

# Monroe County OWI Treatment Court



## Participants Handbook

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## **I. INTRODUCTION**

### **Welcome to the OWI Treatment Court Program!**

This handbook is designed to answer questions, address concerns, and provide general program information. Participants are expected to follow the instructions given by the OWI Treatment Court team, led by the Treatment Court Judge and comply with the individualized treatment plan developed for you by the OWI Treatment Court Team.

This handbook details what is expected of you as a participant and reviews general information. Participants are encouraged to share this handbook with family/friends so they are familiar with what is required of you.

The OWI Treatment Court program is a partnership with the criminal justice system and the treatment community, which structures treatment intervention around the authority and personal involvement of the Judge. The OWI Treatment Court program creates a non-adversarial courtroom atmosphere where a single judge and a dedicated Team work together toward a common goal of breaking the cycle of addiction.

Because of the issues that are present in working with chemically dependent criminal offenders, treatment, and rehabilitation strategies are evidenced based. The Program recognizes the following:

- Substance dependent individuals are most vulnerable to successful intervention when in crisis of initial arrest/incarceration; intervention is immediate and up-front.
- Preventing gaps in communication and ensuring accountability are critical; court supervision is coordinated/comprehensive.
- Addiction to mood altering substance is a longstanding, debilitating, and an insidious condition; treatment is long-term and comprehensive.
- Addiction seldom exists in isolation from other problems that undermine rehabilitation; treatment includes integration of other services/resources such as mental health and education and vocational assessments, training and job placement.
- Relapse and intermittent advancement are part of the recovery process; progressive incentives and sanctions are integral to the Program strategy.

#### **A. Mission Statement**

By providing intensive monitoring, individualized treatment and comprehensive services to substance dependent OWI offenders, we seek to enhance public health and safety for the community and enable participants to break the cycle of addiction and reduce recidivism.

## **B. Program Description**

The OWI Treatment Court is a treatment based alternative to jail/prison. The justice system works with treatment agencies and other rehabilitation services to provide a participant with all possible tools required to get into and stay in recovery, and lead a productive, crime free, healthy, happy life.

## **C. OWI Court Team**

|                        |                     |                             |
|------------------------|---------------------|-----------------------------|
| Circuit Court Judge    | Treatment Personnel | Prosecutor (DA's Office)    |
| OWI Court Coordinator  | Case Manager        | Sherriff's Department       |
| Probation/Parole Agent | Public Defender     | Other-as determined by Team |

## **D. Program Goals**

- a. Decrease number of OWI offenses
- b. Decrease number of other substance related crimes
- c. Reduce costs associated with criminal case processing and re-arrest
- d. Promote public safety by reducing recidivism rates of substance-related offenses
- e. Hold offenders accountable by offering effective sanctions, rewards, and treatment programming
- f. Introduce offenders to an ongoing process of recovery designed to achieve total abstinence from alcohol and other illicit/illegal drugs
- g. Promote self-sufficiency and empower chemically dependent individuals to become productive and responsible members of the community.

## **E. Program Key Components**

- a. Integrate alcohol/other drug treatment services with justice system case processing.
- b. Use a non-adversarial approach; prosecution and defense counsel promote public safety while protecting participants' due process rights.
- c. Identify eligible participants and place them in the program as soon as possible.
- d. Provide access to alcohol, drug, and other related treatment and rehabilitation services
- e. Monitor abstinence by frequent and random alcohol and other drug testing
- f. Govern compliance through a coordinated strategy
- g. Provide ongoing judicial interaction with each participant
- h. Monitor/evaluate/measure achievement of program goals and effectiveness
- i. Promote effective planning, implementation, and operations through interdisciplinary education
- j. Forge partnerships among Courts, public agencies and community-based organizations to generate area support and increases effectiveness.

## **F. Additional Program Information**

- a. Immediate Intervention: the sooner a person is placed in treatment following a crisis, the more successful the outcome. In the program, a person can move from arrest or other court action to treatment swiftly.

- b. Voluntary Program Entry: persons who voluntarily commit to the Program are more likely to succeed.
- c. Graduated Incentives/Sanctions: accountability is a key to recovery/continued success.
- d. Program Phases for Short Term Goals: the Program is divided into core phases in order to provide short term goals for participants. Goals are developed for the person to increase chances for success. Participants meet regularly with the Judge to review their progress and address positive/negative behaviors. As the participant successfully completes a phase, s/he is rewarded by not having to continue in such an intensive program.

## **II. Eligibility and Intake:**

### **A. Eligibility Criteria**

- a. At time of arrest must be either: 1) a resident of Monroe County; or 2) a resident of a county adjacent to Monroe County and become a Monroe County resident by the date given in writing by the OWI Treatment Court Judge. Candidates that do not meet the above criteria must include in their application detail of their ties to Monroe County to be considered. Regardless, all candidates must be a Monroe County resident by any date given in writing by the OWI Treatment Court Judge and must remain a resident of Monroe County throughout his/her participation in OWI Treatment Court.
- b. 18 years of age or older
- c. Convicted of a felony OWI offense 6<sup>th</sup> or less. Out of County convictions may be eligible on a case to case basis.
- d. For 4<sup>th</sup> Offenses: if alcohol, the BAC based on test result (not PBT) taken by law enforcement, is .20 or greater. If restricted controlled substances on test result, must be substance other than THC.
  - i. If given an OWI Court Treatment Offer by the District Attorney or advised they can apply for OWI Treatment Court they must complete the application process for OWI Treatment Court and be denied before the OWI 4<sup>th</sup> Program would be considered an option.
- e. Post-conviction or ATR status on case by case basis provided meets above criteria
- f. Agree to abide by OWI Court Program rules
- g. Meet diagnostic criteria for substance dependency
- h. Meet admissions criteria pursuant to CARS assessment
- i. Comply with all deadlines set in writing by the OWI Treatment Court Judge unless an extension is requested by the deadline and an extension is granted
- j. Supervised by Department of Corrections once sentenced

### **B. Exclusionary Provisions**

- a. The team will consider:
  - i. Prior criminal offenses
  - ii. Substance abuse treatment history
  - iii. Present offense factors (including victim's interests)
  - iv. Additional factors may also be taken into consideration in making exclusionary determinations
- b. Offense/offender characteristics that create an automatic bar to admission include:
  - i. Individuals that have multiple 5<sup>th</sup> or higher offenses pending are excluded

- ii. Offenses that are deemed violent pursuant to the TAD Violent Offender restriction. Wis. Stat 165.95 Alternatives to incarceration; grant program
  - a. The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm
  - b. The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death or serious bodily harm
- iii. Offenders who are deemed to be involved in “drug distribution”:  
Drug Distribution is defined as:
  - a. In a pending charge an applicant shall be excluded if:
    - i. The applicant is charged with a felony: (1) manufacture/delivery of a controlled substance; or (2) possession with intent to deliver a controlled substance; and
    - ii. The total weight of the controlled substance (as determined at the time of charging) exceeds the following threshold amounts:
      - 1. 5 grams of heroin;
      - 2. 5 grams of fentanyl;
      - 3. 10 grams of cocaine;
      - 4. 10 grams of methamphetamine;
      - 5. 10 grams of any other controlled substance; or
      - 6. 1000 grams of THC.
      - 7. Any of the above charges may include party to a crime (PTAC) or conspiracy charges
      - 8. \*A “pending charge” is defined as a pending criminal charge in any state or federal jurisdiction. If multiple cases are pending, all pending charges are evaluated for exclusion purposes.
  - b. For a “prior conviction” an applicant shall be excluded if:

- i. The applicant has been convicted of a felony: (1) manufacture/delivery of a controlled substance; or (2) possession with intent to deliver a controlled substance; and
- ii. The total weight of the controlled substance (as determined at the time of conviction) exceeds the following threshold amounts:
  1. 5 grams of heroin;
  2. 5 grams of fentanyl;
  3. 10 grams of cocaine;
  4. 10 grams of methamphetamine;
  5. 10 grams of any other controlled substance; or
  6. 1000 grams of THC.
  7. Any of the above convictions may include party to a crime (PTAC) or conspiracy convictions.
  8. A “prior conviction” is defined as a prior criminal conviction in any state or federal jurisdiction within the last five (5) years. One (1) prior conviction is sufficient, but dismissed/read in (DRI) charges are not considered. The five (5) year exclusionary period is calculated from the date of the pending charge to a date five (5) years prior, excluding any time the applicant spent in custody during that period. If multiple charges are pending, the five (5) year exclusionary period shall be calculated from the date of the earliest pending charge.

c. Additional factors may also be taken into consideration

C. **Final Decision:** Treatment court decisions are final. For a decision to be reconsidered, the candidate must show specific circumstances that have changed since the decision that could have impacted the team’s determination and submit a letter to the OWI Treatment Court Judge describing those changes.

D. **Intake/Referral:** Participant and their Attorney will receive a letter from the Treatment Court Judge indicating that they are able to go through the intake



process. It is important to be mindful of the dates listed on this letter and follow all guidelines and requirements.

**a. Intake with Case Manager**

- i. If a potential participant meets Program criteria, s/he is given 10 days from the date of the Treatment Court Judge's letter to schedule an intake interview with the case manager. Forms (attached) are to be completed at the interview:
  1. Bio-Psycho-Social Intake—General information regarding personal data and initial alcohol and/or drug use.
  2. Participants Handbook—Detailed explanation of court expectations and processes.
  3. Rights/Information Waiver—Waiver of personal/patient rights to allow for the sharing of relevant health information to include, but not limited to, health and substance abuse records.
  4. Referral—Summary of gathered information and general referral to Monroe County Human Services for DSP and related purposes.
  5. Risk/needs assessment—An evidence-based risk/needs assessment will be completed on incoming participants.
  6. Gift Card Agreement—agreement related to the acceptance and use of gift cards as incentives in the program
  7. Drug Testing Rules—rules related to drug and alcohol testing requirements
  8. OWI Court Rules of Contract—acknowledgment of expectations and rules of the program
  9. Ex parte waiver—acknowledgement related to the Judge's interactions with clients.
  10. Such information will be included in the candidate file

**b. Intake with Human Services Assessment and Recommendations:**

- i. If the potential participant meets Program criteria, s/he is given a date approximately 6 weeks from the date of the Treatment Court Judge's letter to complete his/her substance abuse assessment.
- ii. The information gathered in the intake appointment as well as, any additional information that the Case Manager deems relevant, will be copied to the person doing the substance abuse assessment.
- iii. After appropriate fees have been paid or other arrangements have been made, the person conducting the assessment will make an appointment date/time with the candidate and perform such substance abuse assessment.

**c. Team Decision**

- i. At the next regularly scheduled Team meeting, recommendations from all persons familiar with the candidate shall be shared with the Team.
- ii. A candidate must meet all criteria set forth in the Program policy to be eligible to be accepted. After a full discussion, the Team will vote whether to accept the candidate. To be accepted the candidate must receive a majority of the votes of the team members present.

**d. Notification:**

- i. The Treatment Court Judge shall notify the candidate by letter whether s/he has been accepted.
- ii. If the candidate has been accepted, the Treatment Court Judge shall give the candidate 30 days from the date of the letter to enter his/her plea with the Treatment Court Judge.

### **III. General Information**

#### **A. OWI Court Proceedings**

- a.** The OWI Court calendar is a priority and is a specialized, separate court operating on a bi-weekly basis and is dedicated to the assessment, treatment, and supervision of candidates.
  - i.** OWI Treatment Court is held in the Branch I Courtroom bi-weekly, on alternating Wednesdays starting at 2:45pm. Participants will be advised which court sessions they will need to attend.
- b.** Participants have the right to request the presence of defense counsel at any point in the Treatment Court process.
  - i.** The participant is responsible for the cost and hiring of their own defense counsel

#### **B. Release of Information**

- a.** Participants are required to sign a release authorizing the disclosure to the Team of health, medical, mental health, AODA, criminal, employment, educational, and any other relevant records.
- b.** A release will be signed to allow release of information to Probation and Parole if participants starts OWI Treatment Court prior to sentencing.
- c.** HIPPA privacy rules are complied with to protect personal health information.
- d.** Participants sign the release at the Program screening and it is updated as needed.
- e.** Failure to sign necessary releases will result in Program exclusion.

#### **C. Confidentiality**

- a.** OWI Court files are separate/distinct from Circuit Court and District Attorney files.
- b.** All OWI Court files are confidential and not open to the general public.
- c.** OWI Court files shall be under the sole control of the OWI Treatment Court Coordinator or Case Manager

#### **D. Due Process**

- a.** The OWI Treatment Court Team and the Participant understand the due process rights within a Treatment Court are separate from DOC supervision and revocation procedures.

#### **E. General Procedures—EMP and House Arrest**

- a.** On EMP: Participants are responsible for the requirements of that program as set forth by the Monroe County Justice Department and the Monroe County Jail. Participants will be required to comply with directives from Electronic Monitoring staff and participate in both programs alcohol and drug testing.

- b. On House Arrest:** Participants are responsible for the requirements of that program as set forth by the Monroe County Sheriff and the Monroe County Justice Department. Participants will be required to comply with directions from Electronic Monitoring staff and participate in both programs alcohol and drug testing.

#### IV. Treatment Court Phases

##### A. Three Phases (Track 1 - All offenses except 5<sup>th</sup> or 6<sup>th</sup> offenses committed after 3/1/2020)

a. **Phase I:** The minimum requirements for successful completion of Phase I include:

- i. Minimum 180 days (6 months)
- ii. Comply with individualized treatment plan
- iii. Comply with testing required by the Team
- iv. Court appearance bi-weekly
- v. Four (4) Support group meetings per week; at least two (2) meetings must be approved self-help group; at least (2) must be in person
- vi. Comply with Probation rules/conditions
- vii. Meet with case manager as directed
- viii. Comply with curfew (once off of EMP, curfew for Phase I is 10pm-6am unless approved for work, treatment, or testing purposes if approved by the Team).
- ix. Make sufficient payments toward all required fees/costs as approved by the Team
- x. Minimum 90 days consecutive sobriety in the community unless approved by the Team
- xi. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the Team
- xii. Comply with all Team directives

b. **Phase II:** The minimum requirements for successful completion of Phase II include:

- i. Minimum 180 days (6 months)
- ii. Comply with individualized treatment plan
- iii. Comply with all testing required by treatment team
- iv. Court appearance(s) as determined by the Team but not less than once monthly.
- v. Three (3) support group meetings per week; at least two (2) must be approved self-help group; at least two (2) must be in person
- vi. Comply with Probation rules/conditions
- vii. Meet with case manager as directed
- viii. Comply with curfew (Curfew for Phase II is Midnight-6am unless approved for work, testing, or treatment purposes or approved by the Team)
- ix. Must participate in 20 hours of meaningful activities weekly; may include volunteering in an appropriate setting as approved by the Case Manager, employment, educational opportunities, workshops and other approved activities
- x. Make sufficient payments toward all required fees/costs as approved by the Team.

- xi. Minimum 90 days of consecutive sobriety in the community unless approved by the Team
- xii. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
- xiii. Comply with all Team directives

c. **Phase III:** The minimum requirements for successful completion of Phase III include:

- i. Minimum 180 days (6 months)
- ii. Complete all required assessments
- iii. Comply with individual treatment plan
- iv. Comply with all testing required by treatment team
- v. Court appearance(s) as determined by the Team but not less than once monthly.
- vi. Two (2) support group meetings per week; all meetings must approved self-help group; at least one (1) must be in person
- vii. Comply with Probation rules/conditions
- viii. Meet with case manager as directed
- ix. Must participate in 20 hours of meaningful activities weekly; may include volunteering in an appropriate setting as approved by Case Manager, employment, educational opportunities, workshops and other approved activities
- x. Pay all required fees/costs. OWI Treatment Court fees must be paid in full prior to graduation.
- xi. Completed graduation assignment; consult with the Case Manager regarding details of your assignment. The assignment will be provided to the team at the OWI Court session at least two weeks prior to scheduled graduation.
- xii. Min. 120 days consecutive sobriety in the community unless approved by the team
- xiii. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
- xiv. Comply with all team directives

**B. Four Phases (Track 2—All 5<sup>th</sup> or 6<sup>th</sup> offenses committed after 2/28/2020)**

a. **Phase I:** The minimum requirements for successful completion of Phase I include:

- i. Minimum 180 days (6 months)
- ii. Comply with individualized treatment plan
- iii. Comply with all testing required by the Team
- iv. Court appearance bi-weekly
- v. Four (4) Support group meetings per week; at least two (2) meetings must be approved self-help group; at least two (2) must be in person
- vi. Comply with Probation rules/conditions once sentenced
- vii. Meet with case manager as directed
- viii. Comply with House Arrest Rules

- ix. Make sufficient payments toward all required fees/costs as approved by the Team.
  - x. Minimum 90 days consecutive sobriety in the community unless approved by the Team
  - xi. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
  - xii. Comply with all Team directives
- b. **Phase II:** The minimum requirements for successful completion of Phase II include:
- i. Minimum 180 days (6 months)
  - ii. Comply with individualized treatment plan
  - iii. Comply with all testing required by treatment team
  - iv. Court appearance(s) as determined by the Team but not less than once monthly.
  - v. Four (4) support group meetings per week; at least two (2) must be approved self-help group; at least two (2) must be in person.
  - vi. Comply with Probation rules/conditions once sentenced
  - vii. Meet with case manager as directed
  - viii. Comply with House Arrest Rules
  - ix. Comply with curfew (Curfew for Phase II if off House Arrest is 10:00 p.m.-6am unless approved for work, testing, or treatment purposes or approved by the Team)
  - x. Must participate in 10 hours of meaningful activities weekly; may include volunteering in an appropriate setting as approved by the Case Manager, employment, educational opportunities, workshops and other approved activities
  - xi. Make sufficient payments toward all required fees/costs as approved by the Team.
  - xii. Minimum 90 days of consecutive sobriety in the community unless approved by the Team
  - xiii. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
  - xiv. Comply with all Team directives
- c. **Phase III:** The minimum requirements for successful completion of Phase III include:
- i. Minimum 180 days (6 months)
  - ii. Complete all required assessments
  - iii. Comply with individual treatment plan
  - iv. Complete Thinking for a Change or other approved cognitive thinking group
  - v. Comply with all testing required by treatment team
  - vi. Court appearance(s) as determined by the Team but not less than once monthly.

- vii. Three (3) support group meetings per week; all meetings must be approved self-help group; at least one (1) must be in person .
  - viii. Comply with Probation rules/conditions
  - ix. Meet with case manager as directed
    - x. Must participate in 20 hours of meaningful activities weekly; may include volunteering in an appropriate setting as approved by the Case Manager, employment, educational opportunities, workshops and other approved activities
    - xi. Make sufficient payments toward all required fees/costs as approved by the Team.
    - xii. Minimum 90 days consecutive sobriety unless approved by the team
    - xiii. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
    - xiv. Comply with all team directives
- d. **Phase IV:** The minimum requirements for successful completion of Phase IV include:
- i. Minimum 180 days (6 months) THIS MAY BE REDUCED TO AS LITTLE AS 90 DAYS (3 MONTHS AT TEAM DISCRETION
  - ii. Complete all required assessments
  - iii. Comply with individual treatment plan
  - iv. Comply with all testing required by treatment team
  - v. Court appearance(s) as determined by the Team but not less than once monthly.
  - vi. Two (2) support group meetings per week; all meetings must be approved self-help group; at least one (1) must be in person .
  - vii. Comply with Probation rules/conditions
  - viii. Meet with case manager as directed
  - ix. Must participate in 20 hours of meaningful activities weekly; may include volunteering in an appropriate setting as approved by the Case Manager, employment, educational opportunities, workshops and other approved activities
  - x. Pay all required fees/costs. OWI Treatment Court fees must be paid in full prior to graduation.
  - xi. Completed graduation assignment; consult with the Case Manager regarding details of your assignment. The assignment will be provided to the team at the OWI Court session at least two weeks prior to scheduled graduation.
  - xii. Minimum 120 days consecutive sobriety unless approved by the team
  - xiii. If required to physically sit time in jail, no credit will be applied toward the Phase date unless approved by the team.
  - xiv. Comply with all team directives



**C. Graduation:**

- a. In order to successfully graduate the Monroe County OWI Treatment Court Program the participant must complete a graduation assignment and return it prior to graduation.
- b. Additionally, all participants that apply for graduation must complete a Relapse Prevention/Recovery Maintenance Journal and turn that back into the team by its designated due date.
- c. Upon successful completion of all phases, including payment of all fees and on recommendation of the Team, the OWI Court Judge will declare the participant a graduate of the Program. The graduation ceremony will be a celebration of achieving all goals and compliance with all program requirements.
- d. The participant shall return 3 months after graduation for a check-in with the Treatment Court Team.

## V. Program Participant Procedures

A. **Testing:** Frequent, random testing and intensive supervision are critical components of successful Program participation. *The frequency of the random testing will be determined by the phase each participant is in and is subject to change based on participant behavior and the recommendation of the treatment team.*

- a. Participants are required to call into the daily testing line and report for testing as directed.
- b. Participants will comply with observed urine drug tests or other testing requested by Justice Programs including breath, saliva or sweat patch.
  - i. Females:
    1. Required to empty pockets and take off any outer jackets or sweatshirts.
    2. Required to rinse hands with just water in front of same gender staff member.
    3. Required to lift shirt to reveal abdomen and back to same gender staff member to ensure no tubes, wires, or devices.
    4. Required to use the UA “wand” during drug tests.
    5. Participant will then sit on the toilet and cough twice.
    6. Participant will start and stop their urine flow to the best of their ability.
    7. Participant will then put the UA cup, using the wand, under them and collect their urine.
    8. Participant will then pass the urine through the collection door to staff and witness staff seal the specimen.
    9. Staff will check the temperature and color of the urine to ensure it is a valid sample.
    10. Participant shall not flush toilet until directed by staff.
  - ii. Males:
    1. Required to empty pockets and take off any outer jackets or sweatshirts.
    2. Required to rinse hands with just water in front of same gender staff member.
    3. Required to lift shirt to reveal abdomen and back to same gender staff member to ensure no tubes, wires, or devices.
    4. Required to lift their genitalia and rotate in front of same gender staff member to ensure no tubes, wires, or devices.
    5. Participant will then collect their urine in the UA cup.
    6. Participant will then pass the urine through the collection door to staff and witness staff seal the specimen.
    7. Staff will check the temperature and color of the urine to ensure it is a valid sample.
    8. Participant shall not flush the toilet until directed by staff.

- B. **Incentives:** Incentives for maintaining sobriety and abiding by the conditions of the Program and probation may include, but are not limited to the following:
- a. Positive feedback/praise from the Judge or a treatment team member
  - b. Applause in court
  - c. Increase or restoration of privileges
  - d. Lowered reporting requirements with the case manager or probation agent
  - e. Reward box
  - f. Gift certificates
  - g. Graduation ceremony
  - h. Fish bowl tickets
  - i. Support of occupational license
  - j. Other incentives deemed appropriate by team members
- C. **Sanctions:** Any violation of rules, requirements, or expectations of the Program, as set forth in the participant handbook, will result in the immediate imposition of appropriate sanctions by the Judge.
- a. The team may recommend individualized sanctions as deemed appropriate.
  - b. All Team members are required to report violations to the team at bi-weekly meetings
  - c. OWI Court violations are determined on a case-by-case basis
  - d. The Team will recommend violations to the Judge based on an individual's actions. Sanctions can include, but are not limited to, the following:
    - i. Verbal warning
    - ii. Written assignments
    - iii. Curfew
    - iv. Electronic monitoring
    - v. Loss of privileges
    - vi. Increased testing
    - vii. Community service hours, including group presentations
    - viii. Termination from program.
    - ix. Phase extension
    - x. Driver's safety plan non-compliance
    - xi. Increased supervision
    - xii. Jail time

## VI. Termination Policies and Procedures:

### A. Termination Guidelines

- a. Commission of a violent crime
- b. Abandonment of the OWI Court Program
- c. Evidence indicating the participant is involved with drug distribution or operating under the influence of an intoxicant
- d. Revocation from the House Arrest Program
- e. Any threatening, abusive, or violent verbal/physical behavior
- f. Hostile, threatening, or disrespectful conduct towards the Court
- g. Unwillingness to engage in treatment, supervision requirements or court sessions
- h. Lack of adequate progress in the program toward participant's rehabilitation, taking into considerations resources already used and still available to the participant
- i. Any other grounds the OWI Court determines are a threat to safety of other treatment court participants or the public, or a threat to the integrity of the treatment court program.

### B. Process for Termination

- a. Any member of the team may make a motion for termination. If a motion to terminate is made, the following procedures are taken:
  - i. The motion for termination will be discussed by the Team, out of the presence of the OWI Court Judge
  - ii. Upon a majority vote of the Team members present, a recommendation for termination will be made to the OWI Court Judge.
  - iii. If the Team by majority vote recommends termination, the participant shall be held in jail pending the termination hearing.
  - iv. Within two business days of the vote, the Coordinator or his/her designee shall inform the participant of the decision to recommend termination and a brief summary of the reasons for termination and the right to counsel.
  - v. Within one week of the coordinator sending notice to the participant, the District Attorney's office shall file a motion to terminate with the alleged grounds for termination numbered and notice of motion with scheduled hearing date.
  - vi. At least ten days prior to the scheduled hearing the OWI Court Judge shall provide the participant with a form advising the participant of his/her rights and provision for either a waiver of the termination hearing or a contested hearing. The form shall also have spaces for the participant to list the grounds that he/she agrees to and the grounds he/she contests.
  - vii. The participant shall complete, sign, date, and submit the form to the OWI Court Judge by the date given on the form. The form may be completed by participant's counsel.

- viii. The Court shall hold a termination hearing within 30 days of the motion being filed unless the participant waives his/her right to a termination hearing in writing. The Court may adjourn the hearing upon the request of the participant only for so long as necessary and may adjourn for additional testimony/evidence if the time scheduled for the hearing is insufficient.
- b. The participant is entitled to counsel at the termination hearing, and shall be referred to the office of the State Public Defender.
  - i. If the participant does not qualify for Public Defender representation, the participant shall be instructed to apply to the OWI Court Judge for the appointment of counsel. The participant may choose to hire his/her own attorney.
    - 1. In no event will the Team Public Defender serve as adversary counsel for a participant in a termination hearing.
- c. The termination hearing shall be held in open court, on the record before the OWI Court Judge. Another Judge may conduct the hearing if the OWI Court Judge for any reason is not able to hear the matter within the required time frame.
  - i. At a termination hearing, the participant shall be entitled to the following rights at the termination hearing: adequate notice of the grounds for termination; to be present at the hearing; to question witnesses; to subpoena witnesses; to testify; to present documentary evidence; to challenge the grounds for termination; and to challenge whether it is appropriate to terminate the participant.
  - ii. Except for privilege rules, the rules of evidence do not apply to a termination hearing.
- d. If the OWI Court Judge determines that the participant should be terminated from OWI Court, based on evidence that is clear, satisfactory, and convincing, the OWI Court Judge shall make findings of fact, and shall specify any custody credit to which the participant is entitled.
  - i. At that point, the participant will be removed from the program, and revert to his/her prior status.
  - ii. Except for errors in calculating sentence credit, termination orders are not subject to review.
- e. If the OWI Court Judge determines that the participant should NOT be terminated from OWI Court, the participant will return to the program with any conditions the OWI Court Judge determines appropriate subject to the next OWI Court hearing.

*OWI Court participant rules of supervision, Program requirements and responsibilities are subject to change at the discretion of the Team. Scheduling of OWI Court functions are also subject to change.*

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