

Memorandum of Understanding 16th Circuit Adult Drug Court

1. Parties

This agreement is made and entered into as of the date set forth below, by and between the following parties whose representatives have signed the agreement:

- a. 16th Circuit Adult Drug Court
- b. 16th Judicial Circuit Court
- c. Adult Drug Court Judges
- d. Macomb County Prosecuting Attorney
- e. Michigan Department of Corrections Probation and Parole
- f. Macomb County Sheriff Department
- g. Defense Attorney
- h. Treatment Provider; Class A Training
- i. Adult Drug Court Specialty Court Coordinator

2. Purpose

The purpose of this Memorandum of Understanding (MOU) is to describe duties and allocate responsibilities for members of the 16th Circuit Adult Drug Court Team. The MOU also establishes team member responsibilities and requirements for maintaining compliance with the Michigan Drug Court Statute (MCL 600.1060-600.1088).

3. Terms and Definitions

- a. Ex parte communication: Any communication, relevant to a legal proceeding between a judge and a party to the proceeding or any other person about the case, outside of the presence of the opposing party or the opposing party's attorney, that is not on the record.
- b. Participant: Any person referred to the 16th Circuit Adult Drug Court, currently being screened as a candidate for the 16th Circuit Adult Drug Court (including those who are ultimately denied entry to the program), currently participating in the 16th Circuit Adult Drug Court, or someone who has been discharged from the 16th Circuit Adult Drug Court program.
- c. Policies and Procedures Manual: Policy and procedure manuals document policies and procedures designed to influence and determine all major decisions and actions, and all activities that take place within the boundaries set by them. Procedures are the specific methods employed to express policies in action in day-to-day operations of the organization.
- d. Staffing meetings: Team meetings where participants' progress is discussed and options for incentives, sanctions, treatment, and phase changes are evaluated.
- e. Stakeholders: A person, group or organization that has interest or concern in an organization.

- f. Treatment services: Any services provided by a licensed clinician or by an employee of an agency providing therapeutic services for substance use disorder, mental health, or developmental disabilities.

4. Mission of the 16th Circuit Adult Drug Court

We agree that the mission of the 16th Circuit Adult Drug Court program shall be to successfully rehabilitate substance using individuals while maintaining public safety. We endorse the goals and mission of the 16th Circuit Adult Drug Court in order for participants to eliminate future criminal behavior and improve the quality of their lives. For this program to be successful, cooperation must occur within a network of systems to facilitate and achieve the mission, challenges and vision of the 16th Circuit Adult Drug Court.

5. Guiding Principles of the 16th Circuit Adult Drug Court

- a. Drug and alcohol addiction is a chronic relapsing disease that is treatable, and substance use is reversible behavior, which, if unaddressed, may lead to continuing and increasing criminal behavior and other personal, family, and societal problems.
- b. Drug court programs offer an opportunity to direct those in crisis with addictions and substance use disorders to begin a rehabilitation process, which may ultimately lead to a reduction or elimination of addiction and use and permit the development of a productive lifestyle.
- c. Treatment intervention should occur early on upon entry to the criminal justice system to achieve maximum treatment outcomes.
- d. Thorough assessment and evaluation are a critical component of the drug court programs.
- e. Participant accountability is foremost in the program, with written program agreements and court monitoring of behavior on a regular basis. Court monitoring will include incremental sanctioning for negative behaviors and positive rewards for improved behaviors.
- f. Drug court programs are established with written protocols, which are well defined and documented through the policies and procedures manual. The program manual will be updated as needed, to respond to the changes in the needs of the programs, participants, agencies and community.
- g. Participant entry into the drug court program shall be governed by written eligibility criteria as established in Attachment A.
- h. Information about participant progress and the functioning of the drug court program shall be made available to all team members in compliance with federal and state confidentiality laws.
- i. Effective evaluation of the drug court program shall be sought with appropriate responses being made relative to these evaluations.

6. Roles of the Parties of the 16th Circuit Adult Drug Court

- a. All parties shall:
 - i. Participate as a team member, operating in a non-adversarial manner.
 - ii. On an annual basis, attend current training events on legal and constitutional issues in drug treatment courts, evidence-based substance abuse and mental health treatment, behavior modification, and/or community supervision.
 - iii. Help to identify potential and eligible drug treatment court participants.
 - iv. Provide feedback, suggestions, and ideas on the operation of the drug court.
 - v. Attend staffing meetings and provide input on incentive and sanctions for participants.
 - vi. Share information as necessary, and in compliance with 42 CFR and HIPAA, to appraise participants' progress in, and compliance with, the conditions of the drug treatment court.
 - vii. Ensure that they, all employees, and other agents, shall maintain the confidentiality of all records generated during the term of this MOU in accordance with applicable state and federal laws and regulations, including but not limited to, 42 CFR Part 2, HIPAA, and 290dd-2.
- b. The roles of the individual parties are as follows:
 - i. Drug court judge
 - 1. Serve as the leader of the team.
 - 2. Preside over status review hearings.
 - 3. Engage the community to generate local support for the drug court.
 - 4. Communicate with the participants in a positive manner and make final decisions regarding incentives, sanctions, and program continuation.
 - 5. Consider the perspective of all team members before making final decisions that affect participants' welfare or liberty interests and explain the rationale for such decisions to team members and participants.
 - 6. Rely on the expert input of duly trained treatment professionals when imposing treatment related conditions on the participants.
 - 7. Shall consider whether to terminate a participant's participation in the drug treatment court program if that participant is accused of a new crime. If a participant is convicted of a felony for an offense that occurred after being admitted to drug treatment court, the judge must terminate the participant from the program.
 - ii. Prosecuting attorney:
 - 1. Provide legal screening of eligible participants.
 - 2. Attend review hearings.

3. Represent the interests of the prosecutor and law enforcement.
 4. Advocate for public safety.
 5. Advocate for victim interest.
 6. Hold participants accountable for meeting their obligations.
 7. If a plea agreement is made based on completion of the program, complete appropriate court documents for resultant modification(s) upon participant's successful completion of the program (reduced charge, nolle prosequi, etc).
 8. May help resolve other pending legal cases that impact participants' legal status or eligibility.
- iii. Program coordinator:
1. Arrange for or conduct additional screenings of persons aside from the prosecutor's legal screening.
 2. Attend review hearings.
 3. Answer inquiries from defense attorneys on possible eligibility.
 4. Enter data into DCCMIS system.
 5. Liaison with agencies that are providing services to the participants.
 6. Ensure that new team members are provided with a formal training within three months of joining the team on the topics of confidentiality, and his or her role on the team, and that the new team member is provided with copies of all program policy and procedure manuals, the participant handbook, and a copy of all current memoranda of understanding.
- iv. Probation Agent:
1. Administer a validated criminogenic risk/needs assessment tool to participants during the referral process to ensure the drug treatment court is serving the appropriate target populations.
 2. Attend review hearings.
 3. Work with the program coordinator in supervising and monitoring the individuals in the program.
 4. Prepare presentence reports and perform drug and alcohol tests as needed.
 5. Schedule probation violations or show cause hearings for participants who have violated the program rules and are subject to termination from the program, or if a liberty interest is at stake.
 6. Enter data into the DCCMIS system.
- v. Defense counsel representative:
1. Ensure that defendants' procedural and due process rights are followed.
 2. Ensure that a defense counsel representative is present at all staffing meetings to avoid ex parte communication.
 3. Attend review hearings.

4. Ensure that the participant is treated fairly and that the drug treatment court team follows its own rules.
5. When appropriate, and without breaching attorney-client privilege, encourage clients to be forthcoming and honest regarding their recovery process.
- vi. Treatment provider:
 1. Conduct assessments when needed to determine program eligibility, appropriate treatment services, and progress in treatment.
 2. Ensure that a treatment representative is present at all staffing meetings to ensure therapeutic input regarding any sanctions being considered.
 3. Liaison with any treatment providers and/or treatment agencies that are providing services to the participants, and keep the team updated on treatment attendance and progress.
 4. Attend review hearings.
 5. Manage delivery of treatment services.
 6. Administer, or ensure administration of, behavioral or cognitive-behavioral treatments that are documented in manuals and have been demonstrated to improve outcomes.
 7. Provide clinical case management.
 8. Offer insights and suggestions on the treatment plans of individuals in the program.
 9. Enter data into the DCCMIS system.
- vii. Law enforcement agency:
 1. Attend review hearings.
 2. Assist with apprehensions for participants with active warrants.

7. Deferrals, Delays, and Deviation from Sentencing Guidelines

Under MCL 600.1068(2), the prosecutor must approve an individual's admission into the 16th Circuit adult Drug Court if the individual will be eligible for discharge and dismissal of an offense, delayed sentence, or deviation from the sentencing guidelines.

8. Program Fee

The program charges a fee of \$500 to each participant, to be paid in phases. In accordance with MCL 600.1070 the Judicial Aide department of the 16th Circuit Court shall deposit the fees collected to the treasurer of the local funding unit. The fee must be reasonable and calculated based on costs reasonably related to administering the program that are not covered by other funding such as insurance, block grants, PA 511, or another agency. These costs include alcohol and drug testing and outpatient counseling.

9. Term of Agreement

This agreement is effective for one year upon the date of the final signature and shall renew automatically for subsequent one-year terms unless otherwise modified. Any signatory to this agreement may terminate participation upon thirty days' notice to all other signatories.

10. Agency Representatives

This MOU will be administered by the 16th Circuit Adult Drug Court team, which consists of the following stakeholder agency representation:

- a. 16th Judicial Circuit Court, Chief Judge James M. Biernat, Jr.
- b. 16th Judicial Circuit Adult Drug Court Judges, Honorable Jennifer Faunce and Honorable Joseph Toia
- c. 16th Judicial Circuit Court, Court Administrator, Julie Bovenschen
- d. Macomb County Chief Prosecuting Attorney, Jean Cloud
- e. Michigan Department of Corrections, Heidi E. Washington
- f. Macomb County Sheriff, Anthony Wickersham
- g. Defense attorney, Josh Jones
- h. Class A Training Center, Korrin Krieg
- i. 16th Judicial Circuit Adult Drug Court, Coordinator, Christina Wohlfield

11. Modification of Agreement

Modification of this agreement shall be made by formal consent of all parties, pursuant to the issuance of a written amendment, signed and dated by the parties, prior to any changes.

12. Other Interagency Agreements

This agreement does not preclude or preempt each of the agencies individually entering in to an agreement with one or more parties to this agreement, nor does it supplant any existing agreement between such parties.

13. Signatures of Parties to this Agreement

The parties have entered into this agreement as evidenced by their signatures below. A certified copy of the agreement shall be provided to each signatory to the agreement. The original agreement shall be held by the 16th Judicial Circuit Court.

DocuSigned by:

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Signature

James Biernat

Printed Name

Chief Judge

Title

9/30/2020

Date

DocuSigned by:

1461204D670E4DA...

Signature

Jennifer Faunce

Printed Name

Circuit Court Judge

Title

10/6/2020

Date

DocuSigned by:

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Signature

Joseph Toia

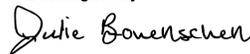
Printed Name

Circuit Court Judge

Title

10/6/2020

Date

DocuSigned by:

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Signature

Julie Bovenschen

Printed Name

Court Administrator

Title

10/6/2020

Date

DocuSigned by:

87F0BF91192147A...

Signature

Jean Cloud

Printed Name

Macomb County Prosecuting Attorney

Title

10/12/2020 | 12:32 PM EDT

Date

DocuSigned by:

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Signature

Heidi Washington

Printed Name

Director

Title

10/19/2020 | 9:32 AM EDT

Date

DocuSigned by:
Anthony Wickersham
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Signature

Anthony Wickersham

Printed Name

Sheriff

Title

10/19/2020 | 9:40 AM EDT

Date

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[Signature]
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Signature

Josh Jones

Printed Name

Atty

Title

10/19/2020 | 9:49 AM EDT

Date

DocuSigned by:
Korrin Krieg
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Signature

Korrin Krieg

Printed Name

Director Of Operations - Treatment Provider

Title

10/19/2020 | 2:13 PM EDT

Date

DocuSigned by:
Christina Wohlfield
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Signature

Christina Wohlfield

Printed Name

Specialty Court Coordinator- Drug Court

Title

10/19/2020 | 2:15 PM EDT

Date

ATTACHMENT A

**ADULT DRUG COURT
TARGET POPULATION/ELIGIBILITY CRITERIA**

In order to be eligible for the Macomb County Circuit Court Adult Felony Drug Court a person must be:

- (1) An Adult (18 years or older).
- (2) A resident of Macomb County, Michigan and a United States citizen.
- (3) No prior assaultive felonies with harm to an individual within the last 10 years. "Harm" being defined as either physical or emotional trauma.
- (4) Charged with a drug-motivated or drug-related probation violation or new felony for which the he or she is likely to be incarcerated. This is generally determined in relation to the person's sentence guideline scores for persons falling within the straddle cell or presumptive categories of the sentencing guidelines are considered to be within the target population.
- (5) A nonviolent offender, meaning not a 'violent offender' as defined by MCL 600.1060(g): Currently charged with or has pled guilty to an offense involving the death of or a serious bodily injury to any individual, or the carrying, possessing, or use of a firearm or other dangerous weapon by that individual, whether or not any of these circumstances are an element of the offense, or criminal conduct of any degree; or, has 1 or more prior convictions for a felony involving the use or attempted use of force against another individual with the intent to cause death or serious bodily harm.
- (6) Free of any current serious mental health illness that would preclude meaningful participation in the Drug Court Program. (A serious mental health illness means a diagnosable mental, behavioral, or emotional disorder affecting an adult that exists or has existed during the past year for a period of time sufficient to meet the diagnostic criteria specified in the most recent diagnostic and statistical manual of mental disorders published by the American Psychiatric Association and approved by the Michigan Department of Mental Health and that has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities. Serious mental illness includes dementia with delusions, dementia with depressed mood, and dementia with behavioral disturbance. The key criteria to the Drug Court are whether, with or without medication, the person can meaningfully participate in

treatment and habilitation. The Drug Court Team may consider candidates as to whom there is a dispute as to their appropriateness for admission to the Program).

- (7) Either a felony probation violator with drug-related violations who is likely to be incarcerated due to the violation or be charged with a new offense that is not outside of the Drug Court guidelines. Persons charged with Delivery of Drugs or Possession with the Intent to Deliver, whose criminal activity appears to be motivated by monetary gain should not be considered for the Drug Court.
- (8) Has not previously been convicted of a CSC crime and is not currently charged with a CSC crime.
- (9) OWI or OUIL offenses are not eligible.
- (10) Physically and mentally stable and able to actively participate in the treatment, employment, education, and other services included in the Drug Court Program, with or without reasonable accommodation.
- (11) Willing to acknowledge a substance abuse or dependence problem and agrees to participate in the Drug Court intensive treatment program.
- (12) Willing to enter a plea of guilty, enter Drug Court as a condition of probation, and waive the right of independent counsel during Drug Court sessions.
- (13) Able to arrange transportation to and from treatment and Drug Court sessions.