care and supervision. The specialty court shall use validated clinical assessments for service planning and to identify treatment and complementary service needs. When working with members of historically disadvantaged groups, programs have a responsibility to use tools validated for those individuals whenever available. The specialty court assesses multiple areas of strength and need for primary defendants as well as family members.

FDC: Caseworker or other staff asks if the parent identifies as native or is a tribal member, to ensure compliance with ICWA (see Standard 1-2).

3-4 The specialty court shall target individuals classified as moderate-risk/moderate-need to high-risk/high-need.[12] These individuals are appropriate for the intensive interventions (treatment and supervision) that specialty courts provide. Low-risk, low-need individuals shall be diverted from the specialty court. If they are included in the program, separate service tracks must be developed to meet their needs and not increase the risk of recidivism.

3-5 Defendants are screened for program eligibility by designated members of the specialty court team as identified by program policies and procedures.

MH: Program eligibility screening shall include a prosecutor, defense counsel, and a licensed clinician. When competency determination is necessary, it shall be expedited.

FDC: Child welfare representatives may have a role in determining program eligibility.

[12] "High risk" means someone is assessed as being at substantial risk for reoffending or failing to complete a less-intensive disposition, such as standard probation or pretrial supervision. "High need" means someone is assessed as having a compulsion to use or an inability to abstain from alcohol or other drugs, impairment in behavioral control, craving, diminished recognition of significant problems with one's behavior and interpersonal relationships, and a dysfunctional emotional response. (Adult Drug Court Best Practice Standards, Vol. I, p. 5). For mental health specialty courts, "high need" refers to individuals with serious mental illness.

3-6 As soon as defendants are being considered for specialty court, they shall be promptly advised about the program by a designated team member per program policy and procedures. This advice shall include a description of program requirements, scope and potential benefits, effects on their case, and consequences of noncompliance with their program case plan.

MH: The specific terms that apply to each defendant shall be provided to the defendant in writing. Before opting into the mental health court, defendants shall be given the opportunity to review these terms with the advice of counsel.

3-7 Program staff shall strive to have eligible defendants begin the program within 50 days of the arrest or incident that resulted in them being evaluated and considered for participation in the specialty court.

3-8 Trained and qualified professionals shall conduct assessments for substance use disorders and other treatment needs.

MH: Appropriately trained and qualified professionals shall conduct mental health assessments.

3-9 If appropriate services are available, the specialty court shall accept individuals with serious disorders, co-occurring disorders, and medical conditions. The specialty court may gather information from trained medical professionals and consider accepting individuals who have valid prescriptions for psychotropic or addictive medication, such as narcotics for pain.

3-10 The specialty court shall maintain an appropriate caseload/census based on their capacity to effectively serve all defendants in compliance with the Standards. Any specialty court serving more than 125 defendants with a single judge shall ensure the capacity—both services and staff time available—to adhere to the Standards.

3-11 The specialty court shall accept defendants who are taking, or intend to take, medication prescribed by a licensed health care practitioner for the treatment of substance abuse or dependency. The specialty court shall have policies specific to medication-assisted treatment (MAT) and MOUs in place to ensure proper coordination with treatment and medical providers for all programmatic phases.

JDTC: Programs are not required to have policies related to MAT.

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

4-1 The specialty court shall provide a continuum of services through partnership with a primary treatment provider, including detoxification, outpatient, intensive outpatient, day treatment, and residential services. The specialty court team shall identify the treatment staff overseeing case management services who will coordinate other ancillary services and make referrals as necessary.

FDC: Residential placements shall allow children to live with their parents whenever possible.

4-2 The specialty court uses no more than two treatment agencies to provide the primary treatment services for the majority of participants; a single agency or individual may oversee and coordinate the treatment provided from other agencies, unless local circumstances prevent this.

4-3 The specialty court shall provide treatment-readiness programs (such as Curriculum-Based Motivational Group, Motivational Enhancement Therapy, and Motivational Interviewing) for participants who are on waiting lists for comprehensive treatment services.

4-4 The specialty court shall provide participants sufficient duration and dosage of treatment based on their risks and needs as determined by validated standardized assessments. High-need participants ordinarily receive 6-10 hours per week during the initial phase and 200 hours of counseling over 9-12 months, though flexibility to accommodate individual responses to treatment is allowable.

4-5 The specialty court shall incorporate a programmatic phase structure with after care/continuing care emphasized as the last phase/level.

4-6 The participants shall receive treatment programming that includes all of the following:

- Standardized;
- Manualized;
- Cognitive-behavioral or behavioral;
- Evidence-based;
- Implemented with fidelity and maintained with continuous supervision of the treatment providers; and
- Adopted by the specialty court to ensure quality and effectiveness of services and to guide practice.

4-7 The specialty court shall offer a comprehensive range of treatment appropriate for the court type. The program shall adopt guidelines directing the frequency of each service a participant must receive based on assessed need. These services may include, but are not limited to the following:

- Group counseling
- Individual counseling
- Family counseling
- Alcohol and other drug counseling
- Gender-specific counseling
- Culturally competent and linguistically appropriate services
- Domestic violence counseling
- Anger management
- "Criminal thinking" interventions
- Health screening
- Brief evidence-based educational curriculum to prevent behavior that poses health risks (such as STIs and other diseases)
- Brief evidence-based educational curriculum to prevent or reverse drug overdose
- Drug testing
- Medication management
- Assessment and counseling for mental health issues
- Trauma-informed care, including trauma-related services
- Evaluation for suitability for group interventions
- Residential treatment
- Medication Assisted Treatment
- Transition plan (for the participant's recovery following court supervision)

MH: Additional treatment modalities include the following:

- Assertive community treatment;
- Psychotropic medications; and
- Illness self-management.

FDC: Treatment services shall use a family-centered approach (including in-home treatment that integrates children's mental health interventions for participants who are parenting infants and toddlers).

- Services include visitation, while assuring the child's safety, to promote attachment for families who have children in foster care.
- Services must be available for participant's children, including developmental screening and assessment; services to address prenatal and postnatal exposure to substances; trauma-related services; and prevention, early intervention, and treatment services for substance use disorders.
- Services for children must be coordinated with those of the parent and help the parent understand the needs of the child.
- Services for children under age 3 involve the parent as an active participant. Children in out-of-home care retain a single placement (to avoid additional trauma).

JDTC: Additional treatment modalities include the following:

- Assertive continuing care;
- Focus on behavioral health treatment and family intervention; and
- Motivational enhancement therapy.

4-8 Ancillary services are made available to meet the needs of participants. These services may include but are not limited to the following:

- Employment counseling and assistance (beginning in a later phase of the program);
- Assistance in applying for public assistance benefits;
- Parenting education;
- Child care;
- Education and job training;
- Medical and dental care;
- Assistance in applying for health insurance;
- Transportation;
- Housing;
- Mentoring and alumni groups; and
- Aftercare.

MH: Additional services include the following:

- Supported employment;
- Crisis intervention services; and
- Intensive case management.

FDC: Additional services include the following:

- Court Appointed Special Advocates (CASA);
- Family systems approach;
- Monitoring the number of referrals made to other programs and services and tracking the number of participants who initiate and complete clinical and supportive services needed by families;
- Providing financial coaching and financial supports; and
- "Warm handoff" or in-person connection between person making the referral and provider.

4-9 The specialty court policy and procedures manual shall define guidelines for level of treatment, ancillary, and specialized services. The participant shall be screened and provided adequate services to meet their needs.

MH: Placements may include supportive living residences. Participants who have co-occurring substance use disorders shall receive coordinated treatment (for both mental health and substance use disorders).

FDC: Substance use disorder treatment providers routinely ask about the status of children in the families they serve and coordinate their treatment plan with a child welfare case plan. Providers have standard protocols for responding to child safety risks. All treatment services (such as for substance use, mental health, or trauma) are coordinated.

4-10 Specialty court participants shall meet weekly with a clinical case manager or treatment provider during the first phase.

4-11 When feasible, at least one reliable and supportive family member, friend, or daily acquaintance is enlisted to provide information to staff about a participant's conduct outside of the program, to help a participant arrive on time for appointments, and to help a participant satisfy other reporting obligations in the program.

> **JDTC:** Programs deliberately engage parents or guardians throughout the court process, including active participation in court hearings, supervision and discipline of children in the home and community, and treatment programs. JDTCs address any barriers to parents/guardian's full engagement.

Programs provide court certified, qualified or licensed on-site interpreters for parents or guardians with limited English proficiency and for those with a hearing deficiency. All documents shall be translated into the native language of non-English-speaking youth and their parents/guardians

4-12 The treatment/case-management plan shall be individualized for each participant based on the results of the initial assessment and ongoing assessments. The specialty court shall reassess each participant at a frequency determined by the specialty court. An individual's treatment plan may be modified based on the results of reassessment.

> **MH:** The plan shall incorporate the goals of participant abstinence from any substances that could interfere with their required medications.

4-13 The specialty court shall establish quality-assurance processes to ensure that treatment providers adhere to the drug court model. A treatment provider shall incorporate services and staff training consistent with best practices, such as:

- Evidence-based practices;
- Culturally appropriate approaches;
- Cognitive behavioral therapy;
- Manualized treatment;
- Use of trained/licensed professionals;
- Fidelity to treatment models; and
- Matching individuals appropriately to services based on assessed needs

4-14 Treatment providers are licensed or certified to deliver treatment, have substantial experience working with criminal justice populations, and are supervised regularly to ensure fidelity to treatment models.

> **FDC:** Treatment providers serving family court participants have experience working with child welfare–involved families, training on treating people who have experienced trauma and violence, and familiarity with the legal needs of parents and children in a family court setting.

4-15 The specialty court shall include in their plan those relapse prevention and aftercare services that encourage participation in community-based supports, such as alumni groups, peer mentors and/or peer support groups.

4-16 Participants are *not* incarcerated to achieve clinical or social service objectives, such as obtaining access to detoxification services or sober living quarters.

4-17 Participants are prescribed psychotropic or addiction medications as needed by a treating physician with relevant expertise.

4-18 Participants attend self-help or peer-support groups based on risk and need.

> **FDC:** Provides support/recovery groups that include a special focus on child welfare and child safety issues.

4-19 Caseloads for probation officers or other professionals providing community supervision for the specialty court do not exceed 30 active participants. (Caseloads can go up to 50 when made up of low-risk participants and staff has no other caseloads or responsibilities.)

4-20 Caseloads for clinicians providing case management and treatment do not exceed 30 active participants. (Caseloads can go up to 50 if clinicians provide counseling *or* case management but not both, *and* if the clinician has no other responsibilities, including assessments.)

4-21 The specialty court provides referrals to services for participants' children.

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

5-1 The specialty court shall implement a standardized system of drug testing for participants. Testing shall be administered randomly no less than twice per week. Drug testing shall occur on weekdays, weekends, and holidays. Testing shall continue until the participant has shown significant progress in meeting target behaviors including relapse prevention skills, even as treatment dosage and supervision are reduced.

> **MH:** Any individual who enters with a positive drug screen or whose assessment demonstrates a substance use disorder participates in comprehensive testing. Participants who do not have a co-occurring substance use disorder shall be tested on a random, periodic basis. All participants shall be monitored weekly to ensure that they are taking prescribed and approved medications appropriately.

5-2 Specialty courts shall use urinalysis as the primary method of drug testing. A variety of alternative methods may be used to supplement urinalysis, including breath, hair, and saliva testing; patches; and electronic monitoring.

5-3 Sample collection for drug testing shall be directly observed by a trained and experienced staff person whose gender is the same as the gender identity of the participant.

5-4 Results of drug testing shall be provided to the specialty court team as soon as possible, but no more than 48 hours after the sample is collected. If the participant fails to submit a sample or attempts to falsify a sample, this information shall be communicated to the specialty court team immediately. Participants who provide a dilute sample shall be educated about what can cause a dilute sample and how to avoid one in the future. Subsequent dilute samples, or altered samples, shall be considered dishonesty and subject the participant to a possible sanction. The team shall consider the reason for failing to submit a sample, or submitting an altered or dilute sample, on a case-by-case basis to determine whether a sanction or other response is warranted.

5-5 The frequency of alcohol and other drug testing is not reduced until the frequency of other treatment and supervisory services have been reduced without a resulting relapse.

5-6 To graduate, the participant must demonstrate sobriety for 90 days.[13]

[13] "Sobriety" refers to abstinence from alcohol and all other non-prescribed drugs. (Journal of Substance Abuse Treatment)

Key Component #6: A coordinated strategy governs drug court response to participants' compliance.

6-1 The specialty court shall include in the program's policies and procedures manual a formal system of graduated responses to participant behavior regarding incentives/rewards, sanctions, and therapeutic responses. Information shared about the participant among team members and partners includes positive and negative performance, as well as areas warranting attention. The specialty court provides the response for behavior guidelines to team members for use in pre-court staff meetings.

6-2 The specialty court places as much emphasis on providing incentives for productive behavior as it does on sanctions for criminal behavior, substance use, and other infractions. Criteria for program advancement and graduation include objective evidence that a participant is engaged in productive activities such as employment, job training, education, attendance in peer-support groups, or engagement in pro-social activities.

JDTC: Programs use a number of incentives equal to or greater than the number of sanctions.

6-3 Phase promotion is predicated on the achievement of realistic, defined behavioral objectives, such as completion of a treatment regimen, or being abstinent from substances for a specified period. Sanctions and incentives may change over time as participants advance through the phases of the program.

6-4 If adequate treatment is not available, specialty court participants shall receive credit for their efforts in the program and shall not receive an enhanced sentence or disposition.

6-5 Before entering the program and throughout their involvement, participants are informed about the types of incentives and sanctions used in the program and the types of behaviors that result in incentives/rewards, sanctions, or therapeutic responses. The specialty court allows participants to communicate with defense counsel prior to the imposition of a jail sanction. Jail shall be used as a sanction only if the facility allows the participant to continue to take any needed psychiatric or other necessary medications.

6-6 The specialty court has incentives for completing the program, such as avoiding criminal behavior, avoiding incarceration, or receiving a substantially reduced sentence or disposition.

6-7 Responses to participant behavior shall be selected from the continuum of graduated options—from least to most severe—to be applied in a consistent and appropriate manner to match a participant's conduct and level of adherence to program requirements. The program's system of responses to behavior must also incorporate an individual's ability to understand the program's expectations.

6-8 No single set of responses is effective for everyone. Incentives/rewards, sanctions, and therapeutic responses shall be tailored to the individual participant, using information obtained during the assessment process, through information shared in pre-court staff meetings, and with the participant in court and case management meetings.

6-9 Information regarding incidents of participant noncompliance shall be communicated immediately to all members of the specialty court team to coordinate an appropriate response.

6-10 Responses to participant noncompliance shall occur as soon as possible, but no later than one week, after the targeted noncompliance behavior.

6-11 Responses to behavior (incentives/rewards, sanctions, and therapeutic responses) must be certain, fair, and of an appropriate intensity. All responses shall focus on specific behaviors and be administered with a clear direction for the desired behavior change.

6-12 Consequences are imposed for the use of any intoxicating or addictive substance that is not medically indicated (including alcohol, cannabis/marijuana, and prescription medications), regardless of its licit or illicit status. The specialty court team relies 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.

6-13 Therapeutic interventions—*not* sanctions—are used when a participant is not responding to treatment interventions but is otherwise in compliance with program requirements. Participants are not terminated from the program for substance use if they are otherwise compliant with program requirements.

6-14 Sanctions are implemented so that the participant understands the consequence of noncompliance with program rules as therapeutic and not punitive. Participants shall be told what behavior the team expects and how the team can help encourage it, rather than just being told what behavior to avoid. Sanctions are to be delivered without expression of anger, ridicule, foul or abusive language, or shame.

6-15 The specialty court team shall come to an agreement on incentives/rewards, sanctions, and therapeutic responses for each individual. Pre-court staff meetings provide the team an opportunity to coordinate the appropriate sanction, incentive/reward, or therapeutic response based on the participant's resources and ability (proximal and distal considerations.[14])

6-16 Participants are expected to pay fees and restitution as part of their program involvement. Fees may be part of existing court or probation supervision, may be associated with treatment or drug testing, or may be a periodic program fee (for example, monthly). Fees may be reduced as an incentive for positive behavior, or, if allowed, converted to community service credits. Programs must work with each individual to establish a payment plan and monitor progress to ensure that lack of payment does not become a barrier to graduation.

6-17 Programs must use jail sanctions sparingly with the intent of positively modifying participant behavior. Jail sanctions longer than six consecutive days are contrary to best practices.

> **FDC:** If jail is an available sanction, programs shall have agreed-upon protocols regarding due process and the impact of jail and other sanctions on children (such as the trauma associated with forced separation), other family members, employment, and other activities.
>
> **JDTC:** Detention shall be considered after other graduated sanctions have been utilized and only when youth pose a danger to themselves or the community, or may abscond. Detention sanctions shall be infrequent and brief, typically 48 hours or less. Programs shall not use detention as a sanction for a positive drug test.

6-18 To graduate participants must have either paid all required court-ordered fines and fees *or* have a court-approved waiver or a post-graduation payment plan.

6-19 To graduate, participants must have a job, be in school, or be involved in some other qualifying positive activity.

6-20 To graduate, participants must have a sober and sustainable housing environment that is conducive to recovery and stability.

6-21 A new charge does not automatically prompt termination. A new charge prompts an appropriate response,

[14] NDCI National Drug Court Institute. *Behavior Modification 101 for Drug Courts: Making the Most of Incentives and Sanctions*. Available from https://jpo.wrlc.org/bitstream/handle/11204/1076/Behavior%20Modification%20101%20for%20Drug%20Courts_Making%20the%20Most%20of%20Incentives%20and%20Sanctions.pdf?sequence=3 (last accessed September 2017)

discussed collaboratively by the specialty court team, based on proximal and distal considerations.

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

7-1 The specialty court judge shall preside over the specialty court for at least two years and preferably for a longer term.[15] Consistency of the judge correlates with better outcomes for participants. Routine rotation or alternating of judges shall be avoided (with the exception of having a second trained judge; see Standard 7-5 below).

7-2 The specialty court judge shall be knowledgeable of the drug court model, addiction, treatment methods, drug screening, the impacts of trauma and violence, and other related issues.

MH: Judge shall be knowledgeable about appropriate use of psychiatric medications.

FDC: Judge shall be knowledgeable about ways to avoid re-traumatizing participants and their children.

7-3 The specialty court judge offers supportive comments to participants, stresses the importance of their commitment to treatment and other program requirements, and expresses optimism about their ability to improve their health and behavior. The judge does not humiliate participants or subject them to foul or abusive language. The judge allows participants a reasonable opportunity to explain their perspective concerning factual controversies, sanctions, incentives, and therapeutic adjustments.

FDC: The judge shall inquire about the participants' children (if any) and what services might be helpful in caring for them, such as child care, parenting services, mental health treatment, and other services.

7-4 The specialty court judge makes final decisions concerning incentives or sanctions that affect a participant's legal status or liberty, after taking into consideration the input of the other specialty court team members and discussing the matter in court with the participant and the participant's legal representative. The judge relies on the expert input of licensed treatment professionals when imposing treatment-related adjustments.

7-5 A second judge shall be trained in the specialty court philosophy and protocols to cover hearings during the absence of the primary judge.

7-6 The specialty court judge shall attend all pre-court staff meetings. At a minimum, these meetings shall occur prior to, and with the same frequency, as scheduled status hearings.

7-7 A regular schedule of status hearings shall be used to monitor participant progress.

7-8 Participants shall attend status hearings weekly or every other week while in the first phase of the specialty court program, depending on their risk and need. This schedule may continue through additional phases. Frequency of status hearings may vary based on participants' needs and/or judicial resources.

7-9 Status hearings are held no less than once per month during the last phase of the program.

7-10 The specialty court judge spends at least three minutes with each participant during a status hearing and acknowledges and encourages the participant regardless of performance.

7-11 The specialty court judge should be assigned to the specialty court on a voluntary basis.

[15] Finigan, M. W., Carey, S. M., & Cox, A. A. (April 2007). The Impact of a Mature Specialty Court Over 10 Years of Operation: Recidivism and Costs: Final Report. NPC Research: Portland, OR.

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

8-1 The specialty court team shall develop shared goals and performance measures. The team must be aware of its program's outcomes and the program impact on the criminal justice system locally and statewide. Participant progress, success, and satisfaction shall be monitored on a regular basis (including at program entry and graduation) through the use of surveys, including exit surveys at the time of graduation or termination.

8-2 The specialty court shall monitor its adherence to best practice standards on at least an annual basis. The program shall develop an action plan and timetable to rectify deficiencies and examines the success of the remedial actions.

8-3 Participant data shall be monitored and analyzed on a regular basis to evaluate the specialty court's effectiveness. This information is used to modify program procedures, requirements, and services.

> **FDC:** The program monitors the number of referrals made to other programs and services; the number of participants who initiate and complete clinical and supportive services; barriers that prevent access to these services and the points at which participants drop out of the program.
>
> **JDTC:** The programs collect data on family-related factors, such as family cohesion, home functioning, and communication; involvement in prosocial activities; and youth-peer associations.

8-4 A process and outcome evaluation shall be conducted by an independent evaluator within three years of the implementation of a specialty court program, and in regular intervals of not more than five years thereafter.

> **FDC:** The program compares project data regularly with system-wide data on outcomes in the child welfare and substance use disorder treatment systems. This work may require the expertise of an external evaluator.

8-5 Feedback from participant surveys, review of participant data, and findings from evaluations shall be used to make modifications to program operations, procedures, and practices.

> **JDTC:** The program solicits feedback from parents/guardians, as well as participants.

8-6 Data needed for program monitoring and management shall be kept in electronic data systems, easily obtainable, and maintained in useful formats for regular review by program teams and management.

8-7 The specialty court shall use the statewide case management program in the interest of systematic collection of program performance data.

8-8 To ensure reliable data entry, the specialty court team shall record information within 48 hours of all relevant events, including the provision of services and participant outcomes.

8-9 The specialty court team shall cooperate with the CJC to conduct cost-benefit analysis of the specialty court program.

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

9-1 The specialty court's policy and procedure manual shall address staff training and continuing education requirements. Recommended training shall align with best practice standards.

9-2 The specialty court team shall be educated across disciplines for professional development, cultural responsiveness, and team building. Training and education shall address the following:

- The drug court model
- Best practices
- Substance use disorder and mental health treatment
- Managing co-occurring disorders
- Use of effective behavior management strategies, including incentives and sanctions
- Drug testing standards and protocols
- Confidentiality and ethics
- Trauma-informed care
- Recognizing implicit cultural biases and correcting disparate impacts for members of historically disadvantaged groups
- Proficiency in working with people of diverse races, cultures, ethnicities, disabilities, genders and gender identities, and sexual orientations

MH: Training shall address mental health issues/disorders.

FDC: Training shall address the following:

- Impacts of trauma (including historical trauma)
- How courts can avoid re-traumatization
- Effective trauma interventions
- The use of engagement and motivation strategies
- The effect of substance use disorders on family relationships
- Understanding the effects of one's own response to participants on enabling addictive behavior and supporting recovery
- Self-care and avoiding burnout
- Understanding the needs and experiences of families in the child welfare system that are affected by substance use disorders and effective strategies for working with them
- Child development
- Parenting
- The effects of prenatal and postnatal substance exposure on children and meeting their needs across the developmental stages
- Responsibilities and mandates of child welfare workers, including Adoption and Safe Families Act timelines
- Rules pertaining to the Indian Child Welfare Act

9-2 Continued—The specialty court team shall be educated across disciplines for professional development, cultural responsiveness, and team building.

JDTC: Training shall address the following:

- Adolescent development
- Engaging families
- Case management
- Screening and assessment

9-3 The specialty court team shall attend, not less than every other year, comprehensive training as provided by state or national drug court organizations (such as the National Association of Drug Court Professionals, National Drug Court Institute, and the Oregon Association of Drug Court Professionals).

9-4 Within 60 days of joining the specialty court team, new members shall receive formal orientation and training administered by previously trained team members. Formal training can be supplemented with online webinars, trainings, and conferences.

9-5 The specialty court judge shall receive specialized training in legal and constitutional issues, judicial ethics, behavior modification, best practices, and community supervision. The specialty court judge shall attend annual specialty court training conferences and workshops.

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

10-1 The specialty court program shall establish a policy committee to oversee the operations of the court and to establish a written continuity plan. The plan shall address the following:

- The program's goals of participant abstinence from alcohol, cannabis, and illicit drugs and the promotion of law-abiding behavior in the interest of public safety
- Implementation tasks and time frames to ensure compliance with the Standards
- Resources
- Information management
- Involvement in peer review
- External independent evaluation
- Sustainability of the specialty court's operation

10-2 The policy committee shall meet quarterly. The committee shall include the specialty court team, as well as individuals from the partner agencies who have decision-making authority in areas related to operation of the program. Recommended members include representatives from the district attorney's office, the public defender's office, a community corrections agency, the court, law enforcement, child welfare professionals, and treatment providers.

10-3 The specialty court policy committee is encouraged to organize an advisory committee consisting of representatives from the court, community organizations, law enforcement, treatment providers, health providers, social service agencies, the business community, media, the faith community, crime victims, housing organizations, consumers, family members, and other community groups. The advisory committee shall meet at least annually and shall provide guidance to the policy committee on fund-raising and resource development to address participants' unmet needs and other program challenges.

> **FDC:** Family courts may want to include on their advisory committee a child welfare representative; child-serving agencies, such as respite and other child-care providers; therapeutic resources, such as child therapists and social workers; and programs that provide recreational, arts, and/or sports activities for children.
>
> Family courts gather feedback from program alumni and youth, including former foster children.

10-4 The advisory committee shall consider forming an independent 501(c) (3) organization for fund-raising purposes for specialty court incentives and other assistance (such as transportation, housing, or counseling).

10-5 Criminal justice officials shall work with mental health and substance use disorder treatment providers to improve the quality and quantity of available services.

> **FDC:** Child welfare leadership shall work with court and treatment professionals to increase the quality and quantity of available services, such as conducting a needs assessment of program participants; using community mapping to identify existing services and service gaps; and establishing relationships, MOUs, linkage agreements, and procedures with providers of support services.

ACKNOWLEDGEMENTS

These Oregon Specialty Court Standards are the result of the efforts of individuals from the following organizations:

These standards align with the Adult Drug Court Best Practice Standards Volumes 1 & 2 developed by the National Association of Drug Court Professionals.

For more information about the CJC and its funding opportunities, contact:

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