

SUPREME COURT OF ILLINOIS



Administrative Office of the Illinois Courts

PROBLEM-SOLVING COURTS STANDARDS

November 2015

Michael J. Tardy, Director

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ACKNOWLEDGEMENT

In March 2013, at the direction of the Illinois Supreme Court, the Administrative Office of the Illinois Courts and the Special Supreme Court Advisory Committee for Justice and Mental Health Planning initiated development of uniform standards and a framework for an application and certification process for all Illinois problem-solving courts. The committee created a "Working Group" to facilitate the drafting process. Gratitude and appreciation is extended to the members of the Advisory Committee for their commitment and contribution to this project.

The Standards for the Illinois problem-solving courts were developed in part from the following research, publications and sources:

- *Adult Drug Court Best Practice Standards; Volume I* (2013); *Volume II* (2015). National Association of Drug Court Professionals.
- *Adult Drug Court Recommended Practices*. (April 2007). Florida Supreme Court Task Force on Treatment-Based Drug Courts.
- *Adult Drug Treatment Court Standards*. (Revised October 2007). Supreme Court of Virginia.
- *Colorado Problem Solving Courts; Principles and Guidelines*. (October 2010). Problem Solving Court Advisory Committee. Supreme Court of Colorado.
- *Defining Drug Courts: The Key Components*. (October 2014). National Association of Drug Court Professionals. U.S. Department of Justice.
- *A Guide to Preparing the Specialized Docket Program Description*. (December 2012). The Supreme Court of Ohio and The Ohio Judicial System.
- *Idaho Adult Drug Court Standards & Guidelines for Effectiveness and Evaluation*. (December 2011). Idaho Supreme Court Drug Court and Mental Health Court Coordinating Committee. State of Idaho Judicial Branch.
- Illinois Center of Excellence for Behavioral Health and Justice.
- *Improving Responses to People with Mental Illnesses, The Essential Elements of a Mental Health Court*. A report prepared by the Council of State Governments Justice Center, New York (2007).
- *Maryland's Guidelines For Planning And Implementing Drug Treatment Court Programs*. (2007). Office of Problem-Solving Courts. Administrative Office of the Courts.
- *Problem-Solving and Drug Courts*. Nebraska Supreme Court Rules § 6-1201 *et seq.* (Effective March 1, 2007).
- *Problem-Solving Court Rules*. (November 2011). Indiana Judicial Center. Staff Agency for the Judicial Conference of Indiana.
- *The Recommended Practices for New York State Criminal Drug Treatment Courts*. The Office of Court Drug Treatment Programs. The New York State Unified Court System.
- *Standards for Accountability Courts*. (October 2013). Judicial Council of Georgia. Administrative Office of the Courts.
- *Standards for the Development of Problem Solving Court Projects*. Utah Judicial Council. Utah State Supreme Court.
- *Wisconsin Treatment Court Standards*. (April 2014). Wisconsin Association of Treatment Court Professionals.

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SECTION 1 – INTRODUCTION, PURPOSE, AUTHORITY AND GOVERNANCE

1.1 – INTRODUCTION

On April 27, 2010, the Illinois Supreme Court established the Special Supreme Court Advisory Committee for Justice and Mental Health Planning (Advisory Committee). The Supreme Court's general charge to the Advisory Committee, reissued in September 2014, states, "The Advisory Committee shall study, review and collaborate on issues and matters related to mental illness and the justice system in order to make recommendations to the Supreme Court." This charge extends to the Advisory Committee's collaboration with the Administrative Office of the Illinois Courts (AOIC) in the development of statewide Standards for problem-solving courts (PSC).

PSC are also known as specialty or therapeutic courts. PSC include, but are not limited to, drug, mental health, veterans and DUI courts. They have developed nationally and in Illinois to provide an alternative forum for individuals in the criminal justice system who have behavioral health disorders, which include mental illness and substance use disorders. PSC utilize a collaborative, therapeutic approach with justice professionals partnering with community treatment providers to address an individual's underlying behavioral health issues.

Common features of a PSC include, but are not limited to, a designated judge and staff; specialized intake and screening procedures; intense and coordinated treatment procedures administered by a trained multidisciplinary professional team; close evaluation of court participants, including continued assessments and modification of the court requirements and/or use of sanctions, incentives and therapeutic adjustments to address behavior; frequent judicial interaction with participants; less formal court process and procedures; voluntary participation; a low treatment staff-to-client ratio; and additional goals of cost savings and an increase in public safety.

PSC operate without bias or prejudice, including, but not limited to, bias or prejudice based upon gender, race, nationality, ethnicity, limited English proficiency, disability, socio-economic status or sexual orientation.

1.2 – PURPOSE

The purpose of these statewide Standards is to set forth the minimum requirements for the planning, establishment, certification, operation and evaluation of all PSC in Illinois. The intent of adoption of the Standards is to assure that scarce public resources are used in ways that assure the greatest positive return on the investment.

The Standards are based on evidence-based practices, now well established by a substantial body of research, as well as on promising accepted practices that are correlated with positive, cost-effective outcomes and enhanced public safety. While the Standards are developed for the purpose of ensuring consistent and uniform evidence-based practices in PSC, they also allow local PSC to innovate and tailor their programs to respond to local needs and utilize local resources.

1.3 – AUTHORITY

General administration and supervisory authority over all courts is vested in the Illinois Supreme Court and is exercised by the Chief Justice in accordance with the Supreme Court's rules (Ill. Const. 1970, art. VI, § 16). Pursuant to its authority, the Illinois Supreme Court has adopted these uniform Standards for the operation of all PSC in Illinois. The Standards shall be incorporated in the practices, procedures and operations of all PSC. Implementation of these Standards is required for certification of all PSC in Illinois.

1.4 – GOVERNANCE

Compliance with these Standards will be monitored by the AOIC through the application and certification and recertification processes required by the Supreme Court. (See contact information in the Appendix.)

1.5 – LEGISLATION

Statutes specific to PSC include the Drug Court Treatment Act (730 ILCS 166/1 *et seq.*), the Mental Health Court Treatment Act (730 ILCS 168/1 *et seq.*) and the Veterans and Servicemembers Court Treatment Act (730 ILCS 167/1 *et seq.*).

1.6 – ACCESS TO JUSTICE

In order to be certified, each PSC must ensure that its policies and procedures are in accordance with and consistent with all applicable policies and applicable rules of the Illinois Supreme Court and all applicable Local Rules, Administrative Orders, General Orders and Policies of the Circuit Court where the PSC is located, which set forth requirements for access to justice. The applicable Illinois Supreme Court policies include, but are not limited to, the Illinois Supreme Court Language Access Policy, the Illinois Supreme Court Code of Interpreter Ethics, and the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians and Court Volunteers. Applicable Circuit Court policies include policies on access for persons with disabilities consistent with Title II of the Americans with Disabilities Act.

Commentary:

Equal access to the courts regardless of one's language limitations or disabilities or socioeconomic status is an important issue in Illinois.

Illinois has a significant and growing number of people with limited English proficiency, the vast majority of whom are Spanish speaking. The fair administration of justice requires that our state's courts, including PSC, be language accessible to all people, including those who have limited English proficiency. There are a number of resources available to PSC if the need for an interpreter arises, including the Administrative Office of the Illinois Courts Interpreter Registry, the Illinois Deaf and Hard of Hearing Commission Interpreter Directory, freelance interpreters, interpreting agencies and telephonic and video interpreters. The PSC can also refer to its judicial circuit's Language Access Plan, which identifies available language access resources and can be

found with the circuit's Office of the Chief Judge on the Administrative Office of the Illinois Courts' website. Furthermore, PSC Courts shall not exclude an individual from entry based on socio-economic status nor prohibit phase advancement or graduation from a PSC for inability to make payments.

Moreover, equal access to justice requires that our state's courts, including PSC, accommodate the needs of individuals with disabilities. The Americans with Disabilities Act (ADA) is a federal statute intended to protect the civil rights of people with disabilities and ensure they have the same opportunities as people without disabilities. 42 U.S.C. § 12101 et seq. More specifically, Title II of the Act states, "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." As public entities, circuit courts are required to accommodate the needs of individuals with disabilities to ensure equal access to all court programs.

It is the responsibility of a person with a disability to inform the PSC that an accommodation is needed. The PSC is not required to make an accommodation if it would impose an undue hardship on the operation of the PSC, and that would be determined on a case-by-case basis. There are a number of resources available to PSC if there is a need for a disability accommodation, including each circuit's Court Disability Coordinator.

SECTION 2 – APPLICABILITY, TIME FOR COMPLIANCE, CERTIFICATION AND RECERTIFICATION

2.1 – APPLICABILITY

The Standards apply to all adult PSC that are currently in operation and proposed PSC or specially designated PSC calendars.

2.2 – TIME FOR COMPLIANCE

It is recognized that achieving total compliance with the Standards will depend on availability of local resources and will require a reasonable period of time. For this reason, a PSC already in operation at the time of the adoption of these Standards will be granted up to one year to come into compliance and become certified. For good cause shown, a court may thereafter be granted additional time at the discretion of the AOIC to come into compliance and become certified or recertified.

2.3 – CERTIFICATION

Existing PSC and proposed PSC or specially designated PSC calendars will be evaluated and certified as compliant with these Standards through the certification process and timeline required by the Supreme Court. All PSC shall comply with all requirements for certification and recertification. Proposed PSC shall become certified by the Supreme Court, prior to beginning operation.

An Application provided by the AOIC must be completed and submitted by all PSC in existence and being established. Once an Application is completed, it must be signed by the Chief Judge of the Circuit in which the PSC is to operate, and sent to the AOIC, where it will be reviewed and analyzed. Once it is reviewed and noted as complete, a site visit will be scheduled by the AOIC to observe team staffing and court sessions and/or to meet with stakeholders. If the Application and observed processes during the site comport with the Standards, the AOIC will forward its findings and the documentation to a Subcommittee of the Special Supreme Court Advisory Committee. The Subcommittee will then give its recommendation to the AOIC. If at any point in this process the PSC does not meet the Standards, suggestions will be made and technical assistance will be offered to bring the PSC into compliance, and an opportunity for another review will be afforded. The Committee and AOIC, via the Director of the AOIC, will submit consensus recommendations for certification to the Supreme Court.

2.4 – NOTICE OF TERMINATION

Courts unable or unwilling to substantially comply with the Standards after the applicable period would be subject to a preliminary notice of termination. Such notice would require that no new admissions be accepted into the PSC and that a plan for completion of existing participants be submitted to the AOIC Problem-Solving Court Coordinator.

A PSC receiving a preliminary notice of termination would be allowed an opportunity to present a request for continuance of operations. This request could include a new plan of improvement or other proposals that would allow continued operation for a specified period of time.

2.5 – NOTICE OF SUBSTANTIVE CHANGE

A PSC that has received certification shall give written notice to the AOIC of any change in the PSC judge, local PSC coordinator, PSC name, type of program, location, policy or changes made to the designated forms. Notice of program or operational changes shall be submitted to the AOIC no later than thirty days after the change takes effect. The AOIC may require a new application for certification or site visit based on the change. (See Appendix M for Notice of Substantive Change Forms to be completed and submitted upon occurrence of a qualifying event.)

2.6 – RECERTIFICATION

All PSC shall be subject to recertification every three years. The purpose of recertification will be to ensure ongoing compliance with these Standards and implementation of any amendments to these Standards or applicable statutes. An application for recertification will be available from the AOIC.

In order to be recertified, an application provided by the AOIC must be completed, signed by the Chief Judge of the Circuit in which the PSC operates and sent to the AOIC no later than 90 days prior to the date the PSC current certification is set to expire,¹ where it will be reviewed and analyzed. Once it is reviewed, the AOIC may – if it deems necessary—schedule a site visit to observe team staffing and court sessions and/or to meet with stakeholders. If the application and observations during the site visit (if conducted) is in compliance with the Standards, the AOIC will forward its findings and documentation to a subcommittee of the Supreme Court Advisory Committee. The subcommittee will then give its recommendation to the AOIC. If at any point in this process, the PSC does not meet the Standards, suggestions will be made and technical assistance will be offered to bring the PSC into compliance, and another review will be afforded. The AOIC, via the Director of the AOIC, will submit a recommendation of recertification to the Supreme Court.

Any amendments to applicable statutes and/or the AOIC Problem-Solving Courts Standards promulgated by the Supreme Court of Illinois shall be implemented by a PSC and reflected in its documentation at the time it submits its application for recertification to the AOIC.

If the PSC current certification expires during the recertification process, the PSC may continue operations unless otherwise ordered by the Illinois Supreme Court.

¹ For example, if the current certification for a PSC is set to expire 4/1/20, then the application for recertification must be submitted to the AOIC no later than 1/1/20.

SECTION 3 – DEFINITIONS

3.1 – Administrative Office of the Illinois Courts (AOIC) – The Administrative Director and staff, who are appointed by and serve at the pleasure of the Supreme Court to assist in carrying out the duties of the Court. The AOIC continually seeks to support a unified court system, ensure the uniform application of standards for the investigation, management and supervision of individuals involved in the justice system and to enhance public safety.

3.2 – AOIC Problem-Solving Court Coordinator – Statewide coordinator who monitors compliance with PSC Standards, reviews and makes recommendations to the Advisory Committee about PSC certification applications, ensures training and technical assistance to PSC stakeholders and maintains reporting of statistical data for performance analysis.

3.3 - Case Management Plan - A Case Management Plan is a written, structured tool developed and utilized by Probation to address the completion of PSC goals through the coordination of objectives and techniques to achieve those goals.

3.4 – Certification – The process by which a PSC obtains approval from the Supreme Court to operate in accordance with these Standards.

3.5 – Clinical Assessment Tool – A validated assessment tool administered by a qualified clinician to determine the treatment needs of participants.

3.6 – Clinical Treatment Plan - A Clinical Treatment Plan is an evidence-based, comprehensive and individualized plan that defines the scope of treatment services that a PSC treatment provider is required to provide to a participant.

3.7 – Consent to Participate – A form that must be signed in open court prior to admittance to a PSC. It must indicate that participation in the PSC is voluntary and include the terms of participation in the PSC. (See Appendices A, B, and C.)

3.8 – Disability – Refers to an individual covered by the Americans with Disabilities Act or similar local, state or federal laws, who has a physical or mental impairment that substantially limits one or more of the major life activities, has a record of such impairment or is regarded as having such impairment.

3.9 – Discharge Plan – A plan developed by the PSC team that provides for linkages to services and resources for a PSC participant with continuing treatment needs after he or she is discharged from the PSC.

3.10 – Evidence-Based Practices (EBP) – Evidence-Based Practices are approaches which have been empirically researched and proven to have measurable positive outcomes; interventions that have been rigorously tested, have yielded consistent, replicable results, and have proven safe, beneficial, and effective. Identifying "what works" and applying the evidence-based knowledge to

program development is critically important to assure the use of practices in the delivery of behavioral health services. (See Appendix D for resources and links.)

3.11 - Illinois Adult Risk Assessment System (ARA)- Non-proprietary validated assessment tool used to measure static and dynamic risk factors and identify criminogenic needs of the PSC participant. A validated assessment tool providing a structured method for assessing each offender's tendencies toward criminal behavior and his or her need for targeted interventions. Developed by Dr. Ed Latessa at the University of Cincinnati- Corrections Institute, the ARA is an objective, quantifiable instrument that provides a consistent and valid method of predicting current risk to re-offend. It is also a reliable means of measuring offender change over time, patterns of behavior, lifestyle and personality features, which provide a comprehensive risk profile of each individual offender. The ARA utilizes an interview guide which provides opportunity for a semi-structured interview to gain information from the applicant that is supplemented with official records and/or collateral sources to provide a final risk level that reflects a client's potential risk to re-offend.

3.12 – Incentives – Responses to a participant's behavior that are considered positive and productive. Examples are verbal praise, program phase advancement, social recognition, tangible rewards, and/or graduation. (See Appendix E.)

3.13 – Licensed Treatment Provider – As used in these Standards, a person who individually holds, or a person who is a qualified staff member of an entity that holds, a currently valid license or certification from the appropriate United States or State of Illinois governmental department or agency to provide substance use treatment, mental health treatment, behavioral health treatment, medical treatment, counseling and/or related services.

3.14 – Limited English Proficiency – Refers to an individual who speaks a language other than English as his or her primary language and has a limited ability to read, write or understand English and requires the assistance of a foreign language interpreter or sign language interpreter to effectively communicate.

3.15 – Local Problem-Solving Court Coordinator – A PSC team member designated to handle the administration, management and coordination of problem-solving court services and operations in a local jurisdiction.

3.16 – Memorandum of Understanding(s) (MOU) – A formal agreement among the PSC team members' offices or organizations that defines and documents the roles and responsibilities of each member. Also referred to as an intergovernmental agreement. (See Appendices F1 and F2.)

3.17 – Multidisciplinary Stakeholders Group – A group comprised of stakeholders, including, but not limited to, representatives from the judiciary, the prosecutor's office, the public defender's office, licensed treatment providers, probation/court services, law enforcement agencies, and local government, utilizing a comprehensive and collaborative process in developing or enhancing a PSC program.

3.18 – Post-Adjudicatory PSC – A type of PSC that allows an individual who has admitted guilt or has been found guilty to enter a PSC as part of the individual's sentence or disposition.

3.19 – Pre-Adjudicatory PSC – A type of PSC that allows an individual to consent to enter a PSC before plea, conviction or disposition and requires successful completion of the PSC.

3.20 – Pre- and Post-Adjudicatory (Combined) PSC – A type of PSC that allows individuals to enter a PSC before plea, conviction or disposition, while also permitting individuals who have admitted guilt or been found guilty to enter a PSC as a part of the sentence or disposition.

3.21 – Problem-Solving Court (PSC) – A specially designated court, court calendar or docket facilitating intensive therapeutic treatment to monitor and assist participants in making positive lifestyle changes and reducing the rate of recidivism. PSC are non-adversarial in nature. Common features of a PSC include, but are not limited to, a designated judge and staff; specialized intake and screening procedures; intense and coordinated treatment procedures administered by a trained multidisciplinary professional team; close evaluation of court participants, including continued assessments and modification of the court requirements and/or use of sanctions, incentives and therapeutic adjustments to address behavior; frequent judicial interaction with participants; less formal court process and procedures; voluntary participation; a low treatment staff-to-client ratio; and additional goals of cost savings and an increase in public safety.

3.22 – Problem-Solving Court Judge – The judge who presides over a PSC.

3.23 – Problem-Solving Court Team – The team responsible for implementing the daily operations of a PSC. The PSC team shall include the judge, a prosecutor, a public defender/defense counsel, probation officer(s), licensed treatment provider(s), and local PSC coordinator. PSC teams may include additional team members.

3.24 – Protective Factors – Conditions or attributes (skills, strengths, resources, supports, or strategies) that aid, mitigate or eliminate a participant's risk to re-offend or violate the terms of supervision.

3.25 – Recertification – All PSC shall be subject to recertification every three years. The purpose of recertification will be to ensure ongoing compliance with these Standards and to ensure implementation of any amendments to these Standards. An application for recertification will be available from the AOIC.

3.26 – Risk Factors – Static or dynamic factors that increase the likelihood of criminal behavior. Static factors are aspects of the participant's life that cannot be changed, including age, gender, criminal history and age of first arrest; dynamic risk factors can be changed through successful interventions, including substance abuse, education deficiencies, antisocial personality patterns and pro-criminal attitudes.

3.27 – Risk and Needs Assessment – The procedure used to determine the participant's criminogenic risk and needs using empirically validated instruments, including, but not limited to,

the ARA, for the purpose of determining eligibility, identifying risk and protective factors and developing a case management plan.

3.28 – Sanctions – Consequences administered in response to a participant's non-compliance with the program requirements. Examples include, but are not limited to, verbal reprimands, increased supervision requirements, community service, or jail detention. (See Appendix E.)

3.29 – Sequential Intercept Model – A systemic framework or model which graphically illustrates the interactions, decision benchmarks and interventions designed to prevent individuals with mental illness from entering or penetrating deeper into the criminal justice system. The model was developed by Mark Munetz, MD, and Patricia Griffin, PhD². (See Appendix G.)

3.30 – Sequential Intercept Model Illinois – An adaptation of the Sequential Intercept Model specific to practice in Illinois. (See Appendix H.)

3.31 – Special Supreme Court Advisory Committee for Justice and Mental Health Planning (Advisory Committee) – The Committee established by the Illinois Supreme Court on April 27, 2010, to "study, review and collaborate on issues and matters related to mental illness and the justice system in order to make recommendations to the Supreme Court." This charge extends to the Committee's collaboration with the AOIC in the development of these Standards and the PSC certification process.

3.32 – Status Review Hearing – A regularly scheduled court hearing attended by the PSC team and PSC participants. During this hearing, a participant's progress and compliance may be reviewed by the PSC judge with the participant. A participant may address the PSC judge and/or other members of the PSC team as it relates to his or her progress, compliance and/or treatment needs. A participant may be given incentives and rewards, as well as sanctions, at the status review hearing. Frequency of the hearings varies based on participant needs and progress, as well as PSC resources.

3.33 – Target Population – Court-involved individuals who meet the eligibility criteria for the PSC and who, through the use of validated assessment tools, are determined to be (1) moderate-high to high criminogenic risk and (2) have high behavioral health treatment needs.

3.34 – Team Staffings – Collaborative, non-adversarial discussions among all PSC team members that may include, but are not limited to, the topics of a participant's compliance with PSC program requirements; the utilization of rewards, sanctions or therapeutic adjustments; phase promotion; graduation and termination. Other topics may include a person's eligibility for participation in the PSC, program data and outcomes, program improvements, research, and cross-training.

3.35 – Therapeutic Adjustment – An alteration to a participant's treatment requirements based upon assessed needs.

² <http://gainscenter.samhsa.gov/cms-assets/documents/145789-100379.bh-sim-brochure.pdf>

3.36 – Validated Risk Assessment Tool – An assessment tool that has been scientifically proven to be reliable in the prediction of an individual's risk to reoffend and treatment needs.

Commentary:

The definitions and terms contained in this section are not an exhaustive list of terminology.

SECTION 4 – PLANNING AND ADMINISTRATION

4.1 - INITIAL PLANNING PROCESS

- (a) A PSC shall utilize a comprehensive and collaborative planning process that includes formation of a multidisciplinary stakeholders group that includes, but is not limited to, representatives from the judiciary, the prosecutor's office, the public defender's office, licensed treatment providers, probation/court services, law enforcement agencies, local government and other relevant agencies/entities (e.g., United States Department of Veterans Affairs).
- (b) During the initial planning process, in order for the PSC to be certified, this group shall complete the following:
 - (1) Review statistical data and information to identify a target population;
 - (2) Establish program goals and objectives;
 - (3) Develop eligibility and exclusionary criteria;
 - (4) Determine capacity and type of PSC;
 - (5) Identify resources for staffing and treatment;
 - (6) Create a timeline for implementation;
 - (7) Observe other PSC;
 - (8) Review the Sequential Intercept Model and the Sequential Intercept Model Illinois;
 - (9) Complete and execute MOU(s) among the team members' offices or organizations; and
 - (10) Designate a local PSC coordinator.

4.2 – WRITTEN POLICIES AND PROCEDURES

- (a) After completion of the steps outlines in subsection 4.1(b), and prior to applying for certification, written policies and procedures shall be developed that comply with these Standards. The policies and procedures must comply with applicable state and federal laws, applicable Supreme Court policies and procedures, and the policies and procedures of the circuit court in which the PSC operates. PSC policies and procedures shall incorporate interventions and approaches consistent with evidence-based practices and principles.
- (b) The written policies and procedures shall at a minimum contain the following:
 - (1) Mission statement;
 - (2) Program goals and objectives;
 - (3) Capacity and type of PSC, including designation of the PSC as a Pre-Adjudicatory PSC, a Post-Adjudicatory PSC, or a Pre- and Post-Adjudicatory (Combined) PSC;
 - (4) Eligibility and exclusionary criteria for participants, including policies and procedures to prevent discrimination;

- (5) Assessment and enrollment processes, including processes for referral to the PSC, for prompt assessments to determine participant eligibility, and for entry into the PSC, including the signing of a Consent to Participate on the record in open court, and the signing of a release of information form;
- (6) Responsibilities of each PSC team member consistent with the roles and responsibilities set forth in the applicable MOUs;
- (7) Policies and procedures for case management and supervision, including the following:
 - (i) The use of regular team staffing and status review hearings to monitor each participant's performance and progress;
 - (ii) Participant responsibilities, including attendance at status review hearings and compliance with the Case Management Plan and Clinical Treatment plan;
 - (iii) A description of the program phases and the requirements for progressing through the phases;
 - (iv) The use and administration of incentive, sanctions, and therapeutic adjustments; and
 - (v) Drug and alcohol testing protocol and procedures;
- (8) Program outcomes, including the requirements and procedures for obtaining successful or neutral discharge from the PSC and for voluntarily withdrawing from the PSC, as well as criteria and procedures for unsuccessfully discharging a participant from the PSC. The consequences for voluntary withdrawal shall be clearly stated;
- (9) Policies and procedures for ensuring compliance with state and federal confidentiality statutes and regulations; and
- (10) Plan for post program aftercare (discharge plan).

Commentary:

As part of the PSC procedures, the PSC should consider drafting and adopting an "Adverse Event Plan" to clarify how information about an adverse event which may compromise the integrity of the program (such as a violent act by one of the participants or serious injury to a participant) is disseminated to team members. It should also cover designating a spokesperson for the PSC under those circumstances. (See Appendix I.)

4.3 – PARTICIPANT HANDBOOK AND PROGRAM REQUIREMENTS

- (a) Prior to applying for certification, the PSC shall also develop a written PSC handbook that will be provided to each participant and that sets forth the PSC program requirements.
- (b) The PSC handbook shall be consistent with the PSC's written policies and procedures and shall at least include and clearly describe for participants the following:
 - (1) General information about the PSC, including the purpose of the PSC, the goals of participation in the PSC, and the eligibility criteria for participation in the PSC;

- (2) The PSC team members and their roles, including the non-adversarial nature of the PSC;
- (3) The assessment and enrollment process, including the Consent to Participate, the assessment of a participant's needs, and development of the Case Management Plan and the Clinical Treatment Plan;
- (4) The participant's responsibilities while enrolled in the PSC, including attendance at status review hearings and compliance with the Case Management Plan and the Clinical Treatment Plan;
- (5) The program phases and the requirements for progressing through the phases;
- (6) The use and administration of incentives, sanctions, and therapeutic adjustments, including examples of each and examples of conduct that may trigger each;
- (7) The drug and alcohol testing procedures and requirements;
- (8) The possible program outcomes and the requirements for successful completion; the procedures for neutral discharge, voluntary withdrawal and unsuccessful discharge from the PSC; and the participant's rights at a hearing on a petition to terminate from the PSC or to revoke probation. While it shall be stated that voluntary withdrawal is the right of every participant, the consequences of voluntary withdrawal shall be clearly set forth.

4.4 – TARGET POPULATION/ELIGIBILITY

- (a) Each PSC shall define its target population as those court-involved individuals who shall be assessed for eligibility with the use of validated risk assessment tool(s) and clinical assessment tool(s). PSC shall target individuals who are moderate-high to high criminogenic risk and have high behavioral health treatment needs. However, if the model adopted for the PSC as part of the collaborative and comprehensive process described in 4.1 – Initial Planning Process – identifies a need to provide services to a lower criminogenic risk and high behavioral needs population using the same resources as part of the same PSC, this goal can be adopted as long as the lower risk and/or high behavioral needs participants follow a separate and defined track.
- (b) Each PSC shall have written legal and clinical eligibility and exclusionary criteria that shall be collaboratively developed, reviewed and agreed upon by the multidisciplinary stakeholders group.
- (c) Eligibility and exclusionary criteria are defined objectively and communicated to potential referral sources, including judges, law enforcement, defense attorneys, prosecutors, treatment professionals, and probation officers. The PSC team shall not apply subjective criteria or personal impressions to determine an individual's eligibility for the program.

Commentary:

Research mainly from drug courts has shown that drug courts that focus on high risk/high need offenders reduce crime close to twice as much as those serving less serious offenders and return greater cost savings to their communities. Targeting only high risk/high need offenders may not be feasible. If lower risk/high need participants are to be accepted, the research has also shown that these participants need to be separated from high risk/high need individuals in treatment groups. Mixing these populations has been shown to waste resources and lead to higher rates of reoffending, substance abuse or addiction.

4.5 – EVIDENCE-BASED PRACTICES

Evidence-based practices shall be considered and utilized in all aspects of each PSC, including the planning process, operation, program evaluation, review of policies and procedures and the evaluation of treatment providers for effectiveness. (See Appendix D for resources and links.)

4.6 – STATISTICAL DATA MONITORING AND REPORTING

- (a) Each PSC shall establish a formal plan for data collection and program evaluation as required by the AOIC.
- (b) The achievement of PSC program goals and objectives shall be monitored and evaluated by the PSC team.
- (c) Program operational reviews of the PSC shall be conducted on a consistent basis.

Commentary:

The National Association of Drug Court Professionals recommends that PSC monitor adherence to best practice standards through internal program evaluation on at least an annual basis. An external program evaluation through a skilled and independent evaluator examining the PSC adherence to best practices and participant outcomes, is recommended no less frequently than every five years. Further, it is recommended that the PSC develop an action plan and timetable to rectify deficiencies, and examine the success of the measures adopted to improve the program's adherence to best practices.

4.7 – PROGRAM SUSTAINABILITY

Each PSC shall develop a plan for long-term sustainability. Resources for operations, including staffing and treatment shall be identified. A budget shall be developed and regularly reviewed and modified. (See Appendix L for sample Budget.)

4.8 – CERTIFICATION/ RECERTIFICATION

The final step of the planning process is to complete and submit an application for certification/recertification as a PSC to the AOIC.

SECTION 5 – PSC JUDGE

5.1 – EXPERIENCE

The PSC judge, before being assigned to preside in such a court, should have experience and/or training in a broad range of topics including, but not limited to: (1) criminal law; (2) behavioral health; (3) confidentiality; (4) ethics; (5) evidence-based practices; (6) substance use and abuse; (7) mental illness and (8) co-occurring disorders.

5.2 – ROLES AND RESPONSIBILITIES

The PSC judge shall adhere to the following:

- (a) Be assigned to preside over the PSC for a minimum of two years;
- (b) Attend relevant training events including those focused on evidence-based substance abuse and mental health treatment;
- (c) Attend the PSC team staffing;
- (d) Consider input from PSC team members before making final decisions;
- (e) Preside over status hearings in open court on a regular basis and spend sufficient time to review each participant's progress in the PSC program;
- (f) Offer supportive comments and/or incentives to reinforce the importance of a participant's commitment to treatment and the participant's ability to improve his or her own health or behavior; and
- (g) Impose sanctions and therapeutic adjustments when appropriate.

5.3 – TRAINING AND PROFESSIONAL DEVELOPMENT

- (a) The PSC judge shall stay abreast of current law and research on best practices and participate in going interdisciplinary education and training.
- (b) The PSC judge shall participate in developing and implementing an interdisciplinary training plan for team members.

Commentary:

Meeting the challenge of presiding over PSC requires training in a broad range of matters including, but not limited to, those listed in subsection 5.1 above. Judges should have experience or training in these areas before presiding over a PSC. Before a judge is assigned to hear matters in a PSC, the Chief Judge of the judicial circuit should consider the judge's judicial and legal experience, any prior training the judge has completed and any training that may be available to the judge before he or she will begin presiding over a PSC.

Judges who, by specific assignment or otherwise, may be called upon to preside over a PSC should participate in judicial education opportunities available on these topics, such as attending those sessions or portions of the Education Conference, presented bi-annually at the direction of the

Supreme Court. Judges may also elect to participate in any other Judicial Conference Judicial Education Seminars addressing these topics. They may attend other judicial education programs approved for the award of continuing judicial education credit by the Supreme Court and/or complete individual training through the Internet, computer training programs, video presentations, or other relevant programs. The Chief Judges of the judicial circuits should make reasonable efforts to ensure that judges have the opportunity to attend programs approved for the award of continuing judicial education credit by the Supreme Court which address the topics and issues described in these Standards.

SECTION 6 – PSC TEAM

6.1 – MEMBERS

The PSC team shall include, but not be limited to, the judge, a prosecutor, a public defender/defense counsel, probation officer(s), licensed treatment provider(s), and the local PSC coordinator. PSC teams may include additional team members. Private counsel may participate in the team discussion/staffing for his or her client only.

6.2 – ROLES AND RESPONSIBILITIES

- (a) A PSC's written policies and procedures shall outline responsibilities for each team member consistent with the roles and responsibilities set forth in the applicable MOUs.
- (b) The PSC team shall utilize a non-adversarial, collaborative approach.
- (c) The PSC team members shall maintain professional integrity and accountability and shall exercise independent professional judgment in the best interest of the participants and commit to serving on the team for a minimum of one year.
- (d) All PSC team members shall attend and participate in team staffings. The PSC team shall engage in ongoing communication and respectful discussion. The discussion may include the exchange of timely, objective and accurate information about an individual who has been referred to the PSC or about a PSC participant. Team staffings are closed to participants and the public unless the PSC judge finds reason to make an exception with respect to a particular case or cases.
- (e) Prior to each regular status review hearing, a participant's progress in treatment and compliance with program requirements shall be discussed at a PSC team staffing. The discussion may include ways to improve a participant's outcomes and/or whether the participant should be rewarded, sanctioned or terminated. As to termination discussions, the PSC judge shall ensure compliance with subsection 9.3.
- (f) All PSC team members shall attend court hearings. Participation is encouraged when appropriate.

Commentary:

Conducting team staffings is an integral part of best practices for PSC. Each PSC team member, including the PSC judge, should be required to attend and participate in team staffings in order to effectively operate the PSC and achieve the desired outcomes for PSC participants. In order to avoid ex parte communications, a PSC judge should staff a participant's case only if a prosecutor and public defender or defense counsel for the participant are present as part of the team.

Team staffings may include discussions of a PSC participant's progress and compliance with supervision and treatment as well as possible rewards and sanctions. Other staffing topics may include an individual's eligibility to be enrolled in the PSC, PSC program improvement, cross training, etc. For a discussion of PSC models in which team staffings include eligibility discussions and determinations, see commentary following section 7.1.

Consistent attendance by all team members at team staffings has been linked to better outcomes for PSC participants. In the operation of a PSC, it is thus imperative that team members have a designated back-up person available to represent that team member, office or agency at staffings when the regular representative is unavailable, i.e., vacations, conflicting duty requirements, etc. With few exceptions, being a member of a PSC team includes the duty to make every reasonable effort to attend staffings in person; however, with the permission of the PSC judge, other methods of participation could be considered, including attendance through telecommunications or other media. Team member responsibilities, including attendance at staffings and designating a back-up who is familiar with the team member's PSC role, should be set out in the MOU described above in subsection 6.2(a).

While it is extremely rare that a team member should not be included in regular team staffings, if the PSC includes peer mentors on its team, consideration should be given as to whether regular required attendance at staffings could undermine the peer mentor's effectiveness in helping a particular participant, or be perceived as compromising the peer mentor's function on the team in general. For example, would a peer mentor be at risk for compromising or undermining his or her relationship with the PSC participant or be perceived by the participant as betraying or "spying" by regularly being in a closed staffing instead of on occasion being called into the staffing to offer assistance or support for the participant if the need arises?

In accord with the best practice of ongoing direct judicial interaction with each PSC participant, the participant should be required to appear in court before the PSC judge for a status review hearing on a regular basis either weekly or bi-weekly in the early PSC program phases, and as often as required thereafter depending on the participant's compliance with supervision and treatment requirements. Prior to each court date, the PSC team shall conduct a team staffing. As opposed to proceedings in open court, discussions at team staffings are not transcribed or recorded.

It is important for the assigned team members to be present in the courtroom when a participant is appearing in front of the judge. Their presence can facilitate information-sharing from the staffing and also reinforce the importance of any follow-through suggested by the judge. The presence of team members in court also suggests to the participants that they are supported in their efforts to successfully complete the program.

6.3 – TRAINING AND PROFESSIONAL DEVELOPMENT

- (a) The PSC team shall regularly participate in trainings, webinars, events and other educational opportunities on topics that are essential to the effective planning, implementation and operation of the PSC and to ensuring that the PSC maintains fidelity to the PSC model. Topics include, but are not limited to, evidence-based screening, assessment and treatment practices, target population, substance use disorder, mental illness, disability, co-occurring disorders, trauma, confidentiality, criminogenic risks and needs, incentives and sanctions, court processes, limited English proficiency and team dynamics.
- (b) The PSC team shall stay abreast of current law and research on best practices and participate in going interdisciplinary education and training.

SECTION 7 – REFERRAL, ENTRY AND PARTICIPANT RIGHTS

7.1 – REFERRAL TO THE PSC

- (a) Each PSC shall have policies and procedures describing how referrals to the PSC are made and providing for prompt assessments to determine whether the potential participant meets the PSC eligibility requirements. Individuals shall be assessed on a timely basis for eligibility using validated risk-assessment tool(s) and clinical assessment tool(s) administered and scored by a trained and/or licensed professional.
- (b) Decisions regarding eligibility/admission into a PSC shall be made promptly after both the risk and clinical assessments are completed. Results of the assessments shall be utilized in the decisions.
- (c) The policies and procedures shall require that the potential participant sign the CONSENT FOR RELEASE/DISCLOSURE OF CONFIDENTIAL INFORMATION form. Template example appears in Appendix N. This form shall provide for communication of confidential information, including participation and progress in treatment and compliance with program requirements.

Commentary:

When a referral to a mental health court or other PSC is made and an individual is being considered for entry into that court, discussions about that individual's mental illness and/or substance use should be circumspect to avoid further stigma to the potential participant. These individuals should be identified and referred, and a prompt decision should be made regarding acceptance into the PSC. If accepted, then the participant should be enrolled and linked to community based services as expeditiously as possible.

PSC procedures may differ as to how the eligibility decisions are made and by whom. In all cases, however, such decisions must be objective and based on the PSC eligibility criteria, including, but not limited to, empirically validated factors of risk and need, as well as clinical information. Additional screening or assessments may be used if necessary for the PSC admission process.

In a PSC where the entire team participates in eligibility discussions and decisions, the challenge is for the team in an objective and consistent manner to identify and enroll those who meet the eligibility criteria. PSC shall operate without bias or prejudice, including, but not limited to, bias or prejudice based upon gender, race, nationality, ethnicity, limited English proficiency, disability, socio-economic status or sexual orientation. In this model, procedures should be developed to ensure that each and every individual referred is reviewed. For those individuals who are referred, but do not appear to meet the eligibility criteria, a special staffing should first be set to address the particular issues affecting eligibility. For example, issues which may affect an individual's eligibility may include a Department of Corrections hold or a hold from another jurisdiction, an out-of-county residence, or a non-probationable charge. If these impediments can be removed, the

team may then decide to refer the individual for risk and needs as well as clinical assessments, and the matter will be re-staffed by the team. If they cannot be removed, then the assessments may be unnecessary.

For those individuals who are referred and appear to meet the eligibility criteria, assessments should be completed using validated risk assessment and clinical assessment tools to determine if the individual is moderate to high risk for re-offending or failing supervision and demonstrates a high need for behavioral health treatment. The results of the assessments should be shared with the team, and the team shall utilize them in discussions about the individual's eligibility for entry into the PSC. In instances where there is disagreement among PSC team members as to whether the individual is appropriate for entry into the PSC, the PSC judge should make the final determination, taking into consideration the team discussions and viewpoints.

In a PSC model where the entire team does not participate in the eligibility/enrollment decision, and the assessments are done first, as well as in the above situations where the assessments are shared with the entire team for the eligibility discussions, care must be taken to ensure that the decisions are objective and that personal impressions or subjective views are not used to determine an individual's eligibility for the PSC. Any detailed psychological information gleaned from the clinical assessment should be disclosed only to those needing to know it for purposes of developing an appropriate clinical treatment plan. If an individual is not accepted into the PSC, neither the assessments nor any other information gleaned in the eligibility review process should be used against the individual in another forum or shared with other persons without court order, except in furtherance of the individual's treatment needs.

For limited English proficient participants, any release of information form will need to be translated, either in written form by a translator or in spoken form by a live interpreter.

7.2 – ENTRY AND CONSENT TO PARTICIPATE

- (a) Participation in a PSC is voluntary.
- (b) No Person has a right to be admitted into a PSC.
- (c) All individuals entering or participating in a PSC must be fit to stand trial. The provisions of Article 104 of the Code of Criminal Procedure of 1963 (725 ILCS 5/104-10 *et seq.*) apply.
- (d) An individual's formal entry into a PSC shall be on the record and in open court with the individual and his or her counsel present.
- (e) Prior to the individual, counsel and the judge signing a Consent to Participate, the judge shall explain the Consent to the individual on the record, including the program requirements of the PSC and the range of responses that may be imposed by the judge

on the individual as a result of conduct of the individual while a participant in the PSC. After the judge has explained the Consent to the individual, the individual shall have the opportunity to confer with counsel, have his or her questions answered by the judge and elect to voluntarily execute the Consent.

- (f) No PSC shall require as a condition of entry into the PSC that a participant (1) waive appellate rights or (2) waive time previously served pursuant to 730 ILCS 5/5-6-3 or (3) waive any rights with respect to a petition seeking unsuccessful discharge of the participant from the PSC or revocation of probation, as set forth in subsection 9.3.
- (g) Each PSC shall have policies and procedures to prevent discrimination that would keep any individual from being unfairly excluded from the PSC. If the individual meets the written and clinical criteria for the program, the individual shall not be unfairly excluded from admission based upon gender, race, nationality, ethnicity, limited English proficiency, disability, socio-economic status or sexual orientation.

Commentary:

A PSC is a voluntary, non-adversarial program. If a bona fide doubt arises as to the fitness of an individual entering or participating in a PSC, the PSC judge should proceed as in any other criminal case in accordance with Article 104 of the Code of Criminal Procedure of 1963 (725 ILCS 5/104-10 et seq.).

Potential participants for the program must be assessed to determine their eligibility. Those individuals desiring to participate must execute a knowing and voluntary Consent to Participate in the program. All PSC shall utilize the form Consents which appear in the Appendix to the Standards without revisions. PSC may supplement these uniform Consents with an addendum if deemed appropriate and desirable (see uniform AOIC template forms at <http://www.illinoiscourts.gov>). The Addendum to the form Consent must be submitted with the Application and approved through Certification.

Since the PSC is not adversarial and a participant can potentially be sanctioned, those who participate need to be admonished by the PSC judge as to their rights and responsibilities prior to their involvement in the program. All eligible persons shall be considered for entry into the program.

Because of the need for a voluntary and knowing consent and because of the need for participants' awareness of their rights and responsibilities, entry into a PSC must be made on the record and in open court with the individual present. For limited English proficient participants, any Consent to Participate form will need to be translated, either in written form by a translator or in spoken form by a live interpreter. Requiring a waiver of constitutional rights (e.g. appellate rights, notice of a hearing as to termination, or rights to an evidentiary hearing involving termination from the program) as a condition of entry into a PSC is not appropriate. Participants, at times, enter a PSC

with time already served in a correctional center with regard to the case for which they are placed in the PSC. At no time should any participant be asked to waive that credit time so that the 180 days under 730 ILCS 5/5-6-3 would end up being increased.

7.3 – PSC PARTICIPANT HANDBOOK

The PSC shall provide a written PSC handbook to each participant that sets forth the PSC program requirements, as described in subsection 4.3. The participant shall, in writing, acknowledge receipt of the written PSC handbook at the time of its delivery.

7.4 – CONFIDENTIALITY

- (a) PSC contemplate the integration of criminal case processing and treatment participation. Sharing relevant treatment information is necessary for PSC operations.
- (b) Each PSC must comply with applicable relevant federal and state confidentiality statutes and regulations.
- (c) Compliance with federal and state confidentiality laws shall be accomplished with proper procedures and consent forms. Disclosure shall be limited to the minimum necessary to accomplish the intended purpose of the disclosure.
- (d) The PSC team shall comply with confidentiality requirements to prevent the unauthorized disclosure or redisclosure of information regarding participants. Documents such as: case management plans, clinical treatment plans, treatment reports, drug test results, assessment results treatment and supervision needs, attainment of treatment plan goals, adherence to legally prescribed and authorized medically assisted treatments and other confidential information disseminated to the PSC team shall not placed in any part of a court file that is open to examination by members of the public. Each PSC team member shall maintain a confidential file for these materials.
- (e) A PSC participant's confidential information *shall* not be obtained from a PSC to be *utilized* in other proceedings, civil or criminal, *involving* the PSC participant or with regard to another person, unless the PSC participant has given voluntary and express written consent for the redisclosure of the confidential information.
- (f) When a person is referred to a PSC and found to be ineligible to enroll in a PSC by the PSC team or a PSC participant is discharged from the PSC, the PSC prosecutor shall delete or destroy the PSC participant's confidential information that was disseminated in conjunction with the person's referral to or participation in the PSC.

- (g) At the request of the PSC participant or his or her counsel, the PSC Judge may issue a protective order insuring the confidentiality of any records or communications provided to any PSC team member.
- (h) All PSC team members and staff shall be trained on applicable federal and state confidentiality statutes and regulations.

Commentary:

Full and effective communication between PSC team members is crucial to the success of the program. Each discipline involved has its own ethical obligations and professional philosophies. Each team member must respect the boundaries and responsibilities of other team members.

According to the Adult Drug Court Best Practice Standards, published by the National Association of Drug Court Professionals, research confirms that how well drug courts accomplish their goals depends largely on how faithfully they adhere to the Ten Key Components. Key Component 1, the foundational component, requires that drug courts integrate alcohol and other drug treatment services with justice system case processing. In order to accomplish this integration it is essential that the court and treatment providers maintain ongoing communication, including frequent exchanges of timely information on a participant's program performance, consistent with federal and state confidentiality law requirements.

Two federal statutes presumptively regulate the disclosure of participant alcohol and other drug treatment information in the drug court context.

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) (Pub. L. No. 104-191, 110 Stat. 1936) established standards and requirements for the electronic transmission of certain health information. As part of those standards, a privacy rule prohibited covered entities from disclosing health information without proper consent or authorization.

42 U.S.C. § 290dd-2 and 42 C.F.R., Part 2, prohibit a program that specializes in providing treatment, counseling and/or assessment and referral services, in whole or in part, for patients with alcohol or drug problems from the disclosure of information regarding patients who have applied for any alcohol or drug abuse-related services, including any information that would identify the patient as an alcohol or drug abuser, whether directly or by implication.

The federal confidentiality law, commonly referred to as 42 C.F.R., Part 2, was enacted to expand access and accessibility to substance abuse treatment programs. The statute and regulatory scheme provide for the confidentiality of patient records "maintained in connection with the performance of any program or activity relating to substance abuse education, prevention, training, treatment, rehabilitation or research, which is conducted, regulated or directly or indirectly assisted by any department or agency of the United States."

Even though HIPAA does not apply to courts, all treatment and counseling providers require consents from their clients that comply with confidentiality requirements, including HIPAA. Thus,

MOUs between the team members require appropriate consents that comply with HIPAA, as well as 42 C.F.R., Part 2, be obtained for all participants.

Information about an individual's participation in treatment may be disclosed when that individual has given informed consent, in writing, for the disclosure. Confidentiality and privacy rights belong to the participant and may be waived freely and voluntarily in exchange for the anticipated benefits provided by the PSC. PSC team members who have access to confidential information regarding an individual's treatment may use or redisclose that information only to carry out their PSC responsibilities. The MOUs among the PSC team members must clearly and unambiguously state that a person referred to a PSC or a PSC participant's confidential information may not be redisclosed to additional parties outside of the PSC Team without the person or participant's express written permission and may not be used to prosecute new charges against the person or participant. The MOU must also identify when the consent expires. Expiration of consent may be based upon a specific event such as denial of enrollment or discharge from the PSC. This information may not be used in other proceedings, civil or criminal, against the PSC participant or with regard to another person.

Federal and state confidentiality laws also apply to communications about mental health treatment services. HIPAA applies to information shared in a mental health court, veterans court, and DUI court and protects the confidentiality and security of patient information by limiting the disclosure to the information that is necessary to accomplish the need or purpose for the disclosure. Compliance with treatment and drug test results are examples of the type of information that fall within the purpose of these PSC.

In Illinois, the Mental Health and Developmental Disabilities Confidentiality Act (Act), (740 ILCS 110/1 et seq.) imposes the duty to safeguard the privacy of recipients of services for mental illness and developmental disabilities. PSC must be cognizant in developing confidentiality policies and procedures as "services" are defined very expansively in the Act and include treatment, training, aftercare, etc. Under the Act, a "confidential communication" means any communication made by the patient, or by somebody else, to a therapist, or to or in the presence of other persons, during or in connection with providing mental health or developmental disability services to the patient. The Act imposes a duty to safeguard the privacy of recipients of services for mental illness and developmental disabilities and includes protecting the identity of the person receiving services.

SECTION 8 – TREATMENT, CASE MANAGEMENT AND SUPERVISION

8.0 - TREATMENT

- (a) The scope and type of treatment services that a PSC is required to provide shall be based upon the definition of the PSC target population. PSC shall ensure that participants have access to and receive evidence-based, quality treatment to address the individualized clinical needs that are identified by the results of a participant's initial screening and assessment and ongoing reassessments during his/her participation in the PSC. The frequency and timing of reassessments shall be governed by professional, legal and PSC requirements and a participant's treatment plan may be modified based on the results of reassessment. Modifications to a participant's treatment plan shall not be utilized by the PSC as an incentive or a sanction. Proper assessment of treatment needs shall be completed by qualified clinicians using validated screening and assessment tools in order to ensure that PSC participants are provided with the appropriate level and type of evidence-based treatments that they require. All PSC participants and the PSC team shall be provided with a copy of all clinical treatment plans and participants shall have their treatment plans explained to them by a qualified professional.
- (b) When applying evidence-based practices, treatment providers should, at a minimum:
 - (1) Use a cognitive-behavioral model, including interventions designed to address individualized clinical needs.
 - (2) Monitor abstinence through random, observed urinalysis or other approved drug testing methodology that occurs with sufficient frequency to meet current research-based recommendations.
 - (3) Implement treatment services which are responsive to ethnicity, gender, age, trauma and other characteristics of the participant. Individuals who are not responding to treatment interventions should be reassessed and the clinical treatment plan adjusted as needed.
 - (4) Report systematically and promptly to the PSC team about:
 - (i) The participant's behavior; compliance with, and progress in, treatment;
 - (ii) The participant's achievements;
 - (iii) The participant's compliance with the PSC program requirements; and
 - (iv) Any other relevant information.
- (c) A PSC shall support and encourage the utilization of FDA-approved Medication Assisted Treatment (MAT) resources for PSC participants and adopt PSC policies and procedures that govern the administration, utilization and monitoring of MAT resources for participants in the PSC program. Said policies and procedures must adhere to medical, legal, and ethical requirements governing MAT usage by PSC participants. While the decision to engage in or discontinue MAT are clinical medical decisions to be made by the participant and his/her medical provider, the PSC shall supervise compliance with MAT and the PSC judge may sanction non-compliance with MAT when appropriate.

Commentary:

A PSC must ensure that participants receive evidence-based, quality treatment and assist in developing necessary but unavailable treatment services. Proper assessment and treatment needs must be done using nationally accepted, validated assessment tools so that the participant is provided the appropriate evidence-based treatment. Each PSC should also ensure all assessment tools are valid and reliable for the population it is serving. The PSC will also address: mental illness, primary medical issues, sexually transmitted diseases, housing issues, educational deficits, employment issues, family dysfunction, domestic violence, and trauma. Treatment services shall be relevant to the ethnicity, gender, sexual orientation, age, and other characteristics of each participant.

When deemed appropriate and prescribed by a qualified licensed physician, the PSC should make FDA-approved Medication Assisted Treatment (MAT) available to participants. Examples of FDA-approved MAT resources that are currently available include methadone, suboxone, Vivitrol, Naltraxone, Campral and Antabuse. The PSC should not require a participant to engage in MAT as the decision to engage in MAT is a clinical medical decision to be made by the participant and his/her prescribing physician. Participants who are receiving MAT should be participating in formal, manualized treatment with a licensed provider and should also be engaged in regular follow up care with their medical provider. A participant is compliant with MAT when the following conditions have been met: (1) the participant is receiving these medications as part of treatment for a diagnosed substance use disorder; (2) a licensed clinician, acting within his/her scope of practice, has examined the participant and determined that the medication is an appropriate treatment for their substance use disorder; and (3) the medication was appropriately authorized through a prescription by a licensed prescriber. The PSC judge may sanction a participant who is not compliant with MAT.

8.1 – CASE MANAGEMENT

- (a) An individualized Case Management Plan and the Clinical Treatment Plan shall be developed and presented to each participant enrolled in the PSC and should be updated regularly in consideration of the participant's progress. A copy of both the Case Management Plan and the Clinical Treatment Plan shall be included with the PSC application.
- (1) The Case Management Plan shall, at a minimum, shall include the following:
 - (i) Identifying the individual client's strengths and needs through risk assessments;
 - (ii) Defining goals and objectives based on those individual strengths and needs; and
 - (iii) Identifying the services to be provided.
- (2) The PSC Team and judge shall inform and advise the participant of the Case Management Plan and the Clinical Treatment Plan. Participants shall be periodically reassessed, and their Clinical Treatment Plan and their Case Management Plan should be amended accordingly. The frequency and timing of reassessments shall be governed by professional, legal and PSC requirements. All PSC participants and the PSC team shall be provided with a copy of Case Management Plans and the participants have

those plans explained to them.

- (b) Prior to entry, all PSC participants shall have completed a validated screening and assessment tool administered by a qualified examiner. The PSC shall ensure that participants have access to and receive evidence-based, quality treatment and targeted interventions to address the individualized criminogenic needs that are identified by the results of the participant's initial screening and assessment. The PSC Team shall ensure compliance with and supervise the Case Management Plan and Clinical Treatment Plan.
- (c) Case planning shall be individualized, inclusive and collaborative with the participant. Case planning shall be an ongoing process that is linked to the participant's assessment of problems/needs by Probation, include a specific outcome(s) that are stated in the positive, that are within the participant's control and which use the participant's language. Case Management Plans shall be updated in accordance with Illinois Probation Casework Standards.

8.2 - SUPERVISION OF PARTICIPANT PERFORMANCE

- (a) The PSC team and judge shall monitor each participant's performance and progress by regular team staffings and status review hearings.
- (b) A participant's program phase progression shall be determined by the achievement of skills and completion of program goals.
- (c) In monitoring a participant's progress and compliance with program requirements, incentives, sanctions and therapeutic adjustments shall be discussed by the PSC team at team staffings and utilized by the PSC judge at status review hearings.
- (d) Drug and alcohol testing protocols and procedures shall be utilized in case management and supervision of PSC participants.
- (e) The PSC team shall develop and provide participants with a discharge plan.

Commentary:

The drug testing protocol should include how the testing will be administered, the plan for reliable collection, availability of test results to the team, procedures for confirmation and the process for reporting and acting on the result.

8.3– INCENTIVES, THERAPEUTIC ADJUSTMENTS AND SANCTIONS

- (a) All responses to a participant's behavior shall be predictable, fair, consistent and without regard to a person's gender, race, nationality, ethnicity, limited English proficiency, disability, socio-economic status or sexual orientation.
- (b) Incentives, therapeutic adjustments and sanctions shall be administered to motivate a person to comply with the PSC program requirements and to successfully complete the PSC program. The entire PSC team shall have input into the discussion of what constitutes an appropriate response to a participant's behavior with the final decision to be made by the PSC judge.
- (c) Sanctions, including incarceration, may be administered when it is determined that a participant has failed to abide by or comply with the terms of the program.
- (d) Prior to the administration of any sanction not involving jail, or any incentive or therapeutic adjustment, the judge shall advise the participant in open court of the sanction, incentive or therapeutic adjustment and the reason for the administration. The participant and/or their counsel, shall be permitted to address the court about the sanction, incentive or therapeutic adjustment for the court to consider.
- (e) Jail sanctions shall be imposed judiciously and sparingly. Unless a participant poses an immediate risk to public safety, jail sanctions shall be administered after less severe consequences have been ineffective at deterring infractions. Jail sanctions shall be definite in duration and typically last no more than three to five days. Participants shall be given access to counsel and a hearing if a jail sanction might be imposed because a significant liberty interest is at stake.
- (f) A PSC's policies and procedures concerning the administration of sanctions, incentives, and therapeutic adjustments are to be specified in writing and provided to the participant in the PSC participant handbook.

8.4 – INCARCERATION PENDING ADMISSION TO RESIDENTIAL TREATMENT

- (a) If a participant is in custody at the time of entry into the PSC and his or her entry is conditional upon entry into and successful completion of a residential treatment program which must be completed prior to release from custody, the participant shall be fully informed of this requirement prior to program entry.
- (b) If the PSC judge, determines that a participant requires placement in a residential or detox program, which will require remaining in custody until a placement is available, the participant has the right to counsel and a hearing as described in Section 8.3(e).

- (c) For participants awaiting placement from custody to residential treatment in either situation as described in Section 8.4(a) or 8.4(b), the PSC judge shall make all reasonable efforts to ensure that placement occurs as quickly as possible, and shall monitor the case to ensure frequent updates as to the status of the participant. The participant shall remain represented by counsel while in pre-placement custody. The participant's counsel shall have the primary responsibility to explore non-custodial pre-placement options in the event that he or she believes the delay in placement has become, or is likely to become, unreasonable when balanced against the participant's medical needs, including risk of overdose.

Commentary for 8.3 and 8.4:

The following commentary is a summary of research based recommendations described in the following publications: The Drug Court Judicial Benchbook, National Drug Court Institute (2011); Adult Drug Court Best Practice Standards, Volume I (2013) and Volume II (2015), National Association of Drug Court Professionals; and Six Steps to Improve Your Drug Court Outcomes for Adults with Co-Occurring Disorders, Drug Court Practitioners Fact Sheet, Vol. VIII, No. 1 (April 2013). It should be noted that the research and recommendations described in these publications refer to adult drug courts.

It is critical for the operation of a successful PSC that the court accurately monitor the behavior of participants and then respond by imposing certain and immediate incentives for achievements and sanctions for infractions.

Recommended monitoring includes random and frequent urine drug testing as well as regular and frequent court status hearings. Urine drug testing should be the last supervisory burden that is lifted, and ordinarily only during the last phase of the program, if at all. There is research that drug court outcomes are optimized when participants appear in court no less frequently than every two weeks, at least during the first three to six months of the program. Requiring participants to appear in court at least every two weeks permits the team to respond to their accomplishments and infractions in a reasonably short interval of time, which is necessary to modify their behavior effectively.

There is also significant research into the effectiveness of incentives and sanctions. Incentives can be quite effective at low to moderate levels. For example, positive outcomes have been achieved with low-magnitude rewards, such as verbal praise, diplomas, certificates of progress, transportation passes, and gift cards to local stores or restaurants. Punitive sanctions tend to be the least effective at the lowest and highest magnitudes, and most effective within the moderate range. Sanctions that are too weak in magnitude can precipitate what is called habituation, in which the individual becomes accustomed to being sanctioned. At the other extreme, sanctions that are too high in magnitude can lead to ceiling effects, in which further escalation of punishment is impracticable. The certainty and immediacy of sanctions are far more influential to outcomes than the magnitude or severity of the sanctions. Research in drug courts indicates that jail sanctions produce diminishing returns after approximately three to five days.

The certainty of an incarceration sanction includes the amount of time of incarceration. A participant should be advised of the sanction duration, which preferably is between three to five days. If, an incarceration sanction is ordered, and the duration is unknown (such as when the participant is awaiting a residential bed placement becoming available or blood work is forthcoming for MAT purposes), the court should provide a limitation on the duration of the incarceration, or order the participant to be present in court at short regular intervals to determine compliance with any release requirements, or to make a determination of release upon other conditions.

All participants have due process rights. Any time a sanction is being ordered, the court must advise the participant of the sanction and the reason for the administration. The participant has a right to respond. For a sanction involving incarceration, the participant should also be allowed to consult with counsel who should be present in the courtroom and counsel can make proffers to the court. At this point in time the participant's counsel will have already been present at the team staffing prior to court, have been involved in the sanction discussion and had an opportunity to discuss it with the participant. The court is the final arbiter of any sanction and after the proffers can always determine whether the sanction discussed in the staffing should be imposed, if a different sanction should be imposed or if any sanction should be deferred to a later date.

For these reasons, successful drug courts develop or utilize a wide and creative range of intermediate-magnitude rewards and sanctions, which can be adjusted upward or downward in response to participants' behaviors. For example, participants may receive writing assignments, fines, community service, or brief intervals of jail detention for failing to comply with treatment. Conversely, they may receive verbal praise, token gifts, or reduced supervisory obligations for complying with treatment. The sanctions and rewards are usually administered on an escalating or graduated gradient, in which the magnitude increases or decreases progressively in response to each successive infraction or accomplishment in the program. This can enable a drug court to navigate between habituation and ceiling effects by altering the magnitude of punishment in response to successive infractions. It also permits the criminal justice system to offer a substantially richer and more effective range of rewards than is ordinarily available to offender populations. Funds for incentives and graduation ceremonies may be obtained through public education by PSC. Groups such as Lions Clubs, Rotary Clubs and Exchange Clubs sometimes respond with financial donations following a presentation by PSC members even though the presentation contained no direct or indirect solicitation of funds.

The PSC judge needs to be mindful of research which relates sanction and incentive magnitude to the specific diagnosis of the participant as well as to the participant's program phase status. For example, a participant who is in an early program phase and diagnosed as addicted should be viewed differently than a similarly diagnosed participant who is in a late phase when it comes to determining the magnitude of a sanction. The early phase participant might well be sanctioned to jail for missing a treatment session, which is a behavior relatively within his control, but not sanctioned for testing positive for drugs, which is a behavior not so easily within his control. As an alternative to a sanction for the participant who is in the early phase, the court, relying on a clinician's recommendation, may find it more appropriate to order a therapeutic adjustment. In

contrast, a participant in a late program phase might well be sanctioned to jail for testing positive for drugs as by this time in the program abstinence is a behavior relatively within his control.

For participants with a serious mental illness, such as schizophrenia, major depression, bi-polar disorder, or schizoaffective disorder, a history of trauma, and/or a substance use co-occurring disorder, one of the principal components for effectively treating them is being flexible within a defined framework in the PSC. In the drug court context, this could include creating a separate track for participants with co-occurring disorders or, if resources allow, a separate mental health court to address the unique needs of this population. The challenge when utilizing sanctions and incentives with participants with mental illness or co-occurring disorders is determining what goals are proximal and achievable depending upon the level or type of their impairment. Attendance, timeliness, stability, insight into treatment, and other expectations, which are usually considered to be proximal goals for drug court participants, may be distal goals for some participants with a co-occurring disorder or serious mental illness. Imposing a sanction for failing at one or more distal goals would not be appropriate for someone not yet capable of compliance. Providing specific, concrete program goals to a participant and modifying the phase structure to allow for a longer time to complete the goals are two means to gauge when a sanction or reward may be appropriate as well as providing a framework to encourage continued engagement in services. It is key that the PSC team rely upon the input from the treatment professionals in order to understand the different psychiatric components of each participant's co-occurring disorder or mental illness when determining how or whether to recommend sanctioning or rewarding a participant and this is accomplished by education and continued sharing and feedback among team members.

Participant perceptions of rewards and sanctions are very important. Research reveals that individuals are more likely to perceive a decision as being correct and appropriate if they believe that fair procedures were employed in reaching that decision. Participants should be given an opportunity to explain their side of the story and receive a clear explanation of how and why a particular sanction is given.

PSC have better outcomes when they clearly specify their policies regarding incentives and sanctions in a written program handbook or manual. Policies and procedures shall provide a clear indication of which behaviors may elicit an incentive, sanction, or therapeutic adjustment.

(See Appendix E.)

SECTION 9 – PROGRAM OUTCOMES

9.1 – AVAILABLE OUTCOMES

There are four ways a participant may be discharged or terminated from a PSC:

- (1) Successful: Participant completes all the program requirements.
- (2) Neutral: Participant does not violate program requirements necessitating an unsuccessful discharge, but is unable to successfully complete program requirements to qualify for a successful discharge. For example, participant has or develops a serious medical or mental health condition, disability, or any other factor that may prevent the participant from meeting the requirements.
- (3) Unsuccessful: Participant is terminated from the PSC due to violation of program requirements.
- (4) Voluntary withdrawal: Participant shall in all circumstances be permitted to withdraw in accordance with PSC procedures.

9.2 – SUCCESSFUL AND NEUTRAL DISCHARGE

Successful and neutral discharge decisions shall be made by the PSC Team collaboratively.

Commentary:

Successful completion of the program can result in any of a number of possible outcomes, depending upon the particular structure of the PSC. For example, the participant may have charges dismissed, or, as in the case of a post-disposition model in which the participant is on probation, may have his probation modified, successfully terminated or neutrally discharged. Regardless of the specific outcome of successful completion of the program, it is an event which deserves to be publicly recognized in a fashion which acknowledges not only the achievement of the participant, but also the success of the program in changing lives in a positive, cost-effective manner which enriches the entire community.

PSC are strongly encouraged to celebrate the success of participants with a graduation ceremony. The PSC Team members and the organizations they represent should be invited to the graduation ceremony. Often, team members are included in the actual graduation ceremony. Family members should be invited to attend. Consideration should be given to inviting, or even mandating the presence of, current participants who are not yet ready to graduate. Community leaders and the media should be invited. The graduation should be held in a suitable location, typically a courtroom. The PSC judge should preside over the graduation. The team, under the leadership of the PSC judge, should plan the specifics of the ceremony with a view toward both acknowledging the graduate and demonstrating publicly the benefits of the program. There is no better way to accomplish this than to give the graduates an opportunity to describe the impact of the PSC on their lives. Therefore, many PSC programs will give each graduate an opportunity to speak after the graduate is presented a formal symbol of graduation, such as a certificate.

Another feature of a graduation may be the selection of a graduation speaker. Invitation to a community leader to speak at a PSC graduation not only serves to emphasize to the participants the true measure of their achievement, but also encourages key members of the community to become vested in the continued operation and success of the PSC. PSC graduations in the past have included the managing editor of the local newspaper, the CEO of the major regional hospital and state legislators. The importance of inviting key members of the community, including legislators, to graduations cannot be underestimated. Finally, it should be remembered that consents should be signed by any participant who is willing to have his or her name or photograph published.

Neutral discharge is an event that does not require elaborate planning as to the manner in which it is accomplished. A neutral discharge may result from a participant who has been substantially compliant with the PSC program rules but, after having exhausted reasonable efforts, the PSC team determines the participant's progress toward successful completion is improbable.

9.3 – UNSUCCESSFUL DISCHARGE

- (a) Prior to unsuccessful discharge from a PSC, a participant shall be served with a petition to terminate the participant from the PSC or to revoke the participant's probation. The petition shall set forth the claimed violations of PSC program requirements or probation, together with the relief sought. The PSC judge shall ensure that all participants who become subject to proceedings that could result in unsuccessful discharge from a PSC are advised of and accorded the rights set forth in Supreme Court Rule 402A, including, but not limited to, the right to counsel and a hearing.

In accordance with Supreme Court Rule 402A(a), a PSC judge shall not accept an admission to a violation, or a stipulation that the evidence is sufficient to establish a program or probation violation, without first addressing the participant personally in open court, and informing the participant of and determining that the participant understands the following:

- (1) The specific allegations in the petition;
- (2) That the participant has the right to hearing with defense counsel present, and the right to appointed counsel if the participant is indigent;
- (3) That at the hearing, the participant has the right to confront and cross-examine adverse witnesses and to present witnesses and evidence in his or her behalf;
- (4) That at the hearing, the State must prove the alleged violation by a preponderance of the evidence;
- (5) That by admitting to a violation, or by stipulating that the evidence is sufficient to establish a program or probation violation, there will not be a hearing on the petition, so that by admitting to a violation, or by stipulating that the evidence is sufficient, the participant waives the right to a hearing and the right to confront and cross-examine adverse witnesses, and the right to present witnesses and evidence in his or her behalf; and

- (6) The sentencing range for the underlying offense for which the participant is subject to prosecution or sentencing.

In accordance with Supreme Court Rules 402A(b) and (c), a PSC judge shall not accept any admission to a violation, or any stipulation that the evidence is sufficient to establish a program or probation violation, without first determining that the participant's admission or stipulation is voluntary, and that there is a factual basis for the admission or stipulation.

In accordance with Supreme Court Rule 402A(d), a PSC judge shall not participate in plea discussions with respect to a petition to terminate the participant from the PSC or to revoke probation without first complying with Supreme Court Rules 402(d), (e), and (f).

- (a) Once a petition to terminate a participant from the PSC or to revoke probation has been filed, the PSC judge may allow the participant, with the consent of both the participant (with advice of his or her counsel) and the State, to remain in the PSC with hearing on the petition deferred. The State may thereafter dismiss the petition if the participant makes satisfactory improvement in compliance with the PSC program requirements. If the participant fails to make satisfactory improvement, the State may elect to set the petition for hearing.
- (b) At a hearing on a petition to terminate a participant from a PSC or to revoke probation, a PSC judge cannot consider any information learned through team staffings, status review hearings or otherwise, unless newly received in evidence at the hearing.
- (c) A PSC judge should disqualify himself or herself in a proceeding on a petition to terminate a participant from a PSC or to revoke probation under the circumstances listed in Supreme Court Rule 63C.
- (d) A participant has the right to move for substitution of the PSC judge pursuant to section 114-5(d) of the Code of Criminal Procedure of 1963 (725 ILCS 5/114-5(d)) for purposes of a hearing on a petition to terminate a participant from a PSC or to revoke probation.

Commentary:

Participation in a PSC has been described as a form of conditional liberty similar to supervision, probation, or parole. See People v. Anderson, 358 Ill. App. 3d 1108, 1114 (2005) ("The drug-court program is a form of conditional liberty like supervision, probation, or parole. Each program requires the participant to comply with certain conditions or face the loss of the privilege. Revocation of that privilege may not be accomplished without inquiry."). Therefore, a participant being considered for unsuccessful termination from a PSC shall be afforded the same due process rights that are afforded to probationers and parolees in revocation hearings. See Anderson, 358 Ill. App. 3d at 1114-15; see also Gagnon v. Scarpelli, 411 U.S. 778 (1973); Morrissey v. Brewer, 408 U.S. 471 (1972). The requirements of due process will be satisfied by providing a participant with written notice of claimed program or probation violations and by complying with Supreme

Court Rule 402A. For limited English proficient participants, any petition to terminate the participant from the PSC or to revoke the participant's probation will need to be translated, either in written form by a translator or in spoken form by a live interpreter.

Due process in the context of a PSC also requires that the judge presiding over a hearing on a petition to terminate a participant from a PSC or to revoke probation be neutral and detached. Through participation in team staffings and status review hearings, a PSC judge may have become aware of information that forms the basis, in whole or in part, for a petition to terminate a participant from a PSC. This alone does not require recusal of the PSC judge. However, consistent with Supreme Court Rule 63C, if the PSC judge's impartiality might reasonably be questioned, the PSC judge should disqualify himself or herself and refer the matter to another judge for hearing on the petition. Likewise, a participant has the right to request substitution of the judge pursuant to section 114-5(d) of the Code of Criminal Procedure for purposes of a hearing on a petition to terminate a participant from a PSC or to revoke probation.

The requirements of this section concern the minimum procedural safeguards that must be followed when a participant is subject to a proceeding that might result in unsuccessful discharge from a PSC.

9.4 – VOLUNTARY WITHDRAWAL

- (a) A participant shall have the right to withdraw from a PSC.
- (b) Prior to allowing the participant to withdraw; the PSC judge shall;
 - (1) Ensure that the participant has the right to consult with counsel;
 - (2) Determine in open court that the withdrawal is made voluntarily and knowingly; and
 - (3) Admonish the participant in open court as to the consequences, actual or potential, which will result from withdrawal.

Commentary:

A participant who withdraws from a PSC will face consequences that will depend on the particular structure of the PSC from which the participant seeks to withdraw. For example, a participant in a pre-adjudicatory PSC may be required to plead guilty prior to entry in the PSC, with conviction deferred. Upon successful completion of the PSC program, the case is formally dismissed. Voluntary withdrawal in this particular program will return the participant to the status of having pled guilty, with entry of judgment of conviction and setting of a sentencing hearing. Clearly, in this scenario, the voluntary withdrawal has significant consequences for the participant, including entry of conviction and possible incarceration. In a post-adjudicatory PSC, the participant may be required to successfully complete the PSC program in order to successfully complete probation. Voluntary withdrawal from the PSC here would be tantamount to an admission of a violation of probation. It should be emphasized here that a participant does not have the right to withdraw from a post-adjudicatory PSC and still remain on probation, which would effectively allow the

participant to unilaterally alter the terms of probation; rather, a participant only has the right to choose to discontinue participation in the PSC component of the post-adjudicatory PSC, so long as the participant is fully aware of the consequences of withdrawal.

Of course, the State could enter into an agreement with a participant who is represented by counsel that allows a specific disposition upon voluntary withdrawal from the PSC, assuming that the judge approves the agreement and that the PSC policies and procedures permit such an agreement. Because of the importance of the act of voluntary withdrawal in terms of the impact upon the participant's disposition, the consequences of voluntary withdrawal should be clearly set forth in the PSC policies and procedures.

A judge should assure that any voluntary withdrawal is made knowingly and voluntarily, with particular attention given to determining that the participant's decision is not negatively influenced by mental illness or course of treatment for mental illness or substance abuse.

APPENDICES

APPENDIX A – UNIFORM CONSENT TO PARTICIPATE FOR DRUG AND/OR DUI COURT

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE _____ JUDICIAL CIRCUIT
COUNTY OF _____

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

CASE NO. _____

DEFENDANT

**CONSENT TO PARTICIPATE
DRUG COURT PROGRAM**

1. I understand that I have no legal right to participate in the Drug Court Program. I have reviewed this Consent to Participate with my Attorney and I hereby knowingly and voluntarily execute this Consent to Participate which allows me to participate in the Drug Court Program.
2. I agree to participate in and cooperate with any and all treatment recommendations, including, but not exclusively, any mental health or substance abuse assessments and/or treatment recommended by the Drug Court Team, which consists of the Judge, Local PSC Coordinator, Prosecutor(s), Public Defender or Defense Counsel, Probation, Treatment Provider(s), Case Manager(s), _____ and any other personnel designated by the Drug Court Team or identified by my treatment providers in my treatment plan.
3. I understand that it is essential that all members of the Drug Court Team, including the Judge, communicate as a team and share information regarding my participation in the Drug Court, including compliance with treatment, and I agree to them doing so. Upon my entry into the Drug Court, I consent to the Drug Court public defender representing me at Drug Court staffings and at court status review hearings unless I have privately retained counsel. I understand that my privately retained counsel will be required to represent me at all staffings and court status review hearings. In the event that my privately retained counsel is unable to attend staffings and/or court, I understand that my attorney will arrange for other counsel to appear on my behalf.
4. I agree to adhere to all components of my treatment, including attending all counseling sessions, treatment programs, taking my medication as prescribed, engaging in activities as recommended by the Drug Court Team, including sobriety based self-help meetings and cooperation with home visits by Drug Court Team members.
5. I agree to remain drug and alcohol free (except for approved prescribed medications) and to submit to random drug testing at the discretion of the Drug Court Team or any treatment provider and agree to the disclosure of the results to the Drug Court Team. I understand that I may be sanctioned for providing diluted, adulterated or substituted test specimens.
6. I agree to appear in court as required. I understand that my court hearings will be open to the public and an observer could connect my identity with the fact that I am in treatment. I consent to this type of disclosure to a third person.

7. I agree to reside in _____ County and to keep the Drug Court Team advised of my current address and telephone number, employment status, and any new arrests at all times while in the programs.
8. I agree to sign any and all releases of information consenting to the disclosure of information to the Drug Court Team. I understand that if I refuse to comply with signing a release when requested, it may be grounds for termination from Drug Court.
9. I agree to be truthful, cooperative and respectful with the Drug Court Team.
10. I understand that based upon any report (written or oral) of my violation of any rules of my Drug Court probation, contract or of this Consent to Participate, the Drug Court Judge may: authorize a warrant for my arrest; impose any sanction, including jail time if ordered by the Judge; adjust my treatment plan; or modify or revoke any conditions of my probation or bond. My violation(s) may result in proceedings being initiated seeking my termination from the Drug Court and these proceedings could either be resolved in Drug Court or be referred back to traditional court.
11. I understand that my alcohol, drug and/or mental health treatment records are protected by Part 2 of Title 42 of the Code of Federal Regulations (C.F.R.), and HIPAA; Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110 *et seq.*; 45 C.F.R. Parts 160 & 164. I understand that I may revoke this Consent to Participate at any time except to the extent that action has been taken in reliance on it. In any event, this Consent to Participate expires upon the termination of the probation I am serving in this case or the termination of all proceedings with regard to this cause of action as named above.
12. I understand that I may voluntarily withdraw from the Drug Court Program in accordance with Drug Court procedures. I understand that there may be consequences, actual or potential, which will result from my withdrawal.
13. I understand that at the discretion of the presiding Drug Court Judge, for purposes of research and/or education, other persons may be permitted to attend the Drug Court Team meetings where communication as to my case will occur.
14. I understand that language help is available and if I need assistance, it is my responsibility to inform the court I need help.

I UNDERSTAND THAT THE DRUG COURT PROGRAM MAY BE AN OPPORTUNITY FOR ME TO AVOID CONVICTION, JAIL AND/OR PRISON AND TO HELP ME OBTAIN TREATMENT AND MOVE FORWARD WITH MY LIFE. I ALSO UNDERSTAND THAT ALL MEMBERS OF THE DRUG COURT TEAM WANT TO SEE ME SUCCEED AND ARE HERE TO HELP ME.

Date

Name (Print or Type)

Signature

Signature of Interpreter
(where applicable)

Signature of Parent or Guardian
(where applicable)

I HAVE REVIEWED THIS CONSENT WITH THE DEFENDANT. THE DEFENDANT UNDERSTANDS IT AND VOLUNTARILY AGREES TO PARTICIPATE. I FURTHER UNDERSTAND THAT THE DRUG COURT TEAM WILL BE DISCUSSING THE DEFENDANT'S COMPLIANCE AND COOPERATION WITH HIS/HER TREATMENT PLAN AND TERMS OF SUPERVISION AT DRUG COURT STAFFINGS AND AT DRUG COURT STATUS REVIEW HEARINGS. I ACKNOWLEDGE THAT IF I REMAIN COUNSEL OF RECORD FOR THE DEFENDANT, I WILL APPEAR OR ARRANGE FOR OTHER COUNSEL TO APPEAR AT TEAM STAFFINGS WHEN THE DEFENDANT IS SCHEDULED TO BE STAFFED BY THE DRUG COURT TEAM AND ALSO APPEAR OR ARRANGE FOR OTHER COUNSEL TO APPEAR WITH THE DEFENDANT AT ALL COURT HEARINGS.

Date

Signature of Defense Counsel/Public Defender

Date

This Consent to Participate is accepted by: _____
Judge

APPENDIX B – UNIFORM CONSENT TO PARTICIPATE FOR MENTAL HEALTH COURT

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
COUNTY OF _____

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

CASE NO. _____

DEFENDANT

**CONSENT TO PARTICIPATE
MENTAL HEALTH COURT PROGRAM**

1. I understand that I have no legal right to participate in the Mental Health Court Program. I have reviewed this Consent to Participate with my Attorney and I hereby knowingly and voluntarily execute this Consent to Participate which allows me to participate in the Mental Health Court Program.
2. I agree to participate in and cooperate with any and all treatment recommendations, including, but not exclusively, any mental health or substance abuse assessments and/or treatment recommended by the Mental Health Court Team, which consists of the Judge, Local PSC Coordinator, Prosecutor(s), Public Defender or Defense Counsel, Probation, Treatment Provider(s), Case Manager(s) and any other personnel designated by the Mental Health Court Team.
3. I understand that it is essential that all members of the Mental Health Court Team, including the Judge, communicate as a team and share information regarding my participation in the Mental Health Court, including compliance with treatment, and I agree to them doing so. Upon entry into the Mental Health Court, I consent to the Mental Health Court public defender representing me at Mental Health Court staffings and at Mental Health Court status review hearings unless I have privately retained counsel. I understand that my privately retained counsel will be required to represent me at all staffings and Mental Health Court status review hearings. In the event that my privately retained counsel is unable to attend staffings and/or court, I understand that my attorney will arrange for other counsel to appear on my behalf.
4. I agree to adhere to all components of my treatment, including attending all counseling sessions, treatment programs, taking my medication as prescribed, engaging in structured daily activities as recommended by the Mental Health Court Team, and cooperation with home visits by Mental Health Court Team members.
5. I agree to remain drug and alcohol free (except for approved prescribed medications) and to submit to random drug testing at the discretion of the Mental Health Court Team or any treatment provider and agree to the disclosure of the results to the Mental Health Court Team. I understand that I may be sanctioned for providing diluted, adulterated or substituted test specimens.

6. I agree to appear in court as required. I understand that my court hearings will be open to the public and an observer could connect my identity with the fact that I am in treatment and I consent to this type of disclosure to a third person.
7. I agree to reside in _____ County and to keep the Mental Health Court Team advised of my current address and telephone number, employment status, and any new arrests at all times during the program.
8. I agree to sign any and all releases of information consenting to the disclosure of information to the Mental Health Court Team, I understand that if I refuse to comply with signing a release when requested, it may be grounds for my termination from Mental Health Court.
9. I agree to be truthful, cooperative, and respectful with the Mental Health Court Team.
10. I understand that based upon any report (written or oral) of my violation of this Consent to Participate, the Mental Health Court Judge may: authorize a warrant for my arrest; impose any sanction, including jail time if ordered by the Judge; adjust my treatment plan; or modify or revoke any conditions of my probation or bond. My violation(s) may result in proceedings being initiated seeking my termination from the Mental Health Court and these proceedings could either be resolved in Mental Health Court or be referred back to traditional court.
11. I understand that my alcohol, drug treatment and mental health records are protected by Part 2 of Title 42 of the Code of Federal Regulations (C.F.R.) and HIPAA; Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110 *et seq.*; 45 C.F.R Parts 160 & 164. I understand that I may revoke this Consent To Participate at any time except to the extent that action has been taken in reliance on it. In any event, this Consent To Participate expires upon the termination of the probation I am serving in this case, or the termination of all proceedings with regard to this cause of action as named above.
12. I understand that I may voluntarily withdraw from the Mental Health Court Program in accordance with the Mental Health Court procedures. I understand that there may be consequences, actual or potential, which will result from my withdrawal.
13. I understand that at the discretion of the presiding Mental Health Court Judge, for purposes of research and/or education, other persons may be permitted to attend the Mental Health Court Team meetings where communications as to my case will occur.
14. I understand that language help is available and if I need assistance, it is my responsibility to inform the court I need help.

I UNDERSTAND THAT THE MENTAL HEALTH COURT PROGRAM MAY BE AN OPPORTUNITY FOR ME TO AVOID CONVICTION, JAIL AND/OR PRISON AND TO HELP ME OBTAIN TREATMENT AND MOVE FORWARD WITH MY LIFE. I ALSO UNDERSTAND THAT ALL MEMBERS OF THE MENTAL HEALTH COURT TEAM WANT TO SEE ME SUCCEED AND ARE HERE TO HELP ME.

Date

Name (Print or Type)

Signature

Signature of Interpreter
(where applicable)

Signature of Parent or Guardian
(where applicable)

I HAVE REVIEWED THIS CONSENT WITH THE DEFENDANT. THE DEFENDANT UNDERSTANDS IT AND VOLUNTARILY AGREES TO PARTICIPATE. I FURTHER UNDERSTAND THAT THE MENTAL HEALTH COURT TEAM WILL BE DISCUSSING THE DEFENDANT'S COMPLIANCE AND COOPERATION WITH HIS/HER TREATMENT PLAN AND TERMS OF SUPERVISION AT MENTAL HEALTH COURT STAFFINGS AND AT MENTAL HEALTH COURT STATUS HEARINGS. I ACKNOWLEDGE THAT IF I REMAIN COUNSEL OF RECORD FOR THE DEFENDANT, I WILL APPEAR AT MENTAL HEALTH COURT TEAM STAFFINGS WHEN THE DEFENDANT IS SCHEDULED TO BE STAFFED BY THE MENTAL HEALTH COURT TEAM AND ALSO APPEAR AT OR ARRANGE FOR OTHER COUNSEL TO APPEAR WITH THE DEFENDANT AT ALL MENTAL HEALTH COURT HEARINGS.

Date

Signature of Defense Counsel/Public Defender

Date

This Consent to Participate is accepted by: _____
Judge

APPENDIX C – UNIFORM CONSENT TO PARTICIPATE FOR VETERANS COURT

STATE OF ILLINOIS
IN THE CIRCUIT COURT OF THE ____ JUDICIAL CIRCUIT
COUNTY OF _____

THE PEOPLE OF THE STATE OF ILLINOIS

vs.

CASE NO. _____

DEFENDANT

**CONSENT TO PARTICIPATE
VETERANS COURT PROGRAM**

1. I understand that I have no legal right to participate in the Veterans Court Program. I have reviewed this Consent to Participate with my Attorney and I hereby knowingly and voluntarily execute this Consent to Participate which allows me to participate in the Veterans Court Program.
2. I agree to participate in and cooperate with any and all treatment recommendations, including, but not exclusively, any mental health or substance abuse assessments and/or treatment recommended by the Veterans Court Team, which consists of the Judge, Court Coordinator, Prosecutor(s), Public Defender or Defense Counsel, Probation, Treatment Provider(s), Case Manager(s) and any other personnel designated by the Veterans Court Team.
3. I understand that the Veterans Court Program may include a mentor program staffed by volunteer veterans and that additional support from a mentor is available to me if I voluntarily choose to engage with a mentor. The mentors may or may not be part of the Veterans Court Program Team and may appear with me in court and provide assistance to me in discharging my Veterans Court Program requirements.
4. I understand that it is essential that all members of the Veterans Court Team, including the Judge, communicate as a team and share information regarding my participation in the Veterans Court, including compliance with treatment, and I agree to them doing so. Upon entry into the Veterans Court, I consent to the Veterans Court public defender representing me at Veterans Court staffings and at Veterans Court status review hearings, unless I have privately retained counsel. I understand that my privately retained counsel will be required to represent me at all staffings and court status review hearings. In the event that my privately retained counsel is unable to attend a staffings and/or court, I understand that my attorney will arrange for other counsel to appear on my behalf.

5. I agree to adhere to all components of my treatment, including attending all counseling sessions, treatment programs, taking my medication as prescribed, engaging in structured daily activities as recommended by the Veterans Court Team, and cooperation with home visits by Veterans Court Team members.
6. I agree to remain drug and alcohol free (except for approved prescribed medications) and to submit to random drug testing at the discretion of the Veterans Court Team or any treatment provider and agree to the disclosure of the results to the Veterans Court Team. I understand that I may be sanctioned for providing diluted, adulterated or substituted test specimens.
7. I agree to appear in court as required. I understand that my court hearings will be open to the public and an observer could connect my identity with the fact that I am in treatment and I consent to this type of disclosure to a third person.
8. I agree to reside in _____ County and to keep the Veterans Court Team advised of my current address and telephone number, employment status, and any new arrests at all times during the program.
9. I agree to sign any and all releases of information consenting to the disclosure of information to the Veterans Court Team. I understand that if I refuse to comply with signing a release when requested, it may be grounds for termination from Veterans Court.
10. I agree to be truthful, cooperative, and respectful with the Veterans Court Team.
11. I understand that based upon any report (written or oral) of my violation of this Consent to Participate, the Veterans Court Judge may: authorize a warrant for my arrest; impose any sanction, including jail time if ordered by the Judge; adjust my treatment plan; or modify or revoke any conditions of my probation or bond. My violation(s) may result in proceedings being initiated seeking my termination from the Veterans Court and these proceedings could either be resolved in Veterans Court or be referred back to traditional court.
12. I understand that my alcohol, drug and/or mental health treatment records are protected by Part 2 of Title 42 of the Code of Federal Regulations (C.F.R.), and HIPAA, Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110 *et seq.*; 45 C.F.R. Parts 160 & 164. I understand that I may revoke this Consent to Participate at any time except to the extent that action has been taken in reliance on it. In any event, this Consent to Participate expires upon the termination of the probation I am serving in this case or the termination of all proceedings with regard to this cause of action as named above.
13. I understand that I may voluntarily withdraw from the Veterans Court Program in accordance with Veterans Court procedures. I understand that there may be consequences, actual or potential, which will result from my withdrawal.
14. I understand that at the discretion of the presiding Veterans Court Judge, for purposes of research and/or education, other persons may be permitted to attend the Veterans Court Team meetings where communication as to my case will occur.

15. I understand that language help is available and if I need assistance, it is my responsibility to inform the court I need help.

I UNDERSTAND THAT THE VETERANS COURT MAY BE AN OPPORTUNITY FOR ME TO AVOID CONVICTION, JAIL AND/OR PRISON AND TO HELP ME OBTAIN TREATMENT AND MOVE FORWARD WITH MY LIFE. I ALSO UNDERSTAND THAT ALL MEMBERS OF THE VETERANS COURT TEAM WANT TO SEE ME SUCCEED AND ARE HERE TO HELP ME.

Date

Name (Print or Type)

Signature

Signature of Interpreter
(where applicable)

Signature of Parent or Guardian
(where applicable)

I HAVE REVIEWED THIS CONSENT WITH THE DEFENDANT. THE DEFENDANT UNDERSTANDS IT AND VOLUNTARILY AGREES TO PARTICIPATE. I FURTHER UNDERSTAND THAT THE VETERANS COURT TEAM WILL BE DISCUSSING THE DEFENDANT'S COMPLIANCE AND COOPERATION WITH HIS/HER TREATMENT PLAN AND TERMS OF SUPERVISION AT VETERANS COURT STAFFINGS AND AT VETERANS COURT STATUS REVIEW HEARINGS. I ACKNOWLEDGE THAT IF I REMAIN COUNSEL OF RECORD FOR THE DEFENDANT, I WILL APPEAR OR ARRANGE FOR OTHER COUNSEL TO APPEAR AT VETERANS COURT TEAM STAFFINGS WHEN THE DEFENDANT IS SCHEDULED TO BE STAFFED BY THE VETERANS COURT TEAM AND ALSO APPEAR OR ARRANGE FOR OTHER COUNSEL TO APPEAR WITH THE DEFENDANT AT ALL COURT HEARINGS.

Date

Signature of Defense Counsel/Public Defender

Date

This Consent to Participate is Accepted by: _____
Judge

**APPENDIX D – LIST OF RESOURCES
AND LINKS TO EVIDENCE-BASED
PRACTICES FOR PSC**

LIST OF RESOURCES AND LINKS TO EVIDENCE-BASED PRACTICES FOR PSC

<http://www.arnoldfoundation.org/initiative/evidence-based-policy-innovation/>

<https://www.courtinnovation.org/programs>

<https://nicic.gov/evidence-based-practices-ebp>

<http://www.modelsforchange.net/reform-areas/evidence-based-practices/index.html>

<https://www.ncsc.org/>

<https://store.samhsa.gov/>

<http://csgjusticecenter.org/courts/mhc-curriculum/>

<https://www.ndci.org/resources/quality-improvement-drug-courts/>

<https://ndcrc.org/practical-resources/>

ONLINE TRAINING COURSES FOR PROBLEM-SOLVING COURT TEAM MEMBERS

<https://treatmentcourts.org/>

**APPENDIX E – LIST OF EXAMPLES OF
APPROPRIATE INCENTIVES AND
SANCTIONS FOR PSC**



NATIONAL ASSOCIATION OF DRUG COURT PROFESSIONALS

NATIONAL DRUG COURT INSTITUTE

Lists of Incentives and Sanctions

Please Note: This list includes annotations to offer helpful tips and cautions, garnered from professional experience and research findings, to assist the reader to effectively apply the responses. A list excluding the annotations can be found at ndrc.org.

The following lists of incentives and sanctions were collected from hundreds of Drug Courts around the country during NDCI training events. This compilation is intended to encourage Drug Courts to think more broadly and creatively about the types of responses they might provide in their own programs. NDCI faculty grouped the responses into conceptually similar categories and in approximate order of magnitude or severity.

These lists are not intended to be exhaustive. Drug Courts are encouraged to develop their own responses and to gauge the effectiveness of those responses within their programs.

The lists do NOT include therapeutic responses or adjustments to participants' treatment regimens. Treatment adjustments should be based on participants' clinical needs as determined by qualified treatment professionals, and should not be used to reward desired behaviors or punish undesired behaviors.

Finally, the lists do not refer to the specific target behaviors that the incentives and sanctions should be used to address. For example, research indicates lower magnitude rewards should ordinarily be provided for relatively simpler (or proximal) achievements than for difficult (or distal) achievements. Deciding on the most appropriate magnitude of a response to a particular behavior is beyond the scope of this document, but addressed in several NDCI publications.

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National Association of Drug Court
Professionals

Incentives

LOW	MODERATE	HIGH
<p>Verbal Praise</p> <p>Verbal praise is provided for most routine accomplishments in Drug Courts, including timely attendance at appointments and participation in treatment-related discussions or activities. This is especially important during Phase 1 of the program, when participants have a relatively harder time satisfying basic expectations.</p> <p>All team members should be prepared to offer praise at or near the time that accomplishments are achieved; for example, immediately after a productive counseling session or drug-negative urine test. The judge later reinforces the praise during court hearings.</p>	<p>Reduced Supervision Requirements</p> <p>Participants who have made substantial progress in Drug Court are commonly incentivized by reducing their supervision obligations. For example, they may be permitted to attend less frequent probation appointments or status hearings. Typically, supervision adjustments are made when participants advance to higher phase in the program.</p> <p>Research cautions that Drug Courts should not hold status hearings less frequently than every 4-6 weeks until participants are in the final phase of the program and have initiated their continuing-care plans. Moreover, treatment services should only be reduced based on a clinical determination that it is therapeutically indicated to do so. Finally, drug testing should not be reduced until after other treatment and supervision services have been reduced, and it is reliably determined that drug use has not recurred as a result.</p> <p>Examples include:</p> <ul style="list-style-type: none"> • Less frequent probation appointments • Less frequent status hearings 	<p>Supervised Day Trips</p> <p>Day trips differ from the social gatherings described earlier, in that they are held off premises. Typically, they are reserved for participants in the last phase of the program who are being recognized for leaving the "offender" role and assuming a role of "citizen."</p> <p>Example include:</p> <ul style="list-style-type: none"> • Fishing trips • Movie outings • Intramural sports • Sporting events • Bowling tournaments • Recovery Olympics

Small Tangible Rewards	Reduced Community Restrictions	Travel Privileges
<p>Many participants in Drug Courts are unaccustomed to earning positive reinforcement and respond well to low-magnitude rewards. The rewards are typically given for basic accomplishments during the early phases of the program, such as attending a full week of counseling appointments. The goal is to instill hope and encourage compliance with the treatment regimen.</p> <p>The rewards are typically structured so as to increase participants' involvement in productive activities, and may contain pro-sobriety messages, toll-free phone numbers for local treatment services, or the Drug Court's logo.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Bookmarks • Bus tokens • Phone cards • Healthy foods (e.g., juice, tea, granola bars, fruit, trail mix) • Coffee mugs • Birthday or holiday cards • Books or children's books • Planners or calendars • School supplies • Toiletries • Underwear • Frames for certificates • Picture albums • Serenity Stones • T-Shirts with inspirational sayings or quotes 	<p>Many Drug Courts impose curfews and area restrictions on participants as a condition of entry into the program. After participants reliably engage in treatment and achieve a sustained period of abstinence, they may be rewarded by reducing those community restrictions. For example, curfews may be extended from 8:00 pm to 10:00 pm.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Later curfews • Relaxed area restrictions 	<p>In anticipation of commencement from the program, participants' travel restrictions may be formally lifted, allowing them to leave the county or state for a weekend, extended weekend, or week-long interval. Typically, phone-ins are required to ensure continued contact with the treatment program or supervision officers.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Weekend pass out of county • Phone check-ins may be required

Recognition in Court	Enhanced Milieu Status	Large Tangible Rewards
<p>Formal recognition is provided in court when participants meet substantial milestones in the program, such as completing a standardized treatment curriculum or achieving 30 consecutive days of sobriety. In addition to verbal praise, participants may receive a handshake from the judge, a round of applause in open court, and/or a certificate of accomplishment.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Handshake from the judge • Round of applause in Court • Certificate of accomplishment for achieving a clinically important milestone 	<p>As noted previously, many Drug Courts reduce supervision requirements – and, unfortunately, sometimes treatment requirements – as an incentive for good behavior. Participants may, for example, be permitted to leave court immediately after their appearances or attend fewer probation appointments.</p> <p>Although this approach can be effective, it risks precipitating relapse if the services are reduced too rapidly. Moreover, it may reduce opportunities for new participants to interact with their successful peers, because the most successful cases will end up spending the lease amount of time on site in the program.</p> <p>For these reasons, many Drug Courts <i>elevate</i> the status of successful participants in the milieu, and <i>increase</i> their involvement in the program. For example, participants who have achieved stable abstinence, obtained a job, and are actively involved in the 12-Step community, may become peer-support mentors in the Drug Court or may lead discussions in the group counseling sessions. Typically, they do not interact with new participants outside of the program, but rather serve as on-site mentors where there is concurrent professional supervision.</p> <p>Examples of the names or titles assigned to these positions include:</p> <ul style="list-style-type: none"> • Appointment as in-program peer mentor • Assistant group leader • Self-help group facilitator • All-Star List or Dean's List 	<p>In the later phases of the program, participants may earn tangible rewards of more substantial value or impact. As is typical, these rewards are used to encourage pro-social and healthy leisure activities, or to assist with adaptive activities of daily living.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Commemorative gift issues of the "Big Book" or other readings • Concert tickets • Sports tickets • Autographs (musicians and actors frequently offer these as a public service to programs treating addiction) • Tattoo removal • Yoga or Tai Chi classes • Health club memberships • Savings bonds • Home improvement or car repair assistance • Waiver of fines or fees • School or tuition fees • Donated education courses

<p style="text-align: center;">Symbolic Rewards</p> <p>Symbolic rewards may be inexpensive, but they have high emotional impact in the recovery community. Due to their symbolic value, they are generally viewed as being higher in magnitude than the small tangible rewards listed above. Typically, they are delivered to commemorate the achievement of a clinically meaningful milestone, such as 90 consecutive days of abstinence.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Sobriety chips • Sobriety key chains • Sobriety tokens • "Live Strong" bracelets • Copies of addiction readings such as the AA "Big Book" 	<p style="text-align: center;">Moderate Tangible Rewards</p> <p>As noted earlier, many participants in Drug Courts are unaccustomed to positive reinforcement and respond well to tangible rewards. As participants make positive progress in the program, the magnitude of the rewards progressively increases. The rewards typically encourage engagement in productive or healthful activities.</p> <p>Examples of moderate rewards include:</p> <ul style="list-style-type: none"> • Gift certificates (typically \$5 to \$20 value) • Movies passes or movie rentals • Admission passes to amusement parks or sporting events • Introductory memberships to spas or gyms • Haircuts • Makeup or cosmetic sessions • Groceries • Work or school clothing or shoes • Bowling, skating or other recreational passes • Quilts, blankets, towels • Watches • Calling cards • Gas cards 	<p style="text-align: center;">Point Systems</p> <p>Point systems can enable Drug Courts to offer large tangible rewards at a reasonable expense. Rather than earning rewards for each accomplishment, participants earn points or vouchers for satisfying the conditions for phase advancement or other major accomplishments. The points are banked until participants enter the last phase of the program, and they can then trade in the points for a substantial prize. Some programs also offer bonus points for unusual accomplishments, such as receiving a job promotion or earning a GED.</p>
<p style="text-align: center;">Posted Accomplishments</p> <p>Evidence of exceptional accomplishments may be openly posted in the Drug Court. For example, pro-sobriety artwork or essays, photographs of participants receiving a diploma or GED, or letters of commendation from employers, may be publicly displayed in the courtroom, treatment program, or probation office.</p> <p>Common example include:</p> <ul style="list-style-type: none"> • Pro-sobriety artwork or 	<p style="text-align: center;">Fishbowl Drawings</p> <p>Many Drug Courts are stretched for resources and may have difficulty offering rewards of more than minor value. The "fishbowl procedure" allows Drug Courts to provide tangible rewards at lesser cost.</p> <p>Rather than earning tangible rewards for each accomplishment, participants earn <i>chances</i> to draw paper slips from a fishbowl. The slips award a combination of some tangible prizes and a greater percentage of non-tangible incentives, such as certificates of</p>	<p style="text-align: center;">Ambassadorships</p> <p>Ambassadorships are typically reserved for graduates or individuals making stellar progress in the program. This status enables participants or alumni to represent the Drug Court to outside agencies, such as the public, church groups, legislators, or the media.</p> <p>Commonly, the participants first take classes or sessions to prepare them for public speaking, and to assist them to tell their stories effectively and in a manner that is comfortable for them.</p>

<p>writing essays displayed in the courtroom, treatment program or probation office</p> <ul style="list-style-type: none"> • Photos of participants receiving GEDs or other awards • Letters of commendation from employers or teachers 	<p>accomplishment. There may also be 1 or 2 prizes of substantial value (\$25 to \$50), but the odds of drawing them are small.</p> <p>Research indicates that the <i>opportunity</i> to earn a substantial reward can be as reinforcing, or more reinforcing, than earning smaller rewards each time. It also adds entertainment value for persons who typically lack pleasurable, pro-social activities in their lives.</p> <p>A major advantage of this approach is that participants can earn multiple rewards in the same week (i.e., multiple draws) without incurring undue costs to the program. For example, participants may earn separate draws for attending counseling sessions, delivering drug-negative urine samples, and appearing in court.</p>	
<p>Written Commendations</p> <p>Written commendations may be shared by participants (assuming they choose to do so) with outside parties, such as employers, family members, or school administrators. They typically inform "to whom it may concern" that the participant has achieved a substantial period of <u>stable</u> sobriety and law-abiding behavior. Because the participant has "turned a corner" and made a significant shift in progress, he or she might be trusted to return to previous activities or roles, assuming that supervision and treatment in the Drug Court will continue.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Letters of Attainment from the judge • Progress Reports or Report Cards from treatment providers or probation officers 	<p>Self-Improvement Services</p> <p>Self-improvement services differ from the routine interventions provided to all participants. These are personalized services designed to help participants excel in productive lives, and are used to highlight substantial progress participants have made towards assuming pro-social life roles. The implicit message is that the program is investing in the participant's future accomplishments.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Resume writing assistance • Dress for Success • Job interview preparation classes • Pre-vocational assistance • GED, literacy, or educational assistance • Public speaking pointers • Meal preparation or nutritional classes • Yoga or exercise classes 	<p>Commencement Ceremony</p> <p>Virtually all Drug Courts put great thought and effort into their commencement or graduation ceremonies.</p> <p>Elements of the ceremonies include:</p> <ul style="list-style-type: none"> • Robes and "Pomp and Circumstance" • Flowers, plaques, and framed diplomas • Pictures taken with the staff and judge • Delivering thankfulness speeches • Hearing speeches from local or national celebrities and politicians • Words of redemption and congratulation from the arresting police officer • Media coverage or interviews bearing witness to graduates' success

	<p>Supervised Social Gatherings</p> <p>Participants who have begun to assume appropriate life roles may earn inclusion in social gatherings coordinated by the Drug Court staff. These events are designed to provide healthy recreational experiences and opportunities for participants to practice appropriate social interactions in non-drug-related situations.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Picnics or parties • Sober dances • Recovery games or activities • Picture day (food and games provided to invited family members and friends) 	<p>Legal Incentives</p> <p>Commencement from Drug Court virtually always leads to substantial legal incentives.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Dismissal of the charge(s) or vacation of a guilty plea • Reduction in the charge(s) • Reduction of the sentence • Avoidance of jail or prison • Curtailment of a probation term or "tail" • Consolidation of multiple probationary terms • Expungement of the arrest or conviction record
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Sanctions

LOW	MODERATE	HIGH
<p>Verbal Admonishments</p> <p>Verbal admonishments may be delivered by any staff member and are ideally delivered at or near the time an infraction has occurred; for example, immediately after a missed counseling appointment or drug-positive urine test. The judge later reinforces the admonishment during court hearings.</p> <p>Research indicates admonishments should never be delivered in a disrespectful, insulting, or threatening manner. The important points are to: (a) clarify the nature of the infraction, (b) emphasize the expectation of compliance in the program, (c) indicate what sanctions, and (d) consider what alternative actions the participant should take in the future.</p>	<p>Increased Supervision Requirements</p> <p>Participants may be required to attend more frequent probation appoints, case management sessions, or status hearings in court.</p> <p>They may also be required to undergo more frequent drug testing, or more frequent home or community visits by probation officers or other supervision agents.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • More frequent probation appointments • More frequent status hearings 	<p>Day Reporting</p> <p>Participants may be required to go to a day-reporting center, correctional halfway center, or probation program on a daily basis for several hours each day, often including weekends. Required activities may include drug testing, counseling sessions, cognitive-behavioral "criminal thinking" interventions, and job training. The purpose is to substantially restrict and structure participants' free time.</p> <p>Common example includes:</p> <ul style="list-style-type: none"> • Several hours per day or week at probation office or other reporting center probation appointments
<p>Letters of Apology</p> <p>Participants may be required to write letters of apology to the program or persons they have negatively impacted. They are typically asked to describe their non-compliant or inappropriate behavior, analyze what went wrong, and consider how they will react differently in the future.</p> <p>Sometimes, participants are required to read the letter in court or during a counseling session. This decision is based on the severity of the infraction, and whether there are any clinical contraindications to having the participant speak in public or publicly disclose the nature of the event.</p> <p>For participants who are illiterate or have difficulty writing or staying cognitively focused, tape recordings may be used in lieu of written letters.</p>		<p>Electronic Surveillance</p> <p>Participants may be required to wear an anklet monitoring device, SCRAM® detection device, or other GPS or phone monitoring device.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Ankle monitor • SCRAM® device • Car interlock device

<p style="text-align: center;">Essay Assignments</p> <p>Essays are typically longer than letters and may require some degree (typically minor) of independent research.</p> <p>Staff members generate a list of topics relevant to recovery, and develop a "lending library" of easy-to-digest pamphlets, fact sheets, audio tapes and books on those topics.</p> <p>Common topics may include:</p> <ul style="list-style-type: none"> • Definition of recovery • Relapse triggers • Drug refusal skills • Managing cravings • Lying and dishonesty • The disease of addiction • The impact of addiction on the family • The role of treatment • The role of peer support groups <p>*Tape recordings may be used in lieu of writing assignments for participants who are illiterate or have difficulty writing.</p>	<p style="text-align: center;">Useful Community Service</p> <p>Community service keeps participants supervised and away from problematic interaction in their neighborhoods. It may also teach useful or adaptive life skills, provide a sense of accomplishment, and offer an opportunity to make restoration to the community.</p> <p>The severity of the infraction(s) usually determines the number of hours in a day, and the number of days, the participant must report for community service.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Set up for or clean up after treatment sessions, court sessions or graduation ceremonies • Wash police cars • Clean the jail, courthouse, treatment facility or probation office • Pick up trash on the roadside • Sweep gyms or other facilities • Clean graveyards • Clean animal shelters • Assist with Habitat for Humanity • Work in a soup kitchen • Staff community events • Clean Sheriff's horse stalls 	<p style="text-align: center;">Home Detention</p> <p>Participants may be required to remain in their homes except for specifically authorized activities, such as work, school, or treatment appointments. Compliance with the curfew is typically enforced via random telephone monitoring calls with voice confirmation, anklet monitors, or random home visits by probation officers.</p> <p>Common example includes:</p> <ul style="list-style-type: none"> • Phone monitored curfew
<p style="text-align: center;">Daily Activity Logs</p> <p>Participants may be required to carefully plan out in advance the activities they expect to engage in during the coming week. The, they use an activity log or spreadsheet to monitor their compliance with, and deviations from, the intended schedule. This information is reported back to staff and the court, and used to identify problematic times and situations in which drug use or other infractions are likely to occur. Contingency plans are then developed to avoid such problematic</p>	<p style="text-align: center;">Monetary Fines or Fees</p> <p>Monetary <i>fines</i> are often set by law for particular offenses, and in some jurisdictions may not be increased for technical violations or other infractions.</p> <p>In contrast, fees are typically assessed for services provided to participants or for costs incurred by the program. For example, participants who challenge positive drug tests may be required to pay the costs of retesting if the positive test results are confirmed. Similarly,</p>	<p style="text-align: center;">Flash Jail Sanctions</p> <p>Research reveals that "flash" jail sanctions of no more than approximately 3 to 5 days can be effective at reducing noncompliant behavior. If, however, jail sanctions are imposed too frequently, for minor or first-time infractions, or for longer intervals of time, they can quickly become ineffective and cost-prohibitive.</p> <p>Commonly, the first (or perhaps second) time a jail sanction is imposed, participants are permitted</p>

<p>situations.</p> <p>Activity logs are commonly used for participants who are resistant to thinking in advance about their actions, or who engage in impulsive decision making.</p> <p>Common example includes:</p> <ul style="list-style-type: none"> • Monitor and report on adherence to pre-set daily routine 	<p>participants might be charged for missing counseling sessions (although perhaps not for attended sessions if they are on a sliding payment scale).</p> <p>It is important not to allow fines or fees to build up beyond participants' realistic ability to pay. Once the ability to pay has reached a ceiling, the use of non-monetary sanctions is preferable.</p>	<p>to serve the sanction at a relatively convenient time, such as over a weekend, during consecutive weekends, or after arrangements for childcare or other obligations have been made. The purpose is to avoid interfering with productive and pro-social obligations. After repetitive infractions, however, participants might be taken directly into custody without an opportunity to prepare.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Ideally 1 to 5 days • May be served on weekend or other pre-planned time
<p>Journaling</p> <p>Journaling focuses on more than events or schedules. Participants also monitor and document their thoughts, feelings and attitudes through descriptive writing assignments. This information is used to identify emotional triggers for drug use and topics for discussion in counseling.</p> <p>Journals are often used for participants who are non-insightful, and who tend to act out before they think about their motivations for doing so.</p> <p>Common example includes:</p> <ul style="list-style-type: none"> • Monitor and report on thoughts, feelings and attitudes associated with drug use or antisocial activities 	<p>Holding Cell</p> <p>Participants may be escorted by the bailiff or sheriff's deputy to a holding cell adjacent to the courtroom or elsewhere in the courthouse. The participant may be held in the cell for the remainder of the court session and then brought back for an appearance at the end of the day. The purpose is to give the individual a "taste" of detention without incurring the costs of transportation or having the individual processed into the jail.</p> <p>Common example includes:</p> <ul style="list-style-type: none"> • Remain at courthouse and return for status review at end of court session 	<p>Termination</p> <p>The ultimate sanction in Drug Court ensues from an unsuccessful termination. Participants may receive a criminal record of a conviction, with attendant collateral consequences such as ineligibility for certain public benefits. Participants may subsequently be sentenced on the original charge(s), have their probation or parole revoked, or receive a jail or prison disposition.</p> <p>Depending on the jurisdiction and the nature of the waivers that are executed to enter the program, participants may or may not, receive credit for time served in the Drug Court. They also may, or may not, receive an augmented sentence or disposition as a result of their failure to comply with the Drug Court requirements.</p>
<p>Life Skills Assignments</p> <p>Participants may be required to investigate how to accomplish a specific task of daily living. They may need to gather relevant information from staff members, other participants, family members and friends; engage in preparatory actions; develop a plan of action; receive feedback on their plan of action; execute the plan; and take</p>		

<p>corrective steps, where needed.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Open a bank account • Obtain a state identification card • Reinstate a drivers license • Enroll in GED, H.S. or college classes • Prepare for or conduct a job search 		
<p>"Jury Box" Observation</p> <p>Many Drug Courts require noncompliant participants to sit in the jury box or other designated area of the courtroom to observe the Drug Court proceedings for a day, several days, or a week. This is frequently used to keep participants away from problematic interactions in their neighborhoods. It is also used for participants who tend to be untruthful in their interactions with staff, because they can see how manipulative behaviors appear to observers.</p> <p>For more serious or repetitive infractions, participants may be required to observe non-drug court proceedings, such as bail hearings or criminal trials. The purpose here is to witness what happens to individuals who do not succeed in Drug Court or who are processed through traditional criminal justice channels.</p>		
<p>Increased Community Restrictions</p> <p>Journaling The Drug Court may impose additional curfews, area restrictions, association restrictions, or restricted driving privileges. For example, participants may be forbidden from associating with particular individuals, going to particular neighborhoods, being out of their homes after 8:00 pm, or driving their car for purposes other than for work or school.</p>		

<p>Unless curfews are phone-monitored, and unless probation officers, community correction officers or the police monitor participants' obedience to other restrictions, they may be expected to have little effect.</p> <p>Common examples include:</p> <ul style="list-style-type: none"> • Earlier curfew • Increased person or area restrictions 		
<p>Team Round-Table</p> <p>Team round-tables are typically used for participants who are in danger of failing out of the Drug Court due to noncompliance with basic expectations, such as failing to show up for counseling sessions or being untruthful.</p> <p>The entire Drug Court team meets with the participant to offer feedback and direction from multiple sources in a cohesive and unified way. This is often effective in reducing, splitting and triangulation of staff by manipulative individuals.</p>		

**APPENDIX F1 – SAMPLE
MEMORANDUM OF UNDERSTANDING
FOR THE ESTABLISHMENT OF A
PROBLEM-SOLVING COURT**

SAMPLE OF A MEMORANDUM OF UNDERSTANDING

[COUNTY] [PROBLEM-SOLVING COURT]

Commentary

Each Problem-Solving Court shall have a Memorandum of Understanding (MOU) detailing the structure and mission of the Court, as well as the roles, duties and obligations of the members on the Problem-Solving Court Team. Because of the variety of Problem-Solving Courts and the different missions, methods and participants involved, language of the MOU should be individualized to fit the needs of each Court. Below is a sample of a MOU. Agencies, entities or individuals who provide assistance to the Court (such as employment, education, housing, medical, financial or other assistance) should be memorialized in the MOU. Even though they are not members of the Problem-Solving Court Team, these parties are "community partners" who may have their roles and obligations defined in the MOU.

MISSION STATEMENT

It is the mission of the [] County [Type of Problem-Solving Court] to enhance public safety and reduce recidivism by diverting persons with behavioral health disorders charged with a criminal offense from the Criminal Justice system to the [Problem-Solving Court] for appropriate treatment and support services. In so doing, the individual's quality of life will be greatly enhanced. Increased public safety will be afforded to the citizens of [] County and a substantial cost savings will be realized as there will no longer be inappropriate involvement of persons with behavioral health disorders in the criminal justice system.

COMPLIANCE

The [Problem-Solving Court] shall be established and operate in compliance with the ***Problem-Solving Court Standards*** adopted by the Illinois Supreme Court.

CONFIDENTIALITY

All information pertaining to [Problem-Solving Court] participants is strictly confidential. Any information viewed by [Problem-Solving Court] personnel or providers is not to be shared with any outside party. Records shall be open to inspection by any judge or by any court services officer pursuant to order of the court, but shall not be a public record.

[Problem-Solving Court] participants shall be required to sign consents for release of confidential information forms which comply with 42 U.S.C. 290dd-2 and 42 CFR Part 2, so that relevant information may be shared with appropriate agencies. If a participant refuses to sign the necessary releases, he/she may be ruled ineligible for the [Problem-Solving Court] Program.

All probation files, presentence investigations, computer notes and case notes are considered to be confidential information and are not to be released except by court order or client release of information. Case information may be released to other probation departments when the

participant has signed a release specifically authorizing the release of information to other probation departments.

All [Problem-Solving Court] material will be protected by federal law, specifically section 543 of the Public Health Service Act, 42 U.S.C. 290dd-2, and its implementing regulation, 42 C.F.R. Part 2 (confidentiality of substance abuse records) and the Mental Health and Developmental Disabilities Confidentiality Act, 740 ILCS 110/1 *et seq.* (confidentiality of mental health treatment records).

RESPONSIBILITIES AND EXPECTATIONS OF PARTICIPATING AGENCIES

All participating agencies agree to assist in the design and ongoing development of the [] County [Problem-Solving Court]. Further, as appropriate, agencies will assist in providing all necessary data for evaluation purposes.

All participating agencies agree to respect other agencies' roles and responsibilities to ensure the integrity of the judicial and therapeutic processes.

All participating agencies shall observe each participant's right to confidentiality in accordance with federal and state laws and regulations governing treatment and criminal justice information.

All participating agencies agree to the criteria for:

Participant eligibility/enrollment;
Program incentives, sanctions and therapeutic adjustments;
Program termination; and
Program completion as delineated in the policy and procedure manual.

Any revision to this agreement will be approved by the Problem-Solving Court Team.

[PROBLEM-SOLVING COURT] TEAM MEMBERS AND RESPONSIBILITIES

This section outlines the responsibilities each agency or entity agrees to perform as part of their involvement in the [] County [Problem-Solving Court].

The following are members of the [Problem-Solving Court] Team. Additional members may be added as deemed appropriate.

Judge
Prosecutor/designee
Public Defender/designee
Probation
Local Problem-Solving Court Coordinator
Licensed Treatment Provider(s)

Additional PSC Team members may include but are not limited to:

Law Enforcement Representative

Case Manager
Law Enforcement Officer (Preferably Crisis Intervention Trained – CIT)
Recovery Coach
Veterans Justice Outreach Coordinator

The following are the major responsibilities for each [Problem-Solving Court] Team member:

Judge

The Judge acts as the lead partner in the [Problem-Solving Court] process. He/she participates in all [Problem-Solving Court] staffings and presides over the court proceedings. He/she administers effective incentives, sanctions and therapeutic adjustments.

Prosecutor

The prosecutor/designee is a member of the [Problem-Solving Court] Team. He/she may participate in the review of referrals. He/she participates in participant staffings in a non-adversarial manner and attends all court sessions. He/she advocates for effective incentives, sanctions and therapeutic adjustments while ensuring community safety.

Public Defender

The Public Defender/designee is a member of the [Problem-Solving Court] Team. He/she assists in the referral and entry process. He/she participates in participant staffings in a non-adversarial manner and attends all court sessions. He/she advocates for effective incentives, sanctions and therapeutic adjustments while ensuring the participant's legal rights are protected.

Local Problem-Solving Court Coordinator

The local Problem-Solving Court Coordinator is a member of the [Problem-Solving Court] Team. He/she has the overall responsibility to manage and coordinate all facets of the [Problem-Solving Court] process, including collaborating with the treatment providers and the case manager/recovery coach. He/she advocates for effective incentives, sanctions and therapeutic adjustments during the team meetings. In fulfilling this responsibility, his/her duties are varied and include, but are not limited to, the following:

1. Organizes and coordinates training for [Problem-Solving Court] team members;
2. Maintains cooperative relationships with treatment agencies, community organizations and other involved partners;
3. Assists in the screening of potential participants to determine eligibility and interest;
4. Attends case staffings and court hearings, reports compliance/noncompliance and recommends incentives and sanctions;
5. Facilitates community presentations
6. Promotes team integrity;
7. Develops community resources;
8. Collects data/statistics and works closely with any program evaluator;
9. In conjunction with team members, researches and writes grant proposals.

Probation Officer

The probation office is the primary case supervisor for participants sentenced to [Problem-Solving Court]. In fulfilling this responsibility, his/her duties are varied and include, but are not limited to, the following:

1. Plans and implements in collaboration with the licensed treatment providers, the day-to-day activities of the [Problem-Solving Court] participant;
2. Conducts initial intake interviews, and explains program requirements to participants;
3. Monitors participant compliance with [Problem-Solving Court] rules; communicates with participants in accordance with the program requirements;
4. Attends case staffings and court hearings on regular basis, reporting compliance/non-compliance and recommends incentives and sanctions;
5. Assists in the promotion of team integrity;
6. Assists in the development of community resources;
7. Assists in the collection of data/statistics.

Licensed Treatment Provider(s)

1. Conducts assessments to determine eligibility for [Problem-Solving Court];
2. Provides screening, assessment and/or treatment to participants;
3. Coordinates treatment with other treatment provider(s);
4. Develops treatment plans;
5. Provides therapy services;
6. Attends staffings and court hearings for [Problem-Solving Court] participants, as appropriate;
7. Assists participants in applying for state, federal and veterans benefits;
8. Assists participants in applying for housing, unemployment and educational programs;
9. Arranges housing and transportation;
10. Refers participants for medical treatment and medication management to appropriate local agencies.

Law Enforcement Officer

The law enforcement officer may be a member of the [Problem-Solving Court] Team. He/she acts as a liaison to other law enforcement agencies and will offer a law enforcement perspective when policy and procedures are developed. The officer may assist with home visits as needed, process/serve warrants on [Problem-Solving Court] participants and assist with referring potential [Problem-Solving Court] participants. The officer may promote and encourage law enforcement officers to receive CIT training.

**APPENDIX F2 – SAMPLE
MEMORANDUM OF UNDERSTANDING
SIGNATORIES DOCUMENT**

SAMPLE OF A MEMORANDUM OF UNDERSTANDING

[COUNTY] [PROBLEM-SOLVING COURT]

SIGNATORIES DOCUMENT

The attached MEMORANDUM OF UNDERSTANDING is made and entered into on the [] day of [month], 20[] the [] County [Problem-Solving Court] Judge, Prosecutor, Public Defender, [] County Probation Department, Licensed Treatment Provider(s), Law Enforcement and the Local PSC Coordinator. The Memorandum shall be revised as needed.

WHEREAS, the [] County [Problem-Solving Court] plans to establish and operate a problem-solving court, a Memorandum of Understanding is necessary to clarify the respective roles and expectations of the offices and entities of the participating [Problem-Solving Court] team members. This collaborative program has as its mission to operate a Problem-Solving Court structured to divert from the criminal justice system, where appropriate, persons who have been diagnosed with behavioral health disorders and link them to social services agencies for treatment, transportation, housing, employment counseling, education, medication management and application assistance for government benefits; and

WHEREAS [Problem-Solving Court] shall be structured and operated to comply with the ***Problem-Solving Court Standards*** adopted by the Illinois Supreme Court.

NOW THEREFORE the parties named below hereby mutually agree to the attached Memorandum of Understanding.

IN WITNESS WHEREOF, the parties have caused this Memorandum of Understanding to be executed by their duly authorized officers.

CHIEF JUDGE [] CIRCUIT COURT

BY: _____

PRESIDING JUDGE [] COURT

BY: _____

[] PROSECUTOR

BY: _____

[] PUBLIC DEFENDER

BY: _____

[] DIRECTOR OF PROBATION

BY: _____

LOCAL [PROBLEM-SOLVING COURT] COORDINATOR

BY: _____

NAME OF LICENSED TREATMENT PROVIDER

BY: _____

[LAW ENFORCEMENT OFFICER AND AGENCY]

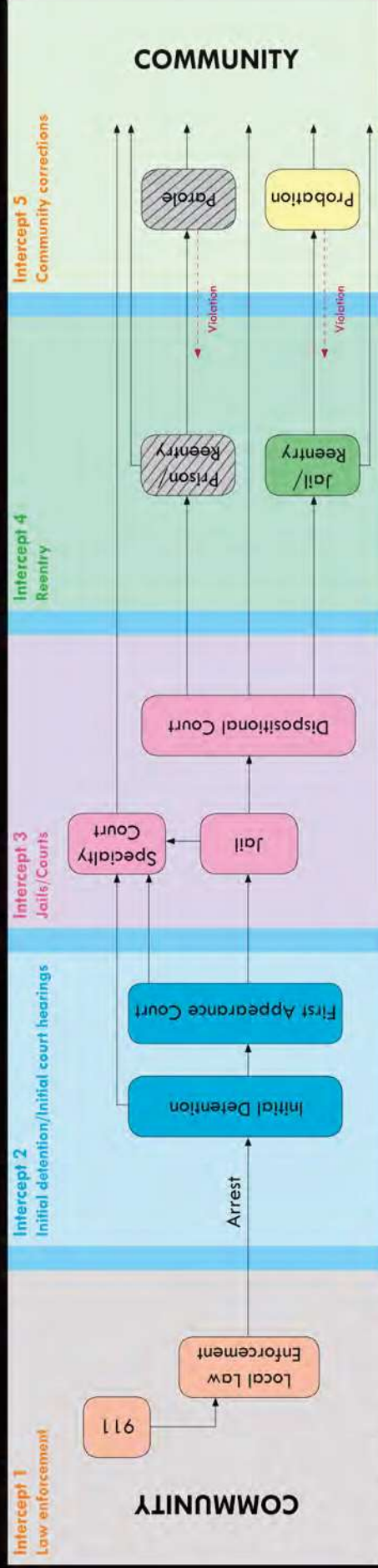
BY: _____

**APPENDIX G – SEQUENTIAL
INTERCEPT MODEL DEVELOPED BY
MARK MUNETZ, MD AND
PATRICIA GRIFFIN, PHD**

Sequential Intercepts for Developing CJ-MH Partnerships

Action for System-Level Change

- Develop a comprehensive state plan for mental health/criminal justice collaboration
- Legislate task forces/commissions comprising mental health, substance abuse, criminal justice, and other stakeholders to legitimize addressing the issues
- Encourage and support collaboration among stakeholders through joint projects, blended funding, information sharing, and cross-training
- Institute statewide crisis intervention services, bringing together stakeholders from mental health, substance abuse, and criminal justice to prevent inappropriate involvement of persons with mental illness in the criminal justice system
- Take legislative action establishing jail diversion programs for people with mental illness
- Improve access to benefits through state-level change; allow retention of Medicaid/SSI by suspending rather than terminating benefits during incarceration; help people who lack benefits apply for same prior to release
- Make housing for persons with mental illness and criminal justice involvement a priority; remove constraints that exclude persons formerly incarcerated from housing or services
- Expand access to treatment; provide comprehensive and evidence-based services; integrate treatment of mental illness and substance use disorders
- Expand supportive services to sustain recovery efforts, such as supported housing, education and training, supportive employment, and peer advocacy
- Ensure constitutionally adequate services in jails and prisons for physical and mental health; individualize transition plans to support individuals in the community
- Ensure all systems and services are culturally competent, gender specific, and trauma informed – with specific interventions for women, men, and veterans



Action Steps for Service-Level Change at Each Intercept

- **911:** Train dispatchers to identify calls involving persons with mental illness and refer to designated, trained respondents
- **Police:** Train officers to respond to calls where mental illness may be a factor
- **Documentation:** Document police contacts with persons with mental illness
- **Emergency/Crisis Response:** Provide police-friendly drop off at local hospital, crisis unit, or triage center
- **Follow Up:** Provide service linkages and follow-up services to individuals who are not hospitalized and those leaving the hospital
- **Evaluation:** Monitor and evaluate services through regular stakeholder meetings for continuous quality improvement
- **Screening:** Screen for mental illness at earliest opportunity; initiate process that identifies those eligible for diversion or needing treatment in jail; use validated, simple instrument or matching management information systems; screen at jail or at court by prosecution, defense, judge/court staff or service providers
- **Pre-trial Diversion:** Maximize opportunities for pretrial release and assist defendants with mental illness in complying with conditions of pretrial diversion
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, integrated dual disorder treatment (IDDT) as appropriate, prompt access to benefits, health care, and housing; IDDT is an essential evidence-based practice (EBP)
- **Screening:** Inform diversion opportunities and need for treatment in jail with screening information from Intercept 2
- **Court Coordinator:** Maximize potential for diversion in a mental health court or non-specialty court
- **Service Linkage:** Link to comprehensive services, including care coordination, access to medication, health care, and housing
- **Court Feedback:** Monitor progress with scheduled appearances (typically directly by court); promote communication and information sharing between non-specialty courts and service providers by establishing clear policies and procedures
- **Jail-Based Services:** Provide services consistent with community and public health standards, including appropriate psychiatric medications; coordinate care with community providers

- **Assess** clinical and social needs and public safety risks; boundary spanner position (e.g., discharge coordinator, transition planner) can coordinate institutional with community mental health and community supervision agencies
- **Plan** for treatment and services that address needs; GAINS Reentry Checklist (available from <http://www.gaincenters.com/hsa.gov/html/resources/reentry.asp>) documents treatment plan and communicates it to community providers and supervision agencies – domains include prompt access to medication, mental health, and health services; benefits, and housing
- **Identify** required community and correctional programs responsible for post-release services; best practices include reach-in engagement and specialized case management teams
- **Coordinate** transition plans to avoid gaps in care with community-based services

- **Screening:** Screen all individuals under community supervision for mental illness; and co-occurring substance use disorders; link to necessary services
- **Maintain a Community of Care:** Connect individuals to employment, including supportive employment; facilitate engagement in IDDT and supportive health services; link to housing; facilitate collaboration between community corrections and service providers; establish policies and procedures that promote communication and information sharing
- **Implement a Supervision Strategy:** Concentrate supervision immediately after release; adjust strategies as needs change; implement specialized caseloads and cross-systems training
- **Graduated Responses & Modification of Conditions of Supervision:** Ensure a range of options for community corrections officers to reinforce positive behavior and effectively address violations or noncompliance with conditions of release

The Sequential Intercept Model

Developed by Mark R. Munetz, MD, and Patricia A. Griffin, PhD, the Sequential Intercept Model provides a conceptual framework for communities to organize targeted strategies for justice-involved individuals with serious mental illness. Within the criminal justice system there are numerous intercept points — opportunities for linkage to services and for prevention of further penetration into the criminal justice system. Munetz and Griffin (2006) state:

The Sequential Intercept Model ... can help communities understand the big picture of interactions between the criminal justice and mental health systems; identify where to intercept individuals with mental illness as they move through the criminal justice system; suggest which populations might be targeted at each point of interception; highlight the likely decision makers who can authorize movement from the criminal justice system; and identify who needs to be at the table to develop interventions at each point of interception. By addressing the problem at the level of each sequential intercept, a community can develop targeted strategies to enhance effectiveness that can evolve over time.

The Sequential Intercept Model has been used as a focal point for states and communities to assess available resources, determine gaps in services, and plan for community change. These activities are best accomplished by a team of stakeholders that cross over multiple systems, including mental health, substance abuse, law enforcement, pre-trial services, courts, jails, community corrections, housing, health, social services, and many others.

Sources

CMHS National GAINS Center (2007). *Practical advice on jail diversion: Ten years of learnings on jail diversion from the CMHS National GAINS Center*. Delmar, NY: Author.

Council of State Governments Justice Center. (2008). *Improving responses to people with mental illness: The essential elements of a mental health court*. New York: Author.

Quandt, W.B., & Griffin, P.A. (2006). Use of the Sequential Intercept Model as an approach to reduce the incarceration of people with serious mental illness. *Psychiatric Services*, 57(16), 1445-149.

Owen, L., Steadman, H.J., & Baum, H. (2002). A best practice approach to community re-entry from jails for inmates with re-occurring disorders: The ABC model. Delmar, NY: National GAINS Center.

www.ccsajustice.org

www.reentrypolicy.org

www.mentalhealthcommission.gov/abcmodel/seq/Sub_Chain.htm



Plan Health & Justice The Intercept

Three Major Responses for Every Community

Three Major Responses Are Needed:

1. **Diversion programs** to keep people with serious mental illness who do not need to be in the criminal justice system in the community.
2. **Institutional services** to provide constitutionally adequate services in correctional facilities for people with serious mental illness who need to be in the criminal justice system because of the severity of the crime.
3. **Reentry transition programs** to link people with serious mental illness to community-based services when they are discharged.

The Sequential Intercept Model has been used by numerous communities to help organize mental health service system transformation to meet the needs of people with mental illness involved with the criminal justice system. The model helps to assess where diversion activities may be developed, how institutions can better meet treatment needs, and when to begin activities to facilitate re-entry.

The GAINS Center

The CMHS National GAINS Center, a part of the CMHS Transformation Center, serves as a resource and technical assistance center for policy, planning, and coordination among the mental health, substance abuse, and criminal justice systems. The Center's initiatives focus on the transformation of local and state systems, jail diversion policy, and the documentation and promotion of evidence-based and promising practices in program development. The GAINS Center is funded by the Center for Mental Health Services and is operated by Policy Research Associates, Inc., of Delmar, NY.

To Contact Us

CMHS National GAINS Center
Policy Research Associates
345 Delaware Avenue
Delmar, NY 12054

Phone: 800.311.GAIN

Fax: 518.439.7612

Email: gains@prainc.com



Substance Abuse and Mental Health Services Administration
Center for Mental Health Services

www.gainscenter.samhsa.gov

the CMHS
National

GAINS
CENTER

CMHS National GAINS Center



Developing a
Comprehensive
for Mental
Criminal
Collaboration:
Sequential
Model

**APPENDIX H – SEQUENTIAL
INTERCEPT MODEL ILLINOIS
ADAPTED**

ADAPTATION OF THE SEQUENTIAL INTERCEPT MODEL for ILLINOIS PSC

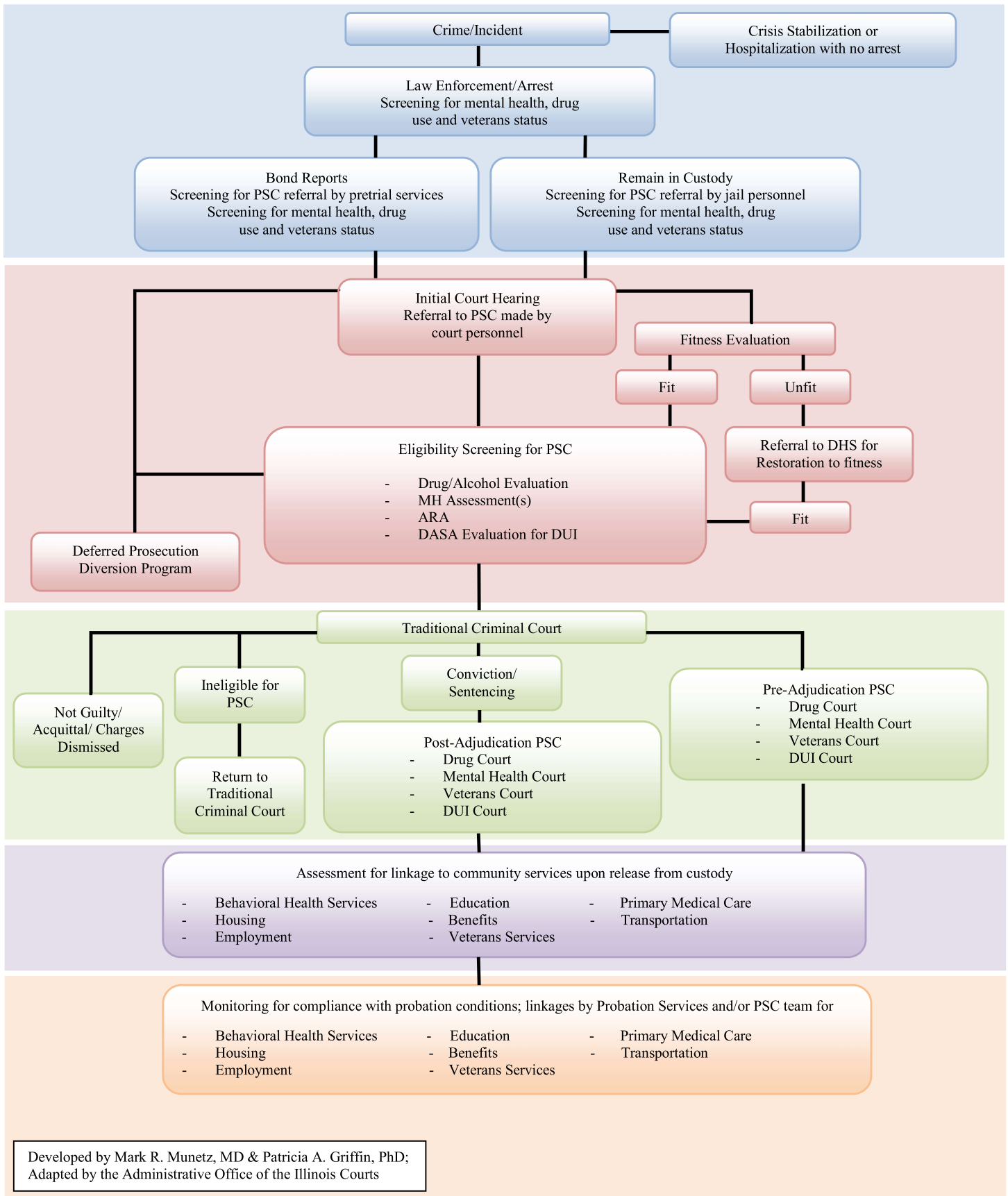
The Sequential Intercept Model* provides a conceptual framework for communities to organize targeted strategies for justice-involved individuals. Within the criminal justice system there are numerous intercept points-opportunities for linkage to services and for prevention of further penetration into the criminal justice system. This model has been found to be especially effective for persons with mental illnesses.

Intercept 1: Contact with Law Enforcement

Intercept 2: First Court Appearance

Intercept 3: Jails/Courts

Intercept 4: Reentry
Intercept 5: Community Corrections



APPENDIX I – SAMPLE OF ADVERSE EVENT PROTOCOL

PROBLEM-SOLVING COURT PROGRAM ADVERSE EVENT PLAN (CONFIDENTIAL)

The adverse event plan seeks to protect all of our participants, past, present and future, their confidential information and reputations; the court, its employees and their reputations; the Problem-Solving Court (PSC) team itself; and its contributing agencies and their reputations; our funding sources; and the integrity of the program itself.

An adverse event could be a criminal act by one of our participants, or a serious injury to a participant, a team member or someone else – in short, anything that would jeopardize the integrity of the program. If an adverse event occurs which does not seriously compromise the integrity of the PSC, information about that event should be disseminated to the team by the local PSC court coordinator.

When information comes to any team member concerning what we believe to be a major adverse event which could compromise the PSC and require a response at some time, that information should be transmitted at once to the local PSC court coordinator. The team should assemble within one hour if the information arrives during working hours and by 10 a.m. the next day if the information arrives during non-working hours. The local PSC court coordinator should notify the presiding judge and all team members. The team meeting will take place in a location designated by the local PSC court coordinator. All PSC team members will provide the local PSC court coordinator with up to date phone and cell phone numbers so they can be contacted promptly.

The team will then designate a spokesperson to respond on behalf of the PSC. In most instances this would be the local PSC court coordinator. If an incident occurs, the court has its own plan and existing protocol should be followed. The team will then consider how to deflect adverse publicity while, of course, not interfering with the case, its participants, or their rights in any way. The National Judge's Leadership Initiative spokesperson may be called upon for assistance. The team may rely upon case studies or graduates to show success in the program. Eligibility criteria and up to date statistics should be readily available to the spokesperson. The local PSC court coordinator shall maintain a file with all the above information.

Agencies may have their own individual responses. Part of their agreement to partner with the PSC program should be to consider the best interest of the PSC program in making their individual response. Individual agencies should not attempt to speak for the PSC program.

Only the designated spokesperson should respond to outside inquiries about individual participants or the program itself on behalf of the PSC.

A written incident report shall be completed by the team member most directly involved in the incident or with the most information about the incident at the earliest possible time. The report shall be kept by the local PSC court coordinator. No copies of the report shall be made for security reasons. Reports may be subject to subpoena if criminal charges or civil lawsuits result from the incident, so the form and detail of the report is important. Thirty days after the initial report, an additional section shall be completed to assist the team in determining how it handles a particular adverse event, its eventual outcome, and how to reduce the risk of similar future events.

A critical incident stress debriefing will be coordinated for the PSC team and will be conducted by [name a designated, qualified agency].

**APPENDIX J – LIST OF
MISCELLANEOUS STATUTES AND
ILLINOIS SUPREME COURT RULES**

LIST OF MISCELLANEOUS STATUTES AND ILLINOIS SUPREME COURT RULES

730 ILCS 166/1 *et seq.* (Drug Court Treatment Act)

730 ILCS 168/1 *et seq.* (Mental Health Court Treatment Act)

730 ILCS 167/1 *et seq.* (Veterans and Servicemembers Court Treatment Act)

42 U.S.C. § 12101 *et seq.* (Americans with Disabilities Act)

725 ILCS 5/104-10 *et seq.* (Code of Criminal Procedure of 1963)

Pub. L. No. 104-191, 110 Stat. 1936 (Health Insurance Portability and Accountability Act of 1996)

42 U.S.C. § 290dd-2 (confidentiality of records)

42 C.F.R., Part 2 (confidentiality of records)

740 ILCS 110/1 *et seq.* (Mental Health and Developmental Disabilities Confidentiality Act)

Illinois Supreme Court Rule 402A (Admissions or Stipulations in Proceedings to Revoke Probation, Conditional Discharge or Supervision)

Illinois Supreme Court Rule 402 (Pleas of Guilty or Stipulations Sufficient to Convict)

725 ILCS 5/114-5(d) (Code of Criminal Procedure of 1963)

APPENDIX K

ILLINOIS SUPREME COURT LANGUAGE ACCESS POLICY

ILLINOIS SUPREME COURT CODE OF INTERPRETER ETHICS

ILLINOIS SUPREME COURT POLICY ON ASSISTANCE TO COURT PATRONS

LINKS TO POLICIES

ILLINOIS SUPREME COURT LANGUAGE ACCESS POLICY:

http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/Language_Access_Policy.pdf

ILLINOIS SUPREME COURT CODE OF INTERPRETER ETHICS:

http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/Illinois_Code_of_Interpreter_Ethics.pdf

ILLINOIS SUPREME COURT POLICY ON ASSISTANCE TO COURT PATRONS:

http://www.illinoiscourts.gov/SupremeCourt/Policies/PDF/Safe_Harbor_Policy.pdf

APPENDIX L – SAMPLE BUDGET

SAMPLE BUDGET FORMAT FOR PSC

Applicants may complete this sample budget format or an existing budget for submission.

COURT NAME: _____ **BUDGET PERIOD:** _____

Line Item	Description	Amount	Funding Source
Personnel Services			
Equipment			
Travel			
Contractual			
Commodities			
Other			
Total			

APPENDIX M – NOTICE OF SUBSTANTIVE CHANGE

NOTICE OF SUBSTANTIVE CHANGE

Standard 2.5 – A PSC that is applying for or has received certification shall give written notice to the AOIC of any change in the PSC judge, local PSC coordinator, PSC name, type of program, location, or policy. Notice of program or operational changes shall be submitted to the AOIC no later than thirty days after the change takes effect. The AOIC may require a new application for certification or site visit based on the change.

Certification is required by the Supreme Court of all Problem Solving Courts in Illinois. Re-certification is required three years from certification. In maintaining Certification, a PSC must inform AOIC when a significant change to the PSC program occurs.

Administrative Office of Illinois Courts
Problem Solving Court Coordinator
Probation Services Division
222 N. LaSalle Street
Chicago, IL 60601
(312)793-3250
Problemsolvingcourts@Illinoiscourts.gov

(Please place a check on the line below, which best describes the area of the PSC program in which you are seeking supplemental approval for a change to the Certification (please refer to the second page for definitions of categories). In the space below, describe the change you are proposing along with the rationale for the proposed change. Follow the format presented in the section of the PSC Certification Application you wish to supplement. For example, if your supplement concerns adopting new PSC Policies and Procedures, please submit a revised page 10, **Operational Policies and Procedures**. Attach additional pages as necessary).

Problem-solving Court Name _____

Presiding Judge _____

Type of Problem-Solving Court:

☐ Mental Health Court

☐ Drug Court

☐ Veterans Court

☐ Other DUI Court

☐ Enhancement(s)

☐ Grant/Award Implantation

☐ Personnel Change
(Complete page 3)

☐ Other

Describe the change:

NOTICE OF SUBSTANTIVE CHANGE

DESIGNATED PROBLEM-SOLVING COURT COORDINATOR

As the designated Problem Solving Court Coordinator of the _____ Court in _____ County located in the Judicial Circuit, I have reviewed the change to the Problem-Solving Court Certification and confirm that the information is true and correct and that the notification is complete.

Name of Problem-Solving Court Coordinator

Signature _____ Date _____

Definitions

Enhancement(s):

Proposal to implement new programming to be offered by existing staff or new staff which should include the following information with/on the form: 1) Name/Title of the new program; 2) Overview of what the program will address, including the identified population to be served, curriculum to be used, and proposed outcomes; 3) Who will be responsible for program oversight/operations; and 4) Fiscal impact, if any, to the PSC program or the state.

Grant Award/Implementation:

Proposal to revise the PSC program utilizing grant funding. Included with/on the form should be: 1) Copy of the grant application; 2) Statement of why the change is being proposed; and, 3) Fiscal impact, if any, to the department or the state.

Personnel Change:

Replacement of an existing position or addition of a new PSC Team member. Included with/on the form should be: 1) Contact information for the new Team member including their new title; 2) Copy of the signed MOU; 3) Training needs of the new team member; and 4) Impact, if any, to the PSC program or the state.

Other:

Proposal to amend the current, approved PSC Certification in areas not previously identified above that would have significant impact(s) on the program, either operationally or fiscally. Included with/on the form should be: 1) Which section of the Certification is being amended; 2) Rationale for the proposed amendment, including the anticipated outcome/relief to be achieved by the amendment; and 3) Fiscal impact, if any, to the PSC program or the state.

PSC TEAM MEMBERS

Copy form to provide information about each team member

Name and Title:

Role/Function on Team:

Agency/Office:

Address:

Phone:

Email:

Name and Title:

Role/Function on Team:

Agency/Office:

Address:

Phone:

Email:

Name and Title:

Role/Function on Team:

Agency/Office:

Address:

Phone:

Email:

Name and Title:

Role/Function on Team:

Agency/Office:

Address:

Phone:

Email:

Name and Title:

Role/Function on Team:

Agency/Office:

Address:

Phone:

Email:

**APPENDIX N – CONSENT FOR
RELEASE/DISCLOSURE OF
CONFIDENTIAL INFORMATION**

IN THE CIRCUIT COURT OF _____ COUNTY, ILLINOIS
PROBLEM SOLVING COURT PARTICIPANT
CONSENT FOR RELEASE/DISCLOSURE OF CONFIDENTIAL INFORMATION

I, _____, Case No. _____, authorize:
(Name of Defendant)

☐ The Presiding Judge _____ and team members of the
_____ Program.
(Name of Court)

☐ _____ and representatives of the _____ County
Adult Probation Department.

☐ _____ and representatives of the _____ County
State's Attorney's Office.

☐ _____ and representatives of the _____ County
Public Defender's Office.

☐ _____ and Behavioral Health Agency representatives.

☐ _____ and representatives of Substance Use Disorder
Treatment Provider.

☐ _____ and representatives of any Veterans Health
Administration (VHA) hospital or treatment facility or other service provider I am referred to
during my participation in the above-named program.

☐ _____ and representatives of the _____ County
Sheriff or any other law enforcement team member.

☐ _____ and representatives of the Chief Judge's Office
and any other person permitted by the presiding judge to attend team staffing(s) for training
and educational purposes.

☐ _____ as Problem Solving Court Coordinator

☐ _____ as _____.

to communicate with and disclose to one another information concerning the following:

Any evaluation, diagnosis, prognosis, hospitalization, treatment, urinalysis result
(including disclosure or test results in open court) or other information concerning my
attendance, progress and compliance with treatment, substance abuse disorders, or
otherwise related to my health or treatment. The purpose of the disclosure is to inform

the court and other named person(s) listed above of my eligibility for treatment and my compliance and progress in treatment pursuant to the conditions of my court ordered participation in treatment.

I understand that my health and Substance Use Disorder (SUD) records are protected under the federal regulations governing Confidentiality of Alcohol and Drug Abuse Patient Records, 42 CFR part 2, and the Health Insurance Portability and Accountability Act of 1996 (HIPPA), 45 CFR Parts 160 & 164, and that my mental health records are protected under the Illinois Mental Health and Developmental Disabilities Confidentiality Act (MHDDCA), 740 ILCS 110/1. I also understand that I may revoke this consent at any time except to the extent that action has been taken in reliance on it, and that in any event this consent expires automatically when there has been a formal and effective termination or revocation of my release from confinement, probation, or parole, or other proceeding under which I was mandated into treatment, or _____.

I understand that I may request a specific list of exactly which records have been disclosed.

I understand that I might be denied services if I refuse to consent to a disclosure for purposes of treatment, payment, or health care operations, if permitted by state law. I will not be denied services if I refuse to consent to a disclosure for other purposes.

I recognize that my review hearings are held in an open and public courtroom and it is possible that an observer could connect my identity with the fact that I am in treatment as a condition of participation in a _____ County Problem Solving Court. I specifically consent to this potential disclosure to third persons.

I understand that if I refuse to consent to disclosure or attempt to revoke my consent prior to the expiration of this consent, that such action is grounds for immediate termination from the _____ County Problem Solving Court in which I am enrolled.

I acknowledge that I have 1) been provided a copy of this consent form, and 2) been advised of my rights, have received a copy of the advisement, and have had the benefit of legal counsel or have voluntarily waived the right to an attorney. I am not under the influence of drugs or alcohol. I fully understand my rights and I am signing this Consent voluntarily.

Dated: _____
(Signature of Problem Solving Court Participant)

Witness: _____
(Position)

PROHIBITION ON REDISCLOSURE OF CONFIDENTIAL INFORMATION

This notice accompanies a disclosure of information concerning a client in substance use disorder or mental health treatment, made to you with the consent of such client. This information has

been disclosed to you from records protected by federal (42 CFR Part 2) and Illinois (740 ILCS 110/1) confidentiality rules/law. Those federal and state rules/law prohibit you from making any further disclosure of this information unless further disclosure is expressly permitted by the written consent of the person to whom it pertains or as otherwise permitted by 42 CFR Part 2 or 740 ILCS 110/1. A general authorization for the release of medical and other information is NOT sufficient for this purpose. The federal and state rules also restrict any use of this information to criminally investigate or prosecute any alcohol or drug abuse or mental health patient.

You may report any violations of your privacy rights to the Department of Health and Human Services. Information and procedures on reporting a violation may be found at www.hhs.gov. Written complaints may be submitted to:

Centralized Case Management Operations
U. S. Department of Health and Human Services
200 Independence Ave., S. W.
Room 509F HHH Building
Washington D. C., 20201

A complaint may be emailed to: ocrcomplaint@hhs.gov.

You may also contact the Illinois Department of Human Services at 1-800-843-6154.

APPENDIX O– AOIC CONTACT INFORMATION

ADMINISTRATIVE OFFICE OF THE ILLINOIS COURTS CONTACT INFORMATION

Administrative Office of the Illinois Courts' website:

<http://www.IllinoisCourts.gov/>

Problem-Solving Court Coordinator

Probation Services Division

222 N. LaSalle Street, 13th Floor

Chicago, Illinois 60601

(312) 793-3250

Problemsolvingcourts@Illinoiscourts.gov