



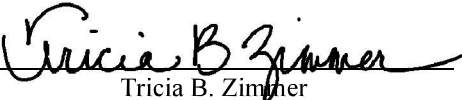
MINNESOTA JUDICIAL BRANCH FIFTH JUDICIAL DISTRICT

Adult Treatment Court Guideline Manual



District Treatment Court Coordinators, Judges, Administration
11/22/2022 Revision

Approved by the Fifth Judicial District Treatment Court Judges on
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This document and its contents are not endorsed by the Minnesota Judicial Council or the National Treatment Court Institute. It was created through a collaborative effort on the part of the Fifth Judicial District treatment court coordinators, judges, prosecutors, defense attorneys, and treatment court team members. The following guideline manual has been designed as a unified guideline for the Fifth Judicial District Adult Treatment Courts and may not pertain to other treatment courts in the District.

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Forward

The following document shall provide a general framework of common principles, policies, and practices for the Fifth Judicial District Adult Treatment Courts, hereinafter known as the Courts. The purpose of these standards and policies is to:

- Minimize discrepancy between and ensure consistency across the Courts.
- Maximize coordination and sharing of resources within the Courts.
- Facilitate coordinated long-range plans for sustainability of the Courts.

Developed through a collaboration of the Minnesota Fifth Judicial District treatment courts, including Blue Earth, Brown, Cottonwood, Faribault, Jackson, Lincoln, Lyon, Martin, Murray, Nicollet, Nobles, Pipestone, Redwood, Rock, and Watonwan Counties (hereinafter the District), the standards address all the elements that are considered essential to the operation of the Courts held in the District. Collectively, they represent a required minimum program model. Specific practices are also described to provide examples of actions that should be taken to ensure conformity across the District.

Treatment Court programs are intended to reflect the unique needs and operational environments of the Treatment Court program jurisdictions. However, there is a need for overall uniformity as to basic components and operational procedures and principles. Therefore, this document is an attempt to outline those fundamental standards and policies to which the District should subscribe.

Treatment Courts represent a non-traditional approach to adult offenders who have been identified as having a moderate to severe substance use disorder. Treatment Courts are built upon a unique partnership between the criminal justice system and the treatment community, one which structures treatment intervention around the authority and personal involvement of a single Treatment Court judge. Treatment Courts are dependent upon the creation of a non-adversarial Courtroom atmosphere where a single judge and a dedicated team of Court officers and staff work together toward a common goal of breaking the cycle of addiction and criminal behavior.

We encourage readers to learn more about Treatment Courts by reading publications and research on Treatment Court outcomes. The following list of websites should help to further increase knowledge of the principles and successes of Treatment Courts.

National Drug Court Institute/National Association for Drug Court Professionals: Contains facts, research, resources, and publications

<http://www.ndci.org/>

National Criminal Justice Reference Service: Contains a wide variety of publications

http://www.ncjrs.org/drug_Courts/publications.html

Minnesota Judicial Branch: Contains information on treatment courts throughout the State

<http://www.mncourts.gov/Help-Topics/DrugCourts.aspx>

History

The first adult treatment court in Minnesota was implemented in Hennepin County in 1997. Several other counties followed suit and have expanded into other specialties including DWI, Veterans, family dependency, juvenile, and mental health courts. As of November 2022, there are seventy (70) operational treatment courts in the State.

The Blue Earth County (BEC) Adult Treatment Court is the oldest treatment court in the Fifth Judicial District. Blue Earth County completed the treatment court planning initiative in 2003-04 and began operations in late 2004. The BEC Adult Treatment Court is a single county team/coordinator program. BEC implemented a Family Dependency Treatment Court in 2008.

In 2006, the Minnesota state legislature appropriated funds to the Minnesota Supreme Court for the purpose of piloting two multi-county Treatment Court programs in the Fifth Judicial District. The first project was developed by Faribault, Martin, and Jackson counties as a “single location multi-county treatment court”. Under this model there is one central location for the treatment court. Participants and the team members from Faribault and Jackson counties travel to court in Martin County. Faribault, Martin, and Jackson implemented a Family Dependency Treatment Court in 2010.

The second project was a “partial traveling criminal justice group” developed by Brown, Nicollet, and Watonwan counties. The judge, compliance officer, probation agent, and coordinator traveled to each court, while individual counties had their own team comprised of county-specific team members and the “traveling group”.

The Southwest Community Treatment Court (SCDC), implemented in 2009, is a collaboration of Lincoln, Lyon, and Redwood counties and the Lower Sioux Indian Community, whose tribal land is in Redwood County. There are two teams: one in Marshall, serving Lincoln and Lyon Counties; and one in Redwood Falls serving Redwood County and individuals living within 10 miles of the Lower Sioux reservation. There is one coordinator who travels between the two sites. This model is a partial traveling criminal justice group.

The Minnesota Cornerstone Treatment Court (MCDC), implemented in 2011, was a collaboration of the counties of Cottonwood, Murray, Nobles, Pipestone, and Rock counties. This collaboration had a rolling implementation process. The first was a single location multi-county treatment court, with participants and the team members from Rock and Nobles, traveling to Nobles County. Cottonwood County operated as a single county treatment court. Murray and Pipestone counties developed a multi-county system in April 2015, where the entire team travels between each county, every other status hearing. There is one coordinator who travels between the counties. The model is a partial traveling criminal justice group.

In 2012, the Fifth Judicial District implemented a district-wide Veterans Treatment Court. This program is designed for U.S. Military Veterans under the same premise as adult treatment court programs. The Fifth Judicial District Veterans Treatment Court is housed in Blue Earth County and open to all eligible Veterans in the District.

Mission

The mission of the Fifth Judicial District adult treatment court programs is:

Treatment Courts in the Fifth Judicial District will enhance public safety by holding offenders accountable for their actions, while assisting them to achieve long-term recovery and become productive members of the community through a collaborative multi-disciplinary team approach.

The motto of the Fifth Judicial District adult treatment court programs is:

Creating a climate for rehabilitation, recovery, and reducing crime.

Values

All adult treatment court programs in the Fifth Judicial District:

- Will implement evidence-based practices, including the National Drug Court Institute (NDCI) [Defining Drug Courts: The Key Components](#), National Association of Drug Court Professionals (NADCP) Adult Drug Court Best Practice Standards, [Volume I](#) and [Volume II](#), and Minnesota Judicial Branch (MJB) Policy 511.1 Drug Court Standards.
- Believe all residents eligible for Treatment Court have a right to Treatment Court no greater than 45 miles from their residence.
- Believe in its ability to protect the public and prevent further criminal activity by providing supervision and services that promote positive behavioral change in substance abusing offenders.
- Believe in an offender's ability to change and provide activities and services designed to facilitate change and help them to become productive members of society.
- Believe co-occurring substance use and mental health services should be provided in an individualized, equitable, and non-discriminatory manner.
- Will be accountable to its stakeholders by using resources in an efficient and effective manner and by demonstrating positive program results.
- Believe everyone who enters treatment court should have access to treatment regardless of their personal financial situation.
- Believe by working together and sharing resources, we can have greater impact on community safety and improve the quality of life for the citizens in our region.

Teams (MJB Policy 511.1(I); NADCP/BPS, Vol. 2, Standard VIII)

The presiding judge and multi-disciplinary team of professionals work collaboratively to address criminal behavior and treat existing mental health, chemical health, and/or behavioral problems by facilitating access to eligible services throughout the community. Each adult treatment court team should include, at minimum, a representative from each of the following disciplines:

- Judge
- Treatment Court Coordinator
- Prosecutor
- Defense Counsel
- Law Enforcement
- Probation
- Substance Abuse Treatment Provider
- Mental Health Treatment Provider

Additional team members may include:

- Substance Use Disorder Assessor
- Social Services Representative
- Peer Recovery Support Specialist
- Ancillary Service Representatives

New team members will receive orientation to the program from the Coordinator and provided sufficient training resources through online webinars and formal team member training sessions. Team members should attend continuing education opportunities to gain up-to-date knowledge about best practices. Opportunities to attend state and national trainings will be offered as funding and resources allow.

Team composition and consistency is associated with significantly better outcomes for participants. All team members will consistently attend pre-court staff meetings to review participant progress, determine appropriate actions to improve outcomes, prepare for review hearings, and attend status hearings as a unified entity. Team members share information as necessary to determine participant progress in treatment and compliance with the conditions of the treatment court program.

Participants shall provide voluntary and informed consent about what information will be shared between team members through a written consent or release of information form. Refusal to sign consent forms or withdrawal of consent permitting essential communications to occur can result in exclusion from the specific treatment program and may be grounds for termination from the treatment court program.

Steering/Stakeholder Committee (MJB Policy 511.1(I))

Each court shall create an executive committee of key officials and policymakers to provide support for treatment court policies and operations, including review and enhancement of the treatment court budget, and to communicate regularly with the county board and/or city council.

Structure (MJB Policy 511.1(III))

The Fifth Judicial District adult treatment courts are created to serve residents in all fifteen counties. Each court is designed to meet the needs of the population it is targeting. The program duration is at minimum 12 months in length with an average of 15-24 months, based on individual case needs. Each program consists of tiered phases and advancement based on meeting clearly outlined criteria. Each treatment court program shall outline their requirements for each phase in their participant handbook.

Supervision (MJB Policy 511.1(VII); NADCP/BPS, Vol. II, Standard VI and Standard VII)

Probation agents work closely with treatment providers, family members, employers, and social service agencies to implement the team approach to participants' recovery. In addition to drug and alcohol use, the treatment court program considers underlying issues which would impair an individual's success in treatment and may compromise compliance with program requirements. It is the probation agent's role to advocate for, refer to, and monitor the services and resources participants need to reach their goals, including:

- Housing assistance
- Vocational or educational services
- Medical or dental services
- Life skills classes
- Public assistance/Medicaid

Cognitive-behavioral criminal-thinking skills programming is an evidence-based practice that has been incorporated into programming for the offender population. The treatment court probation agent will refer participants to and may facilitate cognitive-behavioral criminal-thinking skills programming for treatment court participants.

Field supervision or making home visits is an important element. It is constructive to visit participants in their home situations to assess lifestyles, living arrangements, and recovery. In the early phases of the program, it is optimal if the agent has at least two contacts per week with participants. Random drug testing can also be conducted during field visits.

Treatment (MJB Policy 511.1(VI); NADCP/BPS, Vol. I, Standard V; NADCP/BPS, Vol. II, Standard VI)

Identification and referral to substance use disorder treatment should occur prior to or during the eligibility determination process. Participants should enter a treatment program as soon as possible following the assessment. If this is not possible, the team and participant will develop an interim care plan that addresses housing, probation contact, court appearances, support group meetings, and other resources the team deems necessary.

Participants will be assessed for co-occurring disorders and matched to appropriate ancillary services, including mental health treatment and trauma-related services. The team will have ongoing communication with treatment providers in reference to individual participants' progress in treatment services. The treatment provider will provide participant progress reports and report any change of level of treatment, goals achieved, new areas of concern, or behaviors to the treatment court team.

The Court expects all treatment providers are providing evidence-based treatment curriculum and maintaining licensing standards as required by the State of Minnesota.

Drug and Alcohol Testing (MJB Policy 511.1(V); NADCP/BPS, Vol. II, Standard VII)

Drug and alcohol test results will be used to assist the court and treatment team in evaluating the participant's progress in the program.

- Treatment Court participants will be randomly tested for drugs and/or alcohol as phase requirements indicate or when there is a suspicion of drug and/or alcohol use. Testing may occur at any time of day or night and may be administered by any Team representative or contracted provider.
- Tests will be randomly sent to a lab to test for other substances not included in the field tests regularly administered.
- When available, all field tests will examine specimens routinely for evidence of dilution and adulteration. Urine specimens should also be examined for creatinine and specific gravity to detect adulterated or diluted test specimens.
- Only certified laboratories will be used to confirm positive field urine tests.
- Late, missed, refused, and adulterated tests are considered positive and will be sanctioned.
- Policies and procedures for collecting and processing drug and/or alcohol tests will be followed according to established protocols of each participating county.
- A testing call-in line (TestDay Lite, Black Dog, etc.) will be utilized, and participants will be assigned a code or color. Each participant is required to call the testing line daily. If their code/color is selected, they shall report to their designated testing location during the hours specified by the testing protocol for their treatment court program for testing.
- If a participant tests positive and denies use, the sample will be sent to the designated lab for confirmation. Proper "chain of custody" procedures will be followed.
- If a participant admits to drug or alcohol use or a test is confirmed positive, the treatment court team will be notified to determine the appropriate intervention and/or sanction.

It is expected participants of the Fifth Judicial District Treatment Courts will remain abstinent from all non-prescribed, mood-altering substances and homeopathic remedies, including those not regulated by the Food and Drug Administration. It is understood there may be circumstances in which a participant may need to take addictive or controlled substances for medical, psychiatric, or treatment reasons. Should a participant be prescribed an addictive or controlled medication, by a qualified physician, based on medical necessity, they are required to:

- Obtain a note from their prescribing physician verifying their knowledge the participant has an active substance use disorder, is on probation, and is enrolled in treatment court.
- Immediately inform their treatment provider and supervising agent of all prescribed medications and changes in those medications.
- Sign a consent form in accordance with the requirements of 42CFR, Part 2 authorizing the release of patient identifying information between their supervising agent, treatment provider, and prescribing physician.

If there is insufficient information from the prescribing physician or objection by the treatment provider, the Court may overrule the physician's medical opinion. In such instances, the participant must seek alternative treatment options.

Incentives, Sanctions, and Therapeutic Interventions (MJB Policy 511.1(VIII); NADCP/BPS, Vol. I, Standard IV)

In applying incentives and sanctions, the goal is changed behavior. Consequences for behavior, positive and negative, are predictable, fair, consistent, and administered in accordance with evidence-based principles of effective behavior modification. Participants' ability to perceive fairness in incentives and sanctions is extremely important. A list of possible incentives and sanctions, and examples of behaviors resulting in incentives and sanctions, is included in the participant handbook, and will be explained to participants during orientation.

Progress is measured not only by abstinence and compliance with treatment, but with overall compliance with court rules. Incremental progress for the basic tenants of treatment court- showing up, trying hard, and being honest- will be recognized. Small rewards for incremental successes have an important effect on a participant's sense of accomplishment. The Coordinator will, as funding allows, purchase incentives and maintain a tracking system for purchases and distributions. The Coordinator will follow MN Judicial Branch policies and procedures in accepting any gifts or donations to the treatment court program.

Sanctions need not be painful, humiliating, or injurious, but they must be of sufficient intensity, and they must be delivered as soon as possible after an infraction. Sanctions must be imposed at every instance of infraction, otherwise the perception of fairness is at risk. Although treatment courts recognize those with addiction have a propensity to relapse, *continuing use is not condoned*. The court will impose appropriate responses for continuing drug or alcohol use, and responses will increase in severity for continued failure to abstain.

Participants should perceive a difference between judicial sanctions and therapeutic responses to avoid negative associations with treatment. For example, a relapsing participant, in the early phases of the program, may require a higher level of treatment and should receive explanation the adjustment is a therapeutic intervention and not a punishment. In some instances, participants should simultaneously receive a program sanction and a therapeutic intervention, with distinction for reasoning.

Target Population (MJB Policy 511.1(II); NADCP/BPS, Vol. I, Standard I)

Eligibility and exclusion criteria for the treatment court are predicated on empirical evidence indicating which types of offenders can be treated safely and effectively. Candidates are evaluated for admission to the treatment court using evidence-based assessment tools and procedures. The treatment court team does not apply subjective criteria or personal impressions to determine participants' suitability for the program.

Participant eligibility for adult treatment court includes:

- 18 years of age or older at the time of the offense
- US Citizen or qualified alien
- Resident of the court referred
 - Homelessness, incarceration, or use of temporary housing shall not be a dispositive factor in determining whether an offender meets residency requirements and shall be weighed in the balance of other residency considerations, including history of residency, employment, family ties, and location of prior and current criminal proceedings
- Diagnosed with a substance use disorder consistent with the most current DSM criteria
- Eligible for substance use disorder treatment and have a source of payment for treatment (consolidated funds, insurance, etc.)
- High risk and high needs as determined by the Risk and Needs Triage (RANT) or DUI-RANT (unless alternate tracks structured to evidence-based practices are established)
- Willing and able to comply with the treatment court requirements (within guidelines of the Americans with Disabilities Act)
- People with a history of military service may be referred to the Veterans Treatment Court

Disqualifications for adult treatment court include:

- Current or prior offenses suggesting the defendant cannot be managed safely or effectively in treatment court, including:
 - Felony level criminal sexual conduct
 - Any felony-level crime that resulted in death
 - The team may overlook a disqualifying offense if there is substantial evidence to believe that the offender has been rehabilitated and there are no contact restrictions.

- Defendants charged with drug sales should not be routinely excluded, provided the offender was dealing to support their addiction and not solely for financial gain
- Anyone currently working as a confidential informant with any law enforcement agency
- Severe mental health, cognitive, or medical conditions (that prevent the ability to understand or complete core concepts of the program) for which resources to address the needs are not available
- Probation time remaining of less than two (2) years
- Prosecutors maintain the right to determine if a defendant's criminal history and current or pending criminal charges render them ineligible for treatment court

The Fifth Judicial District adult treatment courts understand relapse is a part of the addiction cycle and can lead to a return in criminal thinking and behavior resulting in arrest or violation of probation. Treatment court provides the highest level of supervision and support to offenders with addiction. At the discretion of the treatment court program, a person with one (1) prior graduation from treatment court will be assessed by the team for reentry on a case-by-case basis.

In addition to general participant eligibility, previous graduate eligibility includes:

- A minimum of two (2) years since graduation of a treatment court program
- Stay of execution is in place
- Completed application process and team acceptance

Participation Fee

In accordance with Minnesota Statute 357.42 Treatment Court Fees, the Fifth Judicial District shall assess an \$800.00 fee for participation in an adult treatment court program. The participation fee is owed by the participant to offset the cost of the program. All treatment court fees are to be paid in full prior to successful commencement of the program. Revenue Recapture is utilized for any outstanding fees due to termination from the treatment court program.

All treatment court participation fees will be collected by Court Administration in the District counties or Court Payment Center and deposited into a separate account for exclusive use by the program. Funds will be used in accordance with MJB Policy 511.2(a) Treatment Court Expenditures and may be used to pay for program costs, incentives, local training needs, and drug testing.

Termination (MJB Policy 511.1(III); NADCP/BPS, Vol. I, Standard IV)

Participants may be terminated from the program upon the occurrence of the following:

- Filing of a new criminal charge for any violent offense
- Conviction of any new felony offense

- Repeated, documented program violations indicating willful failure to comply with the program requirements, such as:
 - Failure to attend court hearings
 - Failure to attend probation meetings, treatment sessions, or other court-ordered programming
 - Failure to comply with testing requirements
 - Failure to comply with curfew requirements
- Absconding from the program:
 - A warrant will be issued for a participant who fails to maintain contact with probation and/or the court
 - Termination will occur if the participant is on warrant-status for 30 days

In lieu of termination, the following actions may be taken:

- A probation violation may be filed requesting amended sentencing, including:
 - Revocation of a stayed sentence
 - Additional jail time
 - Electronic monitoring
- A corrective action plan clearly identifying and defining the expectations for the participant may be established
 - The participant shall be allowed to review the plan with defense counsel prior to signing
 - The plan shall include timelines for review and completion
- A participant may be placed on administrative suspension pending completion of an internal investigation or criminal proceedings

The following procedure shall be utilized to address treatment court terminations:

1. The team will identify a participant approaching the threshold for termination and will warn the participant they are at-risk of termination
2. At the discretion of the team, the participant may be given an opportunity to correct the behaviors placing them at risk for termination
3. The participant will have an opportunity to discuss with defense counsel the reason(s) they are facing termination and the rights retained by the participant
4. The Judge will make the final decision as to whether the participant will remain in treatment court or be terminated
 - a. The Judge will take into consideration the comments and consensus of treatment court team members
 - b. The participant will have an opportunity to be heard by the Judge
 - c. The decision shall be based upon a determination the participant poses an immediate risk to public safety, is unwilling or unable to engage in treatment court programming, or is too impaired to benefit from the programming available in the community
5. If terminated, any remaining participation fee balance will be referred to Revenue Recapture

6. If terminated, the case will proceed to regularly scheduled District Court calendar for a probation violation hearing
 - a. The participant shall receive a copy of the probation violation report, which contains the grounds for termination from the treatment court program
 - b. The participant shall be afforded due process rights
 - c. Per the Minnesota Court of Appeals decision in *State v. Travis William Mylo Cleary*, A15-1493, File No. 42-CR-13-948 (July, 2016), “When the sole basis for revoking probation is a probationer’s termination from drug court and the drug court judge participated in the drug court team’s decision to terminate the probationer from drug court, a probationer is entitled to have a judge other than the drug court judge preside over the probation revocation hearing.”
7. If the participant is unable to complete programming because adequate treatment is unavailable to meet the participant’s clinical needs, the Judge can make the determination to issue an administrative discharge
 - a. The outcome will not be considered an unsuccessful termination from treatment court
 - b. The participant shall receive credit for their efforts in the program and should not receive an augmented sentence or disposition
 - c. Any remaining participation fee balance will be referred to Revenue Recapture or waived, at the discretion of the program

Transfer

- A current participant may request to transfer to another treatment court prior to moving to the prospective county
- Upon agreement of both the current treatment court program and accepting treatment court program, the Judge may grant the transfer request
 - The transfer shall not occur until residency in the accepting county is established
- The exiting Coordinator will ensure the transfer order is complete and filed
- The intake Coordinator will complete an out-of-county treatment court fee form to ensure participation fees are directed to the appropriate court funds

Record Keeping

The District will follow the guidelines for program evaluation as required by any state or federal funding sources. The management information systems to be utilized by the Treatment Courts are Tyler Supervisory, MNCIS, and CSTS. Treatment Court files will be maintained separate from traditional case files. Treatment information and progress reports will be kept separate from court files, by one or more of the methods described below:

- Maintained in a separate treatment file, located in the Judge’s or Coordinator’s office
- Shredded after team meetings and/or Treatment Court sessions
- Maintained in locked cabinets, separate from the court files

Ethics and Confidentiality

Treatment courts alter the traditional relationship between justice system officials and treatment providers. Participants may waive certain rights to enter a treatment court program; however, the fundamental right of each participant to representation and due process should not be jeopardized. Eligible participants must be given the opportunity to consult with an attorney prior to entering the program. Participants should be clearly informed of the requirements of the program, including possible sanctions that may be imposed for noncompliance. While the treatment court team may make recommendations regarding incentives, sanctions, therapeutic interventions, etc., all judicial decisions remain the responsibility of the judge.

Two federal laws and a set of regulations (42 U.S.C. § 290dd-3, 42 U.S.C. § 290ee-3, and 42 C.F.R. Part 2) guarantee the strict confidentiality of information about persons – including participants – receiving alcohol and substance abuse assessment and treatment services. These laws and regulations are designed to protect patients’ privacy rights to encourage access to treatment and is applicable to most problem solving or specialty court programs. These regulations state information cannot be disclosed without written consent of the participant, except for medical emergencies and program evaluations.

Refusal to sign consent for disclosure: Participants who refuse to sign consent or waiver forms permitting essential communications to occur can be excluded from treatment or provided treatment on a temporary basis in the hope that resistance to signing the consent or waiver forms will evaporate as treatment proceeds. Continued refusal to sign consent or waiver forms by the participant will be grounds for termination from the specific treatment program and from the treatment court.

Mandated Reporting

Team members shall refer to and abide by Minnesota Statutes, chapters 260E and 626.557, and report instances that fall under the category of maltreatment of minors or vulnerable adults as defined by statute.

Grievance Policy

Participants are notified they have the right to file a grievance if they believe they have been treated unfairly or there is a conflict existing between the participant and a team member. A grievable event includes any form of unfair treatment, harassment, bullying, or disrespect. A grievance shall not apply to situations that may result in a participant’s termination from the program. All parties involved in the conflict will be questioned and given the opportunity to present their respective arguments.

A participant wishing to file a grievance will be directed to contact the treatment court coordinator. If the coordinator is the source of the complaint, the participant will be directed to the Fifth Judicial District Lead Treatment Court Coordinator, Heather Kirchner, 507-295-1019 or the Fifth Judicial District Deputy Administrator, Sonja Kruger, 507-594-3050.