

STATE OF MICHIGAN SIXTH JUDICIAL CIRCUIT OAKLAND COUNTY	ORDER REGARDING THE ESTABLISHMENT OF AN ADULT TREATMENT COURT	ADMINISTRATIVE ORDER 2009-01
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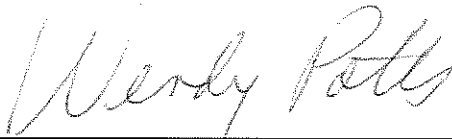
IT IS ORDERED:

This administrative order is issued in accordance with MCL 600.1060 *et seq.* In August of 2001, an Adult Treatment Court was established in the Sixth Circuit Court upon approval by the State Court Administrative Office (SCAO). All policies and procedures comply with the statute and are consistent with the 10 Key Components of Drug Treatment Courts promulgated by the National Association of Drug Court Professionals (see attachment A) as required by MCL 600.1060(c).

1. The Court has entered into a Memorandum of Understanding (MOU) with each participating county prosecuting attorney in the circuit or district court district, a representative of the criminal defense bar, a representative of community treatment providers and other key parties pursuant to MCL 600.1062. The MOU describes the role of each party (see attached).
2. The Court has established eligibility criteria consistent with MCL 600.1064 and 600.1068.
3. In compliance with MCL 600.1064(3), no participant shall be admitted until a complete preadmission screening and substance abuse assessment are completed.
4. All participants shall sign a voluntary written consent to participate in the program in conformance with MCL 600.1068(1)(d).
5. The Court shall maintain case files in compliance with Trial Court General Schedule 16, the Michigan Case File Management Standards, and Part 2 of Title 42 of the Code of Federal Regulations to assure confidentiality of treatment court records.
6. The Court has established, as part of its program requirements, procedures to assure compliance with MCL 600.1072 and 600.1074.
7. Pursuant to MCL 600.1078, the Court shall provide the SCAO with the minimum standard data established by the SCAO for each individual applicant and participant of the treatment court program.
8. The Court shall use the Drug Court Case Management Information System (DCCMIS) to maintain and submit the minimum standard data as determined by the SCAO while receiving grant money from the SCAO.

9. The Court acknowledges that case disposition information regarding treatment court participation is unavailable from the Department of State driving record and criminal history record, and failure to use the DCCMIS will result in the absence of a complete record of treatment court participation in Michigan courts.
10. The Court acknowledges that it has completed the federal Drug Court Planning Initiative training sponsored by the Bureau of Justice Assistance, in compliance with MCL 600.1062(3).

This Administrative Order is effective May 5, 2009.



Wendy Potts, Chief Judge

May 5, 2009

Date

ATTACHMENT A

The 10 Key Components of Drug Treatment Courts **as Promulgated by the National Association of Drug Court Professionals**

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

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

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

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

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

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

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

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

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

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

OAKLAND COUNTY ADULT TREATMENT COURT

Memorandum of Understanding

OAKLAND COUNTY ADULT TREATMENT COURT

Memorandum of Understanding

Introduction

Studies have shown¹ a strong correlation between effective substance abuse or addiction treatment and a reduction in crime. Conversely, those who do not undergo treatment will return to criminal activity. Unless the cycle of addiction can be broken, at least 45% of defendants convicted of a crime involving drug possession will commit similar crimes within 2 to 3 years. National studies indicate that 50 to 60% of drug users commit further crimes after being in prison. The same studies suggest that the adult criminal justice system's mission of ensuring public safety may be met more successfully without the expense of incarceration if structured treatment is incorporated into the individual's probationary sentence. In 1999 the Oakland County Circuit Court processed approximately 5,575 felony offenders. Of these 54% (3,010) were non-violent offenders who received a probationary sentence or a jail term followed by probation. Many, over 58% (1,746), have orders of probation that prohibit alcohol or drug use. Despite such common prohibitions, a recent MDOC study reports that 32.6% of these same offenders test positive for alcohol or drug use while on probation. Consequently . . . criminal justice systems around the county have adopted intermediate sanctions, such as Drug Court, that incorporate substance abuse treatment into the continuum of sentencing choices.

Presently, jail space is both very expensive and extremely limited. It costs \$90 a day or \$32,850 each year, simply to house an offender in the Oakland County jail without focusing on keeping him out of the criminal justice system upon release². In today's climate, reducing such costs to taxpayers is a critical concern. The cost of putting a participant through the Treatment Court program, at approximately \$29 per day, is far less than that of conventional incarceration.

We have observed existing drug courts first hand and have examined voluminous materials published on adult treatment courts. We are optimistic that our Oakland County experience will reflect drug court successes across the Country, which can be measured by decreased drug use and recidivism.

Mission Statement

The Oakland County Sixth Circuit Adult Treatment Court (ATC) is designed to use alternative judicial proceedings for chemically abusing or dependent, non-violent adult felony offenders. Recognizing that many offenders with substance abuse or dependency problems are engaged in criminal activity because of their abuse or dependence, the Adult Treatment Court works with them as an alternative to incarceration. Through judicial supervision and a continuum of

¹ Department of Justice Programs. *Looking at a Decade of Drug Courts*. 1998.

² It has been further suggested that the figure of \$29,930 does not take into consideration the cost of building the jail as a physical structure, or any similar capital expenses. A more accurate estimate of the total annual cost per incarcerated offender is realistically closer to \$45,000.

treatment services with graduated sanctions to ensure community protection and safety, offenders are successfully reintegrated into the community.

The Adult Treatment Court seeks to accomplish its mission by:

- Mandating substance-addicted offenders to judicially supervised treatment as an alternative to incarceration;
- Educating substance-abusing offenders about the hazards of substance abuse;
- Providing rigorous case management to ensure that each participant complies with the treatment mandate;
- Curbing substance abuse and helping all participants maintain long-term recovery and sobriety;
- Through health education, reducing high-risk behaviors and identifying and treating the health problems of high-risk offenders; and;
- Assisting participants with their vocational, educational or employment needs.

Adult Treatment Court Program Description

Eligibility

As a prerequisite to admission to the program, the defendant must be charged with a non-violent offense for which community supervision is available under the provisions of Oakland County's implementation of Public Act 511. Further, the defendant must be presumptively placed in a sentence guidelines straddle cell likely to lead to incarceration. An eligible participant must have a reliable means of transportation and be a resident of Oakland County. Other factors such as the circumstances of the current offense, and/or the prior criminal history of the defendant may result in the defendant being deemed ineligible. The Prosecuting Attorney is the final arbiter of eligibility for the program and may offer information to the team to determine eligibility.

Screening

At the outset of the Warrants Division review of a case, the Prosecuting Attorney may screen the matter for PA 511 offense eligibility. The prosecutor's file and court related documents will be marked to indicate this preliminary determination of defendant's eligibility.

Pre-trial Services will screen all in-custody defendants for potential eligibility within 48 hours of arrest.

Pre-Trial Services will also screen non-custody defendants for potential eligibility within 48 hours of a request to do so from the court, the prosecuting attorney, law enforcement or counsel for the defendant.

Screening shall be completed by the Mental Health Liaison.

The ATC Team shall reaffirm or deny eligibility within 48 hours of receipt of screening results from Pre-trial Services.

Confidentiality

Participants in the Adult Treatment Court will waive confidentiality via a signed waiver process. This allows all Adult Treatment Court team members full access to case records and the fruits of any investigations. Any statements made by a defendant participating in the program shall not be used against him or her in any subsequent adversarial proceeding. However, spontaneous statements made by the defendant which refer to unrelated criminal activity and which are not directly related to the defendant's participation in the Adult Treatment Court program, may be admissible in other criminal proceedings and such admissibility shall be determined in an evidentiary hearing pursuant to the Rules of Evidence.

Defense Counsel Responsibility

Defendant's counsel will expeditiously review the file, interview defendant and determine whether to proceed in a traditional adversarial manner or to forego those procedures in favor of seeking admission to the program. (Generally defense counsel will have the interim between the appointment of counsel and the preliminary examination date and a further good cause adjournment of one week to evaluate the case and advise the defendant.)

The defendant must be fully advised that entering the program waives the right to a preliminary examination, the right to bring motions and other fundamental rights associated with adversarial criminal proceedings.

Admission Procedure

After a defendant is deemed eligible for the program and after a decision to seek admission, all parties will make expedited efforts to facilitate admission to the program.

A defendant provisionally admitted to the program in the district court will appear for sentencing before the circuit court judge assigned to the case by blind-draw. Once in the circuit court, the defendant may enter a plea of guilty. At the assigned judge's discretion, the defendant may be sentenced to Adult Treatment Court as a condition of probation. (The assigned judge is responsible for insuring that waivers executed by defendant are voluntary with knowledge of the implications and possible consequences). The sentencing shall be preceded by a conventional pre-sentence investigation and report that will be prepared on the same schedule as criminal cases generally. Following a sentence to the Adult Treatment Court and admission into the program, the case shall be reassigned to the docket of the Adult Treatment Court Judge for all further proceedings pursuant to MCR 8.111(C).

After entry of the guilty plea and sentencing, defense counsel will collaborate with the Adult Treatment Court Defense Advisor to assist in the transition of the case to the program. Thereafter, the Court's Defense Advisor will advise the defendant in the Adult Treatment Court. The guilty plea may be withdrawn if for any reason the defendant is not initially accepted into the program. A defendant accepted into the program and who is thereafter removed from the program due to his actions or omissions does not retain the right to set aside the guilty plea.

Sentencing Credit

A defendant who is removed from the program and who is then sentenced may receive credit for time in custody, work release, boot camp or time in a residential or alternative incarceration program that was part of the Adult Treatment Court program in the discretion of the court and consistent with provisions of law.

Court Sessions

Sessions of the Adult Treatment Court will include the admittance and orientation of new participants into the program in conjunction with progress reports of offenders previously admitted.

By developing gender specific treatment tracks, the Adult Treatment Court will focus more specifically and consistently on issues that challenge the participant's recovery.

Sanctions

The Adult Treatment Court Judge will apply the following graduated treatment interventions, to assist participants in complying with the program:

- Increased drug testing
- Increased frequency of court appearances before the Adult Treatment Court Judge
- Commitment to a community residential facility for a specified period of time
- Incarceration

Incentives

Incentives can be recommended by the ATC team and are granted at the Judge's discretion for particular accomplishments. The incentive system is intrinsic to the Court operation. When the opportunity arises, the Court will seek to support treatment through positive reinforcement. Incentives are given less frequently when a participant has reached a treatment milestone.

Failure and Removal from Program

If, during the period of participation in the program, a participant is charged with a new felony, demonstrates assaultive conduct or refuses to enter or continue in a mandated treatment program or modality, the Adult Treatment Court Judge shall conduct a probation violation hearing to decide whether the participant may continue in the adult treatment court program. Both the People and the participant shall be represented by counsel other than the Defense Advisor at the hearing.

After twice absconding from the program and being sanctioned therefor, a participant may be given one further opportunity to be successful in treatment. Should the participant fail again, the participant shall be expelled from the program and his or her case will be scheduled before the Adult Treatment Court judge for a probation violation hearing.

In the event that a participant is removed from the Adult Treatment Court program, the case shall proceed before the Adult Treatment Court Judge

On removal of defendant from the Adult Treatment Court program, counsel of record at the original sentencing (or substitute counsel) shall represent defendant before the Adult Treatment Court judge. The Adult Treatment Court defense advisor shall assist counsel for the defendant and provide relevant information as requested.

Adult Treatment Court Team Roles and Responsibilities

Role of Defense Advisor

The Defense Advisor in the Adult Treatment Court will not have a traditional attorney-client relationship with participants in the Adult Treatment Court. Each participant shall sign a waiver of the attorney-client relationship with the Defense Advisor before entering the Adult Treatment Court. At all times, the Defense Advisor shall act according to the Michigan Rules of Professional Conduct. The Defense Advisor will assist and advise the Adult Treatment Court Program in the following manner:

- (a) Consult with initially retained or assigned counsel on the operations of the Adult Treatment Court
- (b) make every reasonable effort to keep defendants in the program
- (c) provide non-confidential legal advice to defendant relative to the Adult Treatment Court during participation in the program
- (d) participate in all meeting of the Adult Treatment Court and its staff and be present during Adult Treatment Court sessions
- (e) work to continuously improve the structure, goals and operation of the Adult Treatment Court
- (f) participate in training of Oakland County attorneys in Adult Treatment Court procedures
- (g) be consistently knowledgeable about available treatment programs, facilities and personnel
- (h) represent the defense perspective in interaction with the court, the prosecuting attorney, treatment facilities, the probation department, law enforcement, legislative bodies and the media
- (i) join with other principals in the Adult Treatment Court program to achieve community understanding and support for the Adult Treatment Court program

Defense Advisor Selection

The parties to this understanding will engage in a joint effort to secure sufficient funds to underwrite the retention of a Defense Advisor and an alternate to function in the Adult Treatment Court. One person shall be selected by each of the following organizations to serve on an interview committee:

- the Sixth Circuit Court Criminal Assignment Committee

- the Criminal Law Committee of the Oakland County Bar Association
- the Adult Treatment Court Planning Committee

The interview committee will screen and interview applicants for the position of Defense Advisor and recommend up to four (4) persons for final consideration.

The Chief Judge for the Oakland County Circuit Court will choose the Defense Advisor and the alternate. The Defense Advisor and alternate will serve a two-year term. The Chief Judge may, at his or her option, extend the term pursuant to Oakland County's procurement policies, upon recommendation by the Oakland County Prosecutor, Oakland County Sheriff, Chief Probation Officer, Oakland County Health Division's Chief of Substance Abuse, Oakland County Community Corrections Manager and the President of the Oakland County Bar Association or its designee.

Role of Case Manager

The case manager will be a Probation Agent for the Sixth Circuit Court Probation Department who will closely monitor each participant through all stages of the program. The case manager will obtain an appropriate release from the Defendant and will also open a file on each Adult Treatment Court participant which, at a minimum, will contain an explanation of the rights and obligations of those persons who enter the treatment program, and an explanation of the process for graduating from the Adult Treatment Court.

The case manager will also be responsible for assuring that the offender obtains an evaluation and has that evaluation filed with the Court. Once the evaluation is received and the person is placed in a treatment program, the case manager will develop a supervision plan for the participant which clearly spells out what the individual must do to successfully complete each phase and graduate from the program as a whole. Case managers will participate in all meetings concerning the participant and be present at gatherings of the Adult Treatment Court Team.

Role of Coordinator

The Adult Treatment Court coordinator will perform the following functions:

- (a) Attend and participates in adult treatment court team
- (b) Recruit, train and supervise the Adult Treatment Court staff and interns
- (c) Coordinate weekly gatekeeping functions to identify new program candidates
- (d) Schedule and attend all pre-hearing conferences and status review hearings
- (e) Compile and collect documentation concerning the participant's progress and supply the information to the Adult Treatment Court team as required
- (f) Act as liaison to Office of Substance Abuse and any sub-contractors regarding service delivery issues, reimbursement, caseload, etc.
- (g) Work with treatment funding agencies to maintain quality control over treatment and testing providers through a variety of activities.
- (h) Develop and maintain a procedural manual for program operations
- (i) Create and maintain a data collection system to monitor program compliance, identify trends and provide a basis for evaluation

- (j) Participate in on-going evaluation of program effectiveness and recommend improvements as appropriate
- (k) Assist with communications to community stakeholders, judges, and funding sources regarding program status

Role of Substance Abuse Coordinating Agency

The Oakland County Health Division/Office of Substance Abuse Services (OSAS) shall participate in the selection and supervision of residential and outpatient treatment providers.

Role of Community Corrections

The Oakland County Community Corrections Division shall provide funding support to the Adult Treatment Court for those offenders who meet Public Act 511 eligibility and are diverted from prison as a result of their participation.

Role of Sheriff

The Oakland County Sheriff's Office shall attend sessions of the court as requested by the ATC judge. The Oakland County Sheriff's Office shall also provide staffing sufficient to assure the safe custody of program participants as may be ordered by the court and transportation of in-custody participants as necessary for court appearances.

Clerical Responsibility

Clerical support will be provided by court staff and will include the preparation of court files, the Adult Treatment Court eligibility roster, courtroom calendars, computer entries, and the collection of data to document the activities of the Adult Treatment Court. All docket entries shall follow common practices and protocols.

Team Meetings

The Adult Treatment Court Team shall consist of the judge, the case manager, the defense advisor, a treatment provider, and the adult treatment court coordinator. The prosecutor may also participate in team meetings. Treatment providers will consult and/or participate on invitations of the team. The deliberations of the team shall be confidential except that team members may share information with other representatives of their agency or office as required for case continuity and policy development. The defense advisor is expressly authorized to share information with counsel for a program participant.

Team Communication

It is the intent of the parties that all substantive communications should be to all Adult Treatment Court team members simultaneously. Ex parte communications with the Court on the merits of a matter by defense, prosecution, or treatment personnel will not occur. Provided, however, that consistent with *People v Smith*, 423 Mich 427 (1985) "The probation officer may consult with the judge outside the presence of defense counsel". This communication is essential in maintaining records and furthering the court's regular business.

Simultaneous sharing of information is best accomplished in team meetings or by electronic communications.

Treatment Stages

All Adult Treatment Court participants will be offered a comprehensive and integrated drug treatment and rehabilitation service to be supervised by the Adult Treatment Court Judge.

Individualized treatment will consist of four stages, each of which will have specific treatment objectives, therapeutic and rehabilitative activities, and requirements for graduation.

The Adult Treatment Court team, together with selected treatment agencies and the Office of Substance Abuse Services will implement standards developed for this program. These standards will guide the treatment "Stages".

Stage One:

Stage One is established to engage the eligible offender in the treatment process. Upon acceptance into the program, with all waivers signed, and based upon the assessment data and/or Office of Substance Abuse Services approval, the participant will:

- Report to one of the funded/licensed substance abuse Outpatient, Intensive Outpatient (IOP) or Residential substance abuse treatment programs participating with the Adult Treatment Court
- Attend treatment sessions as established in the treatment plan approved by the Adult Treatment Court
- Submit to drug/alcohol screens two or three times a week at a prescribed location
- Attend Adult Treatment Court on a bi-weekly basis
- Meet with the Adult Treatment Court case manager weekly
- Attend 45 treatment meetings in 90 days
- Have an AA or NA sponsor by the end of the 90-day period
- Follow through with other referrals for specialized treatment or intervention programs

This stage is designed to last a minimum of 4 months. Depending on the individual's treatment plan and his success, the Judge, with the advice and counsel of the treatment provider and team members, will ultimately decide when to move the participant to Stage Two; provided, however, that a participant must have been without a Level A program sanction for four (4) consecutive months.

Stage Two:

Stage Two includes a continuation of the treatment component described in Stage One with less intensity. The participant will:

- Step down to the next level of treatment (i.e. IOP, Outpatient or Aftercare treatment) upon recommendation by the treatment provider and Adult Treatment Court team

- Submit to random drug/alcohol screens as prescribed by the treatment provider or the Step-Forward program (usually weekly)
- Meet with the Adult Treatment Court case manager at least once a month, or as otherwise delineated
- Attend the Adult Treatment Court monthly
- Attend treatment meetings at least three times a week
- Introduce the participant's AA or NA sponsor to the Adult Treatment Court
- Begin restitution payments, if applicable
- Follow through with other referrals for specialized treatment or programs
- If unemployed, or employed part-time, seek full time employment
- Enroll in school (high school GED, trade school, or college) as a full time student.

This stage is designed to generally last 3 to 4 months, again depending on the participant's individualized treatment plan. Drug/alcohol screens must not be less than twice a month at this stage. The Judge, with the advice and counsel of the treatment provider, and team members, will ultimately decide when to move the participant to Stage Three:

Stage Three:

- Step down to the next level of treatment (i.e. Outpatient to Aftercare) upon a recommendation by the treatment provider and the Adult Treatment Court team
- Submit to random drug/alcohol screens as prescribed by the treatment provider, the Adult Treatment Court team and Step-Forward at least once monthly
- Meet with the Adult Treatment Court case manager monthly
- Attend the Adult Treatment Court at least once a month
- Attend treatment meetings at least three times every week
- Provide a report from the AA or NA sponsor to the Adult Treatment Court Judge once every month
- Provide documentation of full-time school enrollment or employment
- Continue payment toward restitution

This stage is designed to last approximately 3 to 4 months, again depending on the participant's individualized treatment plan. The Judge, with the advice and counsel of the treatment provider, and core team members, will ultimately make the decision when to allow the participant to graduate to Stage Four.

Stage Four:

Stage Four is designed to act as an integration and aftercare stage lasting 3-4 months depending on the progress of the participant. One month before graduation, the participant will return to weekly drug/alcohol screens. The case manager will be responsible for securing a LEIN check to ensure the participant has not been charged with a new offense. The Judge, with the advice and counsel of the treatment provider and core team members, will decide when to allow the participant to graduate from the program. Before graduation can occur, the participant must have a minimum of four (4) consecutive months of negative (clean) drug and alcohol testing.

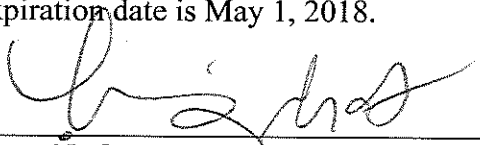
Evaluation

Under terms of the grant, the Adult Treatment Court must allow representatives of the Michigan Supreme Court and the Supreme Court Administrative Office to evaluate, audit, inspect and monitor operation of the court. An independent evaluator may be selected to assist in this evaluation. Process evaluation measures will gauge the effectiveness of the program by determining:

- Whether the project, as designed, has been implemented
- How team members are functioning together
- Whether participant needs are being served, and how often
- If the procedures for status review hearings are operating smoothly.
- Whether offenders were effectively engaged in the program (i.e. retention rates, uses of sanctions)
- Program impact, including statistics comparing information relevant to recidivism
- Other relevant information as identified by the evaluator

Review of Memorandum of Understanding

This Memorandum of Understanding will be reviewed every five years by the Oakland County Circuit Court and revised as necessary upon mutual agreement by all parties. Therefore, the expiration date is May 1, 2018.



Nancy J. Grant, Chief Judge
Oakland County Circuit Court

Date: 5-30-13

Daniel Heyns
Director of Michigan Department of Corrections

Date: _____



Jack Holmes
Defense Advisor

Date: 6-5-13



Michael Boughard
Oakland County Sheriff

Date: 6/14/13

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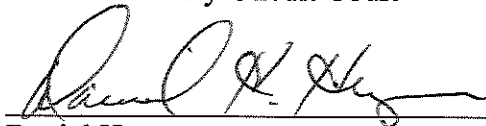
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Nanci J. Grant, Chief Judge
Oakland County Circuit Court

Date: _____



Daniel Heyns

Date: 6/20/13

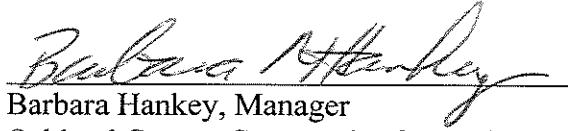
Director of Michigan Department of Corrections

Jack Holmes
Defense Advisor

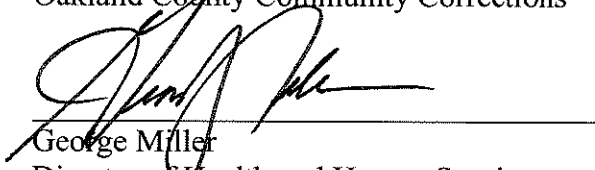
Date: _____

Michael Bouchard
Oakland County Sheriff

Date: _____


Barbara Hankey, Manager
Oakland County Community Corrections

Date: 6-3-13


George Miller
Director of Health and Human Services

Date: 6-3-13

OAKLAND COUNTY ADULT TREATMENT COURT
Probation Violation Track

Memorandum of Understanding

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OAKLAND COUNTY ADULT TREATMENT COURT

Probation Violation Track

Memorandum of Understanding

Purpose

This Memorandum of Understanding sets forth the plan, policies, staff roles, and procedures for the Oakland County Violation of Probation Adult Treatment Court. The program is designed to oversee the treatment and intensive probation of criminal defendants who violate their probation because of an addiction to alcohol and drugs.

Introduction

In 2001, sixty percent of all probationers nationwide successfully completed the terms of their probation and were discharged.¹ In Oakland County, seventy-five percent of all probationers successfully complete their probation. Of the remaining twenty-five percent of probationers, many violate the terms of their probation for reasons directly related to the probationer's drug and alcohol addiction and are subsequently sentenced to jail or prison.

Studies show a strong correlation between effective substance abuse or addiction treatment and a reduction in crime.² Conversely, those who do not undergo treatment return to criminal activity. Unless the cycle of addiction can be broken, at least 45% of defendants convicted of a crime involving drug possession will commit similar crimes within 2 to 3 years. National studies indicate that 50% to 60% of drug users commit further crimes after being in prison. The same studies suggest that the adult criminal justice system's mission of ensuring public safety may be met more successfully without the expense of incarceration if structured treatment is incorporated into the individual's probationary sentence.

Budgetary problems highlight the obvious fact that incarceration is an expensive, finite resource. Today, a jail bed costs \$90.00 per day or \$32,850 a year.³ This cost does not include any costs associated with post release supervision. The cost of a prison bed varies from \$44.65 per day or \$16,299 a year for a Level I minimum security facility to \$102.34 per day or \$37,354 per year for a Level IV medium security facility although, as with the jail costs, these figures do not include the cost of building or maintaining the structure or any other capital expense associated with maintaining the facility.⁴ Treatment Court programs cost an average of \$29.00 per day or

¹ Bureau of Justice Statistics, U. S. Department of Justice, Probation and Parole in the United States, 2001, 4 (2002).

² Department of Justice Programs, Looking at a Decade of Drug Courts, (1998).

³ It has been further suggested that the figure of \$32,850 does not take into consideration the cost of building the jail as a physical structure or any similar capital expenses. A more accurate estimate of the total annual cost per incarcerated defendant is realistically closer to \$45,000.

⁴ Michigan Department of Corrections, 2001 Annual Report, "Expecting Excellence Every Day", 62 (2002). An average cost may be estimated by using the cost of a multi-level bed. This bed costs \$58.45 per day or \$21,335 per year.

\$10,585 per year and utilize existing programs and facilities available throughout the community.

Experience with the existing Oakland County Adult Treatment Court shows that the initial treatment costs for participants are comparable to those associated with incarceration. However, treatment costs drop dramatically as drug and alcohol free participants leave residential facilities and develop the life skills needed to maintain a sober lifestyle. After leaving a residential facility there are supervision costs for probation of \$1,600 per year.⁵ The societal and economic value of treatment courts increases as participants continue through the program. The cost savings include not only reduced program costs, but also reduced criminal and criminal justice activity, fewer substance abuse related health problems, and increased mainstream social interaction, including maintaining employment and paying taxes. Perhaps the greatest benefit of treatment courts is the opportunity to reclaim an individual lost to substance abuse.

Mission Statement

The Oakland County Sixth Circuit Court Violation of Probation Adult Treatment Court is designed to use alternative judicial proceedings for chemically-abusing or dependent, non-violent adult felony offenders and probation violators. Recognizing that many offenders with substance abuse or dependency problems engage in criminal activity or violate the terms of their probation because of their abuse or dependence, the Adult Treatment Court works with participants to address these issues as an alternative to incarceration. Through judicial supervision and a continuum of treatment services with graduated sanctions which ensure community protection and safety, participants are successfully reintegrated into the community.

The Adult Treatment Court seeks to accomplish its mission by:

- Mandating judicially supervised treatment as an alternative to incarceration;
- Educating substance-abusing offenders about the hazards of substance abuse;
- Providing rigorous case management to ensure compliance with the treatment mandate;
- Helping all participants maintain long-term recovery and sobriety;
- Reducing high-risk behaviors through health education;
- Identifying and treating the health problems of high-risk offenders; and
- Assisting participants with their vocational, educational or employment needs and goals.

Adult Treatment Court Program Description

Eligibility

Screening

At the outset of the Warrants Division review of a case, the Prosecuting Attorney may screen the matter for PA 511 offense eligibility. The prosecutor's file and court related documents will be marked to indicate this preliminary determination of defendant's eligibility. Pre-trial Services will screen all in-custody defendants for potential eligibility within 48 hours of arrest.

⁵ Michigan Department of Corrections, 2001 Annual Report, "Expecting Excellence Every Day", 62 (2002).

Pre-Trial Services will also screen non-custody defendants for potential eligibility within 48 hours of a request to do so from the court, the prosecuting attorney, law enforcement or counsel for the defendant. Screening shall be completed by the Mental Health Liaison.³ The Case Manager shall verify a defendant's eligibility for the Adult Treatment Court with the probation officer preparing the PSIR.

Confidentiality

Participants in the Adult Treatment Court will waive confidentiality in treatment information with a signed waiver of confidentiality. The waiver allows all Adult Treatment Court team members full access to case records and the fruits of any investigations regarding the participant. Any statements made by a participant in the program shall not be used against him or her in any subsequent adversarial proceeding. However, spontaneous statements made by the participant, which refer to unrelated criminal activity and which are not directly related to the participation in the Adult Treatment Court program may be admissible in other criminal proceedings. Such admissibility shall be determined in an evidentiary hearing pursuant to the Rules of Evidence.

Admission Procedure

After the defendant is adjudicated responsible for the probation violation and a PSIR is prepared, on the same schedule as criminal cases generally, recommending defendant for admission into the Adult Treatment Court, the sentencing court shall offer defendant the opportunity to participate in the Adult Treatment Court. Recognizing the success of coercive treatment, the sentencing court may order an eligible defendant into the Adult Treatment Court regardless of defendant's desire not to participate in the program.⁶

When a defendant is sentenced and accepted into the Adult Treatment Court, the Court shall reassign defendant's case to the docket of the Adult Treatment Court Judge's docket for all further proceedings. This includes all Adult Treatment Court sessions and any proceedings arising out of the participant's success or failure within the Adult Treatment Court.

Sentencing Credit

A participant who is removed from the program and who is then sentenced to a term of incarceration may receive credit for time in custody, work release, boot camp, or time in a residential or alternative incarceration program that was part of the Adult Treatment Court program in the discretion of the court and consistent with provisions of law.

Court Sessions

Sessions of the Adult Treatment Court will include the admittance and orientation of new participants into the program in conjunction with progress reports of participants previously admitted into the program. Each session will be held in open court to monitor the participation and progress of participants. The Court shall alter case management plans for individual participants as needed and upon the advice of the Treatment Team. Conferences will generally occur every two to four weeks, depending upon the level of the participant's progress, participation, and addiction. The Case Manager may require the participant to appear before the

⁶ Center for Substance Abuse Treatment, U. S. Department of Health and Human Services, TIP Series 17, Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System, 9-10 (1995).

Adult Treatment Court for an accelerated hearing depending upon the participant's progress within the program.

The development of a probation violator track permits the Circuit Court to develop gender specific treatment programs. Gender specific treatment programs permit the Court, the treatment providers, and the participants to focus on the specific needs of the participants.⁷ For example, women often avoid treatment because of concerns for either child protective proceedings or further involvement with the criminal justice system.⁸ Likewise, many women enter treatment with unresolved medical issues, a history of physical and/or sexual abuse, and childcare concerns.⁹ By developing gender specific treatment tracks, the Adult Treatment Court will focus more specifically and consistently on issues that challenge the participant's recovery. Thus, the Adult Treatment Court will work with the participant population on a gender-segregated basis.

Sanctions

The Adult Treatment Court program must include established graduated sanctions that will be applied as an immediate and direct consequence of a participant's noncompliance with program expectations. The Adult Treatment Court Judge will apply graduated treatment sanctions to assist participants in complying with the program. Sanctions shall include:

- Increased drug testing;
- Community Service;
- Increased frequency of court appearances before the Adult Treatment Court Judge;
- Increased monitoring and/or fines;
- Commitment to a community residential facility for a specified period of time;
- Demotion to an earlier stage with increased supervision; and
- Incarceration.

Violations will be sanctioned in accordance with the sanctioning guide approved by the Adult Treatment Court team and the Chief Judge.

Relapse

The targeted offender population will occasionally "use" (i.e. return to alcohol or drug use). Six (6) verified "uses" will automatically result in a hearing before the Adult Treatment Court Judge who will decide whether the participant may continue in the Adult Treatment Court program.

In addition, four (4) verified "uses" occurring in any stage of the program will result in a hearing before the Adult Treatment Court Judge to decide whether the participant may continue in the Treatment program. Because the participant may face incarceration if removed from the program, the participant shall be represented by counsel at the hearing.

The hearing to determine a participant's continued program participation following either four or six verified uses does not and is not expected to replace any approved program sanction.

⁷ Center for Substance Abuse Treatment, U. S. Department of Health and Human Services, TIP Series 27, Comprehensive Case Management for Substance Abuse Treatment, 55 –57 (2001).

⁸ Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System, 18 – 20.

⁹ Planning for Alcohol and Other Drug Abuse Treatment for Adults in the Criminal Justice System, 18 – 20.

Incentives

Incentives may be recommended by treatment staff or the Treatment Team and are granted at the Judge's discretion for particular accomplishments in treatment. The incentive system is critical to the Adult Treatment Court operation. When the opportunity arises, the Court will seek to support treatment through positive reinforcement. Some methods are built into the process and are not event driven. In-court acknowledgment and early calendaring are examples. Other, more specific, incentives are given less frequently when a participant has reached a treatment milestone, such as the advancement to the next program stage.

Failure and Removal from Program

If, during the period of participation in the program, a participant is charged with a new felony, demonstrates assaultive conduct, relapses pursuant to the above section, or refuses to enter into or continue in a mandated treatment program or modality, the Adult Treatment Court Judge shall conduct a probation violation hearing to decide whether the participant may continue in the Adult Treatment Court program. Both the People and the participant shall be represented by counsel other than the Defense Advisor at the hearing.

After twice absconding from the Adult Treatment Court program and being sanctioned therefor, a participant may be given one further opportunity for success in the Adult Treatment Court program. Should the participant be sanctioned again, the participant shall be expelled from the program. The failure shall be treated as a violation of probation and the matter shall be scheduled before the Adult Treatment Court Judge for probation violation hearing.

If a participant is removed from the Adult Treatment Court, the removal shall be deemed to be a violation of the terms of probation. If a hearing has not already occurred, the Probation Department shall petition the Adult Treatment Court Judge to order the participant to show cause why the participant should not be found to be in violation of the terms of probation. If the Adult Treatment Court Judge finds the participant violated the probation, it shall terminate the probation and sentence the participant in accordance with a PSIR prepared by the Probation Department.

Adult Treatment Court Team Roles and Responsibilities

Role of the Defense Attorney

In preparing for a probation violation hearing, the Defense Attorney will review the file and interview defendant to determine defendant's eligibility for the Adult Treatment Court. If defendant is found responsible for the alleged violation, counsel will discuss all potential sentencing options, including the Adult Treatment Court, with defendant. Counsel will represent defendant at all adjudicative stages before and, as necessary, after defendant enters the Adult Treatment Court. Because the Adult Treatment Court is an intensive probation program, appointed counsel will be discharged upon a defendant's entry into the program. While the defendant participates in the Adult Treatment Court, the Defense Advisor will represent the defense perspective on the Treatment team.

Role of the Defense Advisor

The Defense Advisor in the Adult Treatment Court will not have a traditional attorney-client relationship with participants in the ATC. Each participant shall sign a waiver of the attorney-client relationship with the Defense Advisor before entering the ATC. At all times, the Defense Advisor shall act according to the Michigan Rules of Professional Conduct. The Defense Advisor will assist and advise the Adult Treatment Court Program in the following manner:

- Consult with initially retained or assigned counsel on the operations of the Adult Treatment Court;
- Make every reasonable effort to keep participants in the program;
- Provide non-confidential legal advice to participants relative to the Adult Treatment Court during participation in the program;
- Participate in all meetings of the Adult Treatment Court and its staff and be present during Adult Treatment Court sessions;
- Work to continuously improve the structure, goals, and operation of the Adult Treatment Court;
- Participate in training of Oakland County attorneys in Adult Treatment Court procedures
- Be consistently knowledgeable about available treatment programs, facilities, and personnel;
- Represent the defense perspective in interaction with the Court, the Prosecuting Attorney, treatment facilities, the Probation Department, law enforcement, legislative bodies, and the media; and
- Join with other principals in the Adult Treatment Court program to achieve community understanding and support for the Adult Treatment Court.

Defense Advisor Selection

The parties to this Memorandum of Understanding will engage in a joint effort to secure sufficient funds to underwrite the retention of a Defense Advisor and an alternate to function in the Adult Treatment Court. One person shall be selected by each of the following organizations to serve on an interview committee:

- The Sixth Circuit Court Criminal Assignment Committee;
- The Oakland County Bar Association Criminal Law Committee; and
- The Adult Treatment Court Planning Committee.

The interview committee will screen and interview applicants for the position of Defense Advisor and recommend up to four (4) persons for final consideration.

The Chief Judge for the Oakland County Circuit Court will choose the Defense Advisor and the alternate. The Defense Advisor and alternate will serve a two-year term. The Chief Judge may, at his or her option, extend the term pursuant to Oakland County's procurement policies, upon recommendation by the Oakland County Prosecutor, Oakland County Sheriff, Chief Probation Officer, Oakland County Health Division's Chief of Substance Abuse, Oakland County Community Corrections Manager and the President of the Oakland County Bar Association or its designee.

Role of the Case Manager

The Case Manager will be a Probation Agent for the Sixth Circuit Court Probation Department who will closely monitor each participant through all stages for the program. The Case Manager will obtain an appropriate release from each prospective participant as part of the participant evaluation before the individual enters the program. The Case Manager will also review the program, the participant's rights and obligations, and the graduation requirements with the participant as part of the program orientation. The Case Manager will include a Waiver of Rights form signed by the participant and his or her attorney indicating his or her decision to participate in the Adult Treatment Court.

The Case Manager will also be responsible for assuring that the eligible offender completes a NEEDS assessment¹⁰ as part of the preparation of the Pre Sentence Investigation Report (PSIR). The results of the NEEDS assessment for a qualifying offender will be shared with the Office of Substance Abuse Services, the Adult Treatment Court, and treatment providers, as required to provide appropriate treatment after the Waiver of Rights has been signed by the participant. Based on information in the NEEDS assessment, the Case Manager in conjunction with treatment professionals will develop a supervision plan for the participant which delineates the goals the individual must reach to successfully complete each program phase and graduate from the Adult Treatment Court. Case Managers will participate in all meetings concerning the participant and attend gatherings of the Adult Treatment Court.

Role of the Coordinator

The Adult Treatment Court Coordinator will work jointly with the Adult Treatment Court programs. The Coordinator will perform the following functions:

- Attend and participate in Adult Treatment Court team and business meetings;
- Recruit, train, and supervise the Adult Treatment Court staff and interns;
- Coordinate weekly gatekeeping functions to identify new program candidates;
- Schedule and attend all pre-hearing conferences and status review hearings;
- Compile and collect documentation concerning the participant's progress and supply the information to the Adult Treatment Court as required;
- Act as liaison to the Office of Substance Abuse Services and any sub-contractors regarding service delivery issues, reimbursement, caseload, etc.;
- Work with treatment funding agencies to maintain quality control over treatment and testing providers through a variety of activities;
- Develop and maintain a procedural manual for program operations;
- Create and maintain a data collection system to monitor program compliance, meet grant reporting requirements, identify trends and provide a basis for evaluation;
- Preparation of court files for Adult Treatment Court Sessions;
- Participate in on-going evaluation of program effectiveness and recommend improvements as appropriate; and
- Assist with communications to community stakeholders, judges, and funding sources regarding program status.

¹⁰ The NEEDS assessment provides a measurement of nine relevant domains including substance and alcohol abuse and establishes a Level of Care Index based upon the American Society of Addiction Medicine criteria.

Role of Substance Abuse Coordinating Agency

Oakland County Health Division/Office of Substance Abuse Services (OSAS) shall participate in the selection and supervision of all treatment providers. Based upon the results of the NEEDS assessment, OSAS shall recommend treatment placement for participants.

Role of Community Corrections

The Oakland County Community Corrections Division shall provide funding support to the Adult Treatment Court for those offenders who meet Public Act 511 eligibility and are diverted from prison as a result of their participation.

Role of Sheriff

The Oakland County Sheriff's Office shall attend sessions of the court as requested by the ATC judge. The Oakland County Sheriff's Office shall also provide staffing sufficient to assure the safe custody of program participants as may be ordered by the court and transportation of in-custody participants as necessary for court appearances.

Clerical Responsibility

Court staff will provide clerical support. Clerical support includes preparation and maintenance of court files, courtroom calendars, computer entries, and collection of data to document the activities of the Adult Treatment Court. All docket entries shall follow common court practices and protocols. Because Adult Treatment Court sessions are part of the participant's intensive probationary process, they will not be recorded on the register of actions.

Team Meetings

The Adult Treatment Court Team shall consist of the judge, the defense advisor, the case manager, a treatment provider, and the coordinator. Because the status reports of treatment providers are deemed critical when evaluating a participant's progress in the Adult Treatment Court, treatment providers will consult with and/or participate in team meetings on invitation of the team. The deliberations of the team shall be confidential, except that team members may share information with representatives of their agency or office as required to ensure continuity in case management and policy development. The coordinator is expressly authorized to share information with counsel for a program participant to provide a defense to a probation violation hearing.

Team Communication

It is the intent of the parties to this Memorandum of Understanding that all substantive communications should be to all Adult Treatment Court team members simultaneously. Team meetings or telephonic and/or electronic communications best accomplish simultaneous sharing of information.

Ex parte communications with the Court on the merits of a matter by defense, prosecution, or treatment personnel will not occur. However, consistent with *People v Smith*, 423 Mich 427 (1985), "The probation officer may consult with the judge outside the presence of defense counsel." This communication is essential in maintaining records and furthering the court's regular business.

Treatment Stages

The Adult Treatment Court offers participants a comprehensive and integrated drug treatment and rehabilitation service supervised by the Adult Treatment Court Judge. Individualized treatment will consist of four stages. Each stage will have specific treatment objectives, therapeutic and rehabilitative activities, and requirements for graduation. The Adult Treatment Court team, together with selected treatment agencies and the Substance Abuse Coordinating Agency will implement standards developed for this program. These standards will guide the treatment "Stages".

Stage One

Stage One is established to engage the eligible participant in the treatment process. Upon acceptance into the program, with all waivers signed, and based on the NEEDS assessment data and/or Office of Substance Abuse Services approval, the participant will:

- Be assigned to one of the funded/licensed substance abuse Outpatient, Intensive Outpatient (IOP) or Residential substance abuse treatment programs participating with the Adult Treatment Court;
- Attend treatment sessions as established in the individualized treatment plan approved by the Adult Treatment Court;
- Submit to drug/alcohol screens two or three times a week at a prescribed location
- Attend Adult Treatment Court on a bi-weekly basis;
- Meet with the Adult Treatment Court Case Manager weekly;
- Attend 45 treatment meetings in 90 days;
- Have an AA or NA sponsor by the end of the 90-day period; and
- Follow through with other referrals for specialized treatment or intervention programs.

This stage is designed to last a minimum of 4 months. Depending on the individual's treatment plan and his or her success, the Judge, with the advice and counsel of the treatment provider and team members, will decide when to move the participant to Stage Two. A participant is to remain without a Level A program sanction for four (4) consecutive months.

Stage Two

Stage Two continues the treatment component described in Stage One with less intensity. The participant will:

- Step down to the next level of treatment (i.e. IOP, Outpatient or Aftercare treatment) upon recommendation by the treatment provider and Adult Treatment Court team;
- Submit to random drug/alcohol screens as prescribed by the treatment provider or the Step-Forward program and case manager (usually weekly);
- Meet with the Adult Treatment Court case manager at least once a month, or as otherwise delineated;
- Attend the Adult Treatment Court every third week or as directed;
- Attend treatment meetings at least three times a week;
- Provide verification of the participant's AA or NA sponsor to the Adult Treatment Court;
- Begin restitution payments, if applicable;
- Follow through with other referrals for specialized treatment or programs; and

- If unemployed, or employed part-time, seek full time employment or enroll in school (high school GED, trade school, or college) as a full time student.

This stage is designed to last 3 - 4 months, depending on the participant's individualized treatment plan. Drug/alcohol screens must not be less than twice a month at this stage. The Judge, with the advice and counsel of the treatment provider and team members, will decide when to move the participant to Stage Three:

Stage Three

Stage Three builds on the participant's treatment success and begins integrating the participant into society. The participant will:

- Step down to the next level of treatment (i.e. Outpatient to Aftercare) on recommendation by the treatment provider and the Adult Treatment Court team;
- Submit to random drug/alcohol screens at least once monthly as prescribed by the treatment provider, the Adult Treatment Court team and Step-Forward;
- Meet with the Adult Treatment Court case manager monthly;
- Attend the Adult Treatment Court at least once a month;
- Attend treatment meetings at least three times every week;
- Provide a report from the AA or NA sponsor to the Adult Treatment Court Judge once every month;
- Provide documentation of full-time school enrollment or employment; and
- Continue payment toward restitution.

This stage is designed to last 3 - 4 months, again depending on the individual's treatment plan. The Judge, with the advice and counsel of the treatment provider and team members, will decide when to allow the participant to graduate to Stage Four.

Stage Four

Stage Four is designed as aftercare, lasting 3-4 months, depending on the progress of the participant. Approximately one month before graduation, the participant will return to weekly drug/alcohol screens. The Case Manager will secure a LEIN check to ensure the participant has not been charged with a new offense. The Judge, with the advice and counsel of the treatment provider and team members, will decide when to allow the participant to graduate from the program. Before graduation can occur, the participant must have at least four consecutive months of negative (clean) alcohol and drug testing.

Evaluation

Under terms of the State Court Administrative Office grant under which this program began, the Adult Treatment Court must allow representatives of the Michigan Supreme Court and the Supreme Court Administrative Office to evaluate, audit, inspect and monitor operation of the court. An independent evaluator may be selected to assist in this evaluation. Process evaluation measures will gauge the effectiveness of the program by determining:


- Whether the project, as designed, has been implemented;
- How team members are functioning together;

- Whether participant needs are being served, and how often;
- If the procedures for status review hearings are operating smoothly;
- Whether offenders were effectively engaged in the program (i.e. retention rates, uses of sanctions);
- Program impact, including statistics comparing information relevant to recidivism; and
- Other relevant information as identified by the evaluator

Review of Memorandum of Understanding

This Memorandum of Understanding represents the agreement of the parties listed below regarding the operation of the Adult Treatment Court. Modifications to the operation of the Adult Treatment Court that impact roles, procedures, philosophy and policies described her shall not be implemented without the written amendment to this Memorandum of Understanding, signed by the original signatories or their designees, The Probation Violation Memorandum of Understanding shall be read in conjunction with the original Memorandum of Understanding entitled Oakland County Adult Drug Treatment Court Memorandum of Understanding.


This Memorandum of Understanding will be reviewed every five years by the Oakland County Circuit Court and revised as necessary upon mutual agreement by all parties. Therefore, the expiration date is May 1, 2018.


 Nancy J. Grant, Chief Judge
 Oakland County Circuit Court


Date: 5-30-12

 Daniel Heyns, Director
 Michigan Department of Corrections

Date: _____


 Jack Holmes
 Defense Advisor

Date: 6-5-13


 Michael Bouchard
 Oakland County Sheriff

Date: 6/14/13

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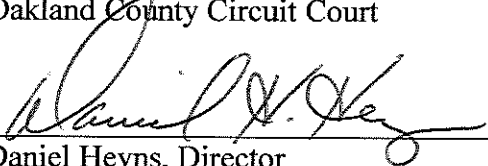
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Oakland County Circuit Court

Date: _____



Daniel Heyns, Director
Michigan Department of Corrections


Date: 6/19/13

Jack Holmes
Defense Advisor

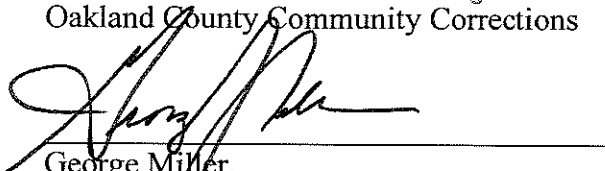
Date: _____

Michael Bouchard
Oakland County Sheriff

Date: _____


Barbara Hankey, Manager
Oakland County Community Corrections

Date: 6-3-13


George Miller,
Director of Health and Human Services

Date: 6-3-13