



DUI DRUG TREATMENT COURT STANDARDS

SUPREME COURT OF VIRGINIA

ADOPTED

October 2006

(REVISED)

PREFACE

During the past fifteen years, a quiet revolution has occurred within the criminal justice system. The first drug court was established in 1989 in Dade County, Florida in response to an epidemic of drug addiction and drug-related crime. Jurists in Dade County realized that the endless cycle of addiction, crime and recidivism had to be broken. Since then, drug courts have taken hold across the United States.

These specialized court dockets are part of an innovative judicial model in which offenders are held accountable for their actions while gaining the tools they need to break the patterns of drug abuse so damaging to their lives as well as the lives of others. The goals of most drug courts are: (1) to reduce drug use and associated criminal behavior, by engaging and retaining substance-abusing offenders in treatment services; (2) to address other offender needs through clinical assessment and effective case management; and (3) to remove certain drug cases from traditional courtrooms. Drug courts provide the most comprehensive and effective method to reduce the criminal conduct of drug court participants. Additional benefits that flow from drug courts include improved public health, increased child support, and increased employment. The results have been overwhelmingly positive. Today, there are more than 1,400 drug courts across the country, including 28 in the Commonwealth of Virginia. More are in the planning stage.

In 2004, the Virginia General Assembly enacted the Drug Treatment Court Act, Virginia Code §18.2-254.1, in recognition of the growing number of drug treatment courts in the Commonwealth. Pursuant to Code §18.2-254.1, the Supreme Court of Virginia is the administrative body with specific responsibility for implementation of the Drug Treatment Court Act. The Act requires the establishment of a state drug treatment court Advisory Committee to evaluate and recommend standards for the planning and implementation of all drug treatment courts in the Commonwealth. The Act also requires the state Advisory Committee to assist in conducting ongoing evaluations of the effectiveness and efficiency of all local drug treatment courts. Reports must be submitted to the General Assembly by December 1 of each year.

Standards were initially drafted by a Standards Committee made up of members of the Virginia Drug Treatment Court Advisory Committee, appointed by the Honorable Leroy Rountree Hassell, Sr., Chief Justice of the Supreme Court of Virginia. Members of the Standards Committee included: The Honorable Catherine C. Hammond, Judge, Henrico Circuit Court, Chair; The Honorable Margaret P. Spencer,

Judge, Richmond Circuit Court; The Honorable Clarence N. Jenkins, Judge, Richmond Juvenile and Domestic Relations District Court; The Honorable David Chapman, Commonwealth's Attorney, Charlottesville; Ms. Debra Gardner, Executive Director, Virginia Alcohol Safety Action Program (VASAP); and Ms. Patty L. Gilbertson, President, Virginia Drug Court Association.

The state Advisory Committee, chaired by the Chief Justice, considered draft standards at its meetings in January, April and September 2005. On October 19, 2006 the Advisory Committee voted to recommend the following standards for DUI drug treatment court programs.

On September 23, 2005 the Advisory Committee also voted to recommend a written application for use by any new drug treatment court program seeking permission to operate pursuant to Virginia Code §18.2-254.1 (O). The drug treatment court program standards and the application for a new drug treatment court reflect the benchmarks outlined in *Defining Drug Courts: The Key Components* published by the U.S. Department of Justice, Office of Justice Programs. They have been modified for use within the Commonwealth of Virginia.

There are and will continue to be differences among individual drug treatment court programs based upon the unique needs and operational environments of the local jurisdictions and the target populations to be served. However, there is also a need for reasonable consistency as to basic program components and principles. Therefore, this document is an attempt to outline those fundamental standards and practices to which all drug treatment court programs in the Commonwealth of Virginia should subscribe.

DUI drug treatment court programs utilize the drug treatment court model with impaired drivers. A DUI drug treatment court is a distinct court system dedicated to changing the behavior of the alcohol/drug dependant offenders arrested for Driving While Impaired (DWI). The goal of DUI court is to protect public safety by using the drug court model to address the root cause of impaired driving, alcohol and other substance abuse. With the hard-core drinking driver as its primary target population, DUI drug treatment courts follow the Ten Key Components of Drug Courts and the Ten Guiding Principles of DWI Courts, as established by the National Association of Drug Court Professionals and the National Drug Court Institute. DUI drug treatment courts operate within a post-conviction model.

DUI DRUG TREATMENT COURT STANDARDS

SUPREME COURT OF VIRGINIA

PURPOSE

These standards are recommended to provide a general framework of common principles, policies and practices for the approval of new DUI drug treatment court programs in the Commonwealth of Virginia. They present a single orientation from which the judicial branch, including judges and all court personnel, can work with prosecutors, the defense bar, alcohol safety action programs, corrections officials, local government, law enforcement, and public and private treatment providers to address problems of impaired driving which pervade the court system's caseload. Each standard includes practices or recommended steps, consistent with public and transportation safety, for courts to take in responding effectively to the toxic mix of substance abuse and driving. The steps are stated broadly in order to leave room for each DUI court to meet local needs. This structure of standards and practices will:

- Ensure greater coordination among all court supervised DUI programs throughout the Commonwealth;
- Maximize coordination and sharing of scarce treatment resources;
- Strengthen efforts to obtain federal funding; and
- Facilitate development of coordinated long-range plans for financing DUI court operations.

The Virginia Code (article 18.2-266 to 18.2-273) provides that persons convicted of Driving Under the Influence (DUI) enter and successfully complete VASAP. In agreement with each Court, the DUI Drug Treatment Court Program will accept, assess and monitor persons per the policies established by the DUI Drug Treatment Court Team. The DUI drug treatment court program shall work closely with VASAP during the planning process to develop appropriate assessment and supervision criteria. The commission on VASAP will preview all Virginia DUI drug treatment court applications requesting permission to establish and present written comments to the Operations Committee of the statewide Drug Treatment Court Advisory Committee to consider with the application.

STANDARD I

DUI drug treatment court programs depend upon a comprehensive and inclusive planning process.

PRACTICE

- 1.1** The DUI court has demonstrated participation in a planning process to ensure a coordinated, systemic and multidisciplinary approach. New DUI drug treatment court programs are encouraged to participate in the planning process available through the U.S. Department of Justice, The National Highway Traffic Safety Administration or National Drug Court Institute. The planning group includes the Judge, prosecutor, public defender or defense attorney, treatment representative, local ASAP director, a DUI court coordinator, law enforcement, probation supervision, locality administration, clerk, and an expert in research or evaluation which has an interest in the success of the program. Because of mandatory DUI sentencing and administrative licensing requirements, it is critical that a state's DUI Drug Treatment Court team work collaboratively with the Department of Motor Vehicles and the Commission on VASAP, the agencies responsible for driver's license restoration, the state legislature and state and local non governmental organization.
- 1.2** The planning group has a written work plan addressing the program's needs for budget and resources, operations, information management, staffing, community-relations, and ongoing evaluation. The work plan has specific descriptions of roles and responsibilities of each program component. For example, eligibility criteria, screening, and assessment procedures are established.
- 1.3** Management information systems are developed for court information and treatment information in accordance with confidentiality statutes.
- 1.4** Graduated responses to the participant's compliance and noncompliance are defined.
- 1.5** Treatment and supervision requirements and expectations are understood and agreed upon by the planning group.

STANDARD II

DUI drug treatment court programs offer comprehensive post-conviction substance abuse treatment services designed to prevent recidivism.

PRACTICE

- 2.1 The DUI drug treatment court has a program description defining the court's mission, goals, eligibility criteria, operating procedures, and performance measures, that have been collaboratively developed, reviewed, and agreed upon by the planning team.
- 2.2 Abstinence and a reduction in criminal behavior are goals, with specific and measurable criteria that mark progress. Criteria may include compliance with supervision and treatment, with an eventual end to recidivism.
- 2.3 The DUI drug treatment court, supervision, and treatment providers maintain ongoing communication, including frequent exchanges of timely and accurate information about the individual participant's overall performance.
- 2.4 The judge plays an active role in the team process, frequently reviewing the participant's behavior and incidence of compliance with treatment options.
- 2.5 Interdisciplinary education is provided for every person involved in DUI drug treatment court operations, in order to develop a shared understanding of the values, goals, and operating procedures of both the treatment and justice system components.
- 2.6 Mechanisms for sharing decision making and resolving conflicts among DUI drug treatment court team members, such as multidisciplinary committees, are established, emphasizing professional integrity.

STANDARD III

DUI drug treatment court programs have published eligibility criteria that have been collaboratively developed, reviewed and agreed upon by members of the DUI drug treatment court team.

PRACTICE

- 3.1 Offenders assessed as only needing education as intervention and who do not exhibit abusive/addictive use patterns of alcohol/drugs are not eligible to participate.
- 3.2 The focus should be offenders with multiple offenses, screened and assessed with addictive/abusive patterns of alcohol/drugs.
- 3.3 Risk assessment factors that are crucial in determining a defendant's suitability for the DUI drug treatment court program, are weighed by the DUI drug treatment court judge on a case-by-case basis.

STANDARD IV

DUI drug treatment court programs incorporate a non-adversarial approach in which the judge, the Commonwealth's Attorney and the defense attorney promote public safety while protecting the rights of participants.

PRACTICE

- 4.1 Commonwealth's Attorneys and public defenders or defense counsel shall participate in the design of the DUI drug treatment court, including criteria for screening, eligibility, and policies and procedures, to safeguard due process rights and make sure public safety needs are served.
- 4.2 For consistency and stability in the early stages of DUI drug treatment court operations, the judge, prosecutor, and defense counsel shall participate with the team in the oversight of the DUI drug treatment court program for a sufficient period of time to build a sense of teamwork and to reinforce a non-adversarial atmosphere.
- 4.3 Each DUI drug treatment court has a written agreement setting forth the terms of collaboration among the Commonwealth's Attorney, the public defender or defense counsel, the clinical treatment providers, the Judge, and in its discretion may have a written agreement with any other public agencies involved in delivering services to the DUI drug treatment court program.

STANDARD V

DUI drug treatment court programs emphasize early identification and placement of eligible participants.

PRACTICE

- 5.1 Eligibility screening is based on established written criteria pursuant to Va. Code § 18.2-266 to 18.2-273. Staff shall be designated to screen cases and identify potential DUI drug treatment court participants. Certified or licensed addictions/mental health professionals provide additional assessments for substance use disorders and suitability for treatment.
- 5.2 Screening and assessment will take place at the earliest possible entry point to support expedited placement in the program.
- 5.3 Once accepted for admission, the defendant is enrolled immediately in substance abuse treatment services and placed under supervision to monitor compliance.
- 5.4 An approved consent form is completed, to provide communication regarding participation and progress in treatment and compliance with 42 CFR, Part 2 (regulations governing confidentiality of substance abuse treatment records) applicable state statutes, and HIPAA regulations.

STANDARD VI

DUI drug treatment court programs provide access to a comprehensive continuum of treatment, education and rehabilitation services.

PRACTICE

- 6.1 Participants are initially screened and thereafter periodically assessed by both court and treatment personnel to ensure that treatment services and individuals are suitably matched.

- 6.2 All substance abuse and mental health treatment services are provided by programs licensed by the Virginia Department of Mental Health, Mental Retardation and Substance Abuse Services pursuant to Va. Code § 37.1-179, or persons licensed by the Virginia Department of Health Professions.
- 6.3 Each participant is responsible for the cost of the substance abuse treatment he/she receives while participating in the DUI drug treatment court program.
- 6.4 Treatment services are comprehensive.

STANDARD VII

Abstinence is monitored by frequent alcohol and other drug testing.

PRACTICE

- 7.1 DUI drug treatment court programs have written policies and procedures for the frequency of drug screening, sample collection, sample analysis, and result reporting.
- 7.2 The testing policies and procedures include a coordinated strategy for responding to noncompliance, including prompt responses to positive tests, missed tests, and adulterated/altered tests.
- 7.3 The testing policies and procedures address elements that contribute to the reliability and validity of a urinalysis testing process. The scope of testing is sufficiently broad to detect the participant's primary drug of choice as well as other potential drugs of abuse, including alcohol.
- 7.4 Each DUI drug treatment court program has breathalyzer capability.
- 7.5 Test results are available and communicated to the court and the participant within a brief period, recognizing that the DUI drug treatment court program functions best when it can respond immediately to noncompliance.

STANDARD VIII

A coordinated strategy governs responses from the DUI drug treatment court program to each participant's performance and progress.

PRACTICE

- 8.1 A participant's progress through the DUI drug treatment court experience is measured by his or her compliance with the intervention, treatment and supervision regimen.
- 8.2 Treatment providers, the judge, and program staff maintain frequent and regular communication to provide timely reporting of progress and noncompliance and to enable the court to respond immediately. Procedures for reporting noncompliance are clearly defined in the DUI drug treatment court program's operating documents.
- 8.3 Responses to compliance and noncompliance (including criteria for termination) are explained orally and provided in writing to DUI drug treatment court participants during their orientation. Periodic reminders are given throughout the treatment process.
- 8.4 Coordinated responses for compliance or noncompliance are graduated and consistent with the infraction or accomplishment.
- 8.5 Payment of fees, including the VASAP fee, fines and court ordered fees is part of the participant's treatment.

STANDARD IX

Ongoing judicial interaction with each participant in the DUI drug treatment court program is essential.

PRACTICE

- 9.1 Regular status hearings are used to monitor participant performance:

- a. *Frequent status hearings during the initial phases of each participant's program establish and reinforce the DUI drug treatment court program's policies and ensure effective supervision of each DUI drug treatment court program participant. Frequent hearings also give the participant a sense of how he or she is doing in relation to others.*
- b. *Having a significant number of DUI drug treatment court participants appear at a single session gives the judge the opportunity to educate both the offender at the bench and those waiting as to the benefits of program compliance and consequences for noncompliance.*

9.2 The court imposes appropriate incentives and sanctions to match the participant's treatment progress and supervision compliance.

STANDARD X

The DUI drug treatment court program has results that are measured, evaluated, and communicated to the public.

PRACTICE

10.1 The goals of the DUI drug treatment court program are described concretely and in measurable terms. Minimum goals are:

- a. *Improving public safety, including highway safety;*
- b. *Reducing recidivism;*
- c. *Reducing drug addiction and drug dependency among offenders;*
- d. *Reducing crime*
- e. *Reducing drug-related court workloads;*
- f. *Increasing personal, familial, and societal accountability among offenders; and*
- g. *Promoting effective planning and use of resources among the criminal justice system and community agencies.*

10.2 The DUI drug treatment court program has an evaluation and monitoring protocol describing measurement of progress in meeting operational and administrative goals, effectiveness of treatment, and outcomes.

10.3 Information systems adhere to written policies consistent with state and federal guidelines that protect against unauthorized disclosure.

10.4 The DUI drug treatment court must use and maintain current data in an information technology system as prescribed by the Office of the Executive Secretary.

STANDARD XI

The DUI drug treatment court program requires continuing interdisciplinary education, training and program assessment.

PRACTICE

- 11.1** Key personnel have attained a specific level of basic education, as defined in staff training requirements and in the written operating procedures. The operating procedures define requirements for the continuing education of each drug treatment court staff member.
- 11.2** All DUI drug treatment court program personnel attend continuing education programs. Regional and national drug court training programs provide critical information on innovative developments across the nation. Sessions are most productive when DUI drug treatment court program personnel attend as a group.
- 11.3** Continuing education institutionalizes the DUI drug treatment court program and moves it beyond its initial identification with the key staff that may have founded the program and nurtured its development.

STANDARD XII

The local advisory committee interacts in a vital and meaningful way with the DUI drug treatment court team.

PRACTICE

- 12.1** Each local advisory committee membership shall include the people identified in these standards.
- 12.2** The local advisory committee conducts regular meetings attended by DUI drug treatment court program staff.
- 12.3** Representatives of the court, community organizations, employers, law enforcement, corrections, prosecution, defense counsel, supervisory agencies, treatment and rehabilitation providers, educators, health and social service agencies, and the faith community have opportunity to contribute to the ongoing improvement of the DUI drug treatment court program.
- 12.4** Staff of the DUI Drug Treatment Court Program engages in community outreach activities to build partnerships that will improve outcomes.