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NoraV Borja

IN THE
SUPREME COURT
OF THE
COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS

IN RE THE ESTABLISHMENT OF
THE MENTAL HEALTH COURT DOCKET

ADMINISTRATIVE ORDER 2021-ADM-0010-RUL

ORDER ESTABLISHING
MENTAL HEALTH COURT DOCKET
AND ADOPTING POLICIES AND PROCEDURES

¶ 1 The Court recognizes treatment courts and dockets as an effective way to address community needs through the justice system. Treatment courts and dockets provide judicially supervised, community-based treatment programs. Criminal offenders with mental health or substance abuse issues must demonstrate a high level of commitment and accountability as they progress through assessments and program phases.

¶ 2 The Court finds the need to establish a specific treatment docket: the Mental Health Court Docket ("MHC Docket"). Positioned within the current structure of the Superior Court's general docket, the MHC Docket supplements the Drug Court, the first treatment court established in 2015. It brings together criminal justice agencies and mental health professionals to identify and treat participants with underlying mental health issues. It will also assist eligible veterans and servicemembers to access mental health treatment in lieu of incarceration.

¶ 3 A new treatment docket requires the development of policies and procedures to standardize the program. A team of stakeholders consisting of the Office of the Attorney General, the Office of the Public Defender, law enforcement agencies, Commonwealth Healthcare Corporation and other treatment professionals, and mental health court docket staff, assisted in the drafting and development of the *Northern Mariana Islands Judiciary Mental Health Court Docket Policies and Procedures,* attached as Exhibit A. The policies and procedures outline screening and eligibility of applicants, roles of docket team members, program components, grounds for sanctions and termination, program outcomes, and other administrative aspects.

¶ 4 IT IS THEREFORE ORDERED that (1) the Mental Health Court Docket is established within the Superior Court general docket; and (2) the *Northern Mariana Islands Judiciary Mental Health Court Docket Policies and Procedures* is adopted.

SO ORDERED this 3rd day of July, 2021.

/s/________________________
ALEXANDRO C. CASTRO
Chief Justice

/s/________________________
JOHN A. MANGLONA
Associate Justice

/s/________________________
PERRY B. INOS
Associate Justice

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NORTHERN MARIANA ISLANDS JUDICIARY
MENTAL HEALTH COURT DOCKET
POLICIES AND PROCEDURES

EXHIBIT A

Approved by the
COMMONWEALTH SUPREME COURT
July 3, 2021

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INTRODUCTION

The Mental Health Court Docket ("MHC") is a specialty court docket that brings together criminal justice agencies and mental health professionals to identify and treat participants with underlying mental health issues. The mental health court docket is created within the existing structure of the Superior Court's general docket. The creation of the new docket does not establish an inferior court, as that authority rests with the Commonwealth legislature. However, for purposes of this policy, we refer to the docket as the Mental Health Court.

MHC provides intensive supervision to individuals charged with a misdemeanor or felony offense as a direct result of mental health symptoms or intellectual and developmental disabilities. It is a voluntary program and utilizes problem-solving docket and non-adversarial models to provide participants with accountability, treatment, rehabilitation, medication management, criminal justice services, and social support services. The Judge and Team work together with participants toward a common goal of enhanced quality of life and decreased criminal justice involvement. This program also assists eligible veterans and service members to access mental health treatment in lieu of incarceration.

Participants must enter a plea in abeyance, after having been legally and clinically found as eligible. Participants attend frequent status review hearings, meet with the Team regularly, and comply with treatment and case management plans developed based on individual needs.

The program has several phases, each consisting of different benchmarks. Upon a successful program completion, the case will be dismissed.

MISSION STATEMENT

The MHC's mission is to improve the lives of individuals affected by mental health challenges by providing a multi-disciplinary approach, integrating evidence-based and culturally sensitive treatment, and promoting healthy and positive behaviors.

The MHC aims to accomplish its mission by:

1. Connecting the participant with mental health treatment providers;
2. Reducing participant incarceration through a combination of court supervision, treatment, and support;
3. Improving management of mental health symptoms and co-occurring disorders, and reducing contact with the criminal justice system as a result; and

4. Promoting public safety by reducing recidivism.

GUIDING PRINCIPLES

In 2007, the Council of State Governments Justice Center created a report for the Bureau of Justice Assistance (BJA), a component of the U.S. Department of Justice's Justice Programs, entitled, "Improving Responses to People with Mental Illnesses – The Essential Elements of a Mental Health Court." During this project, the National Drug Court Institute provided assistance with lessons learned developing its publication "Defining Drug Courts: The Key Components." Collaborative efforts led to the publication of the ten essential elements of mental health court design and implementation.

Two key principles underlie the ten essential elements. First, at the heart of each element is collaboration among the criminal justice, mental health, substance abuse treatment, and related systems. True cross-system collaboration is imperative to realize any of these elements and to successfully operate a mental health court. It is generally accepted that achieving this type of collaboration is difficult, particularly breaking down institutional barriers and eschewing the adversarial process. Second, the elements make clear that mental health courts will not be the sole solution for societal problems encompassed within the behavioral health care system. Reversing the overrepresentation of people with mental illnesses in the criminal justice system requires a comprehensive strategy of which mental health courts should be just one piece. The MHC staff must be vigilant in staying on top of new research and updates to the specialty court model. Below is a summary of the ten essential elements:

(a) **Ten Essential Elements**.

(1) **Planning and Administration**. A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.

(2) **Target Population**. Eligibility criteria address public safety and consider a community's treatment capacity as well as the availability of alternatives to pretrial detention for participants with mental illnesses. Eligibility criteria also consider the relationship between mental illness and offenses, while allowing the individual circumstances of each case to be considered.

(3) **Timely Participant Identification and Linkage to Services**. The participant is identified, referred, and accepted into mental health courts, and then linked to community-based treatment as quickly as possible.

(4) **Terms of Participation**. facilitate the participant's engagement in treatment, are individualized to correspond to the level of risk that the participant presents to the community, and provide for positive legal outcomes for those who successfully complete the program.

(5) **Informed Choice**. The participant fully understands the program requirements before agreeing to participate in mental health court. A defense attorney is provided to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a participant's competency whenever they arise.

(6) **Treatment Supports and Services**. Mental health courts connect a participant to comprehensive and individualized treatment in the community. They strive to use—and increase the availability of— evidence-based treatment.

(7) **Confidentiality**. Health and legal information should be shared in a way that protects the participant's confidentiality rights as a mental health consumer and constitutional rights. Information gathered as part of the participant's court-ordered treatment should be safeguarded if the participant is returned to traditional court processing.

(8) **Court Team**. A team of criminal justice and mental health staff and treatment providers receive special, ongoing trainings. The participant achieves treatment and criminal justice goals by regularly reviewing and revising the court process.

(9) **Monitoring Adherence to Court Requirements**. Criminal justice and mental health staff collaboratively monitor the participant's adherence to court conditions, offer individualized graduated incentives or sanctions, and modify treatment as necessary to promote public safety and the participant's recovery.

(10) **Sustainability**. Data are collected and analyzed to demonstrate the impact of the mental health court, its

performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.

(b) **Target Population**. MHC targets persons who have been diagnosed with serious mental illness or an intellectual and developmental disability. MHC will prioritize applicants who are high risk, high needs, or moderate risk, as determined by the appropriate assessment tools.

(c) **Program Model.** MHC has adopted the plea in abeyance model. The participant enters a plea of guilty and the Judge holds the plea in abeyance pending the outcome in the program. If the participant successfully completes the program, the Judge will reject the plea and dismiss the case. If the participant is terminated from the program, the Judge will accept the plea and sentence the participant pursuant to the agreement.

Section 1. General Provisions

(a) **Authority**. These policies and procedures are promulgated pursuant to Article IV, Section 3 of the NMI Constitution.

(b) **Title and Citation**. These policies and procedures shall be known as the NMI Judiciary Mental Health Court Docket Policies and Procedures and shall be cited as NMI MHC PP.

(c) **Purpose**. The purpose of MHC's policies and procedures is to give a clear understanding, approach, and method for proper and timely MHC case flow and to ensure the adoption of best practices established by national organizations.

(d) **Effective Date**. These policies and procedures shall become effective upon their adoption by the NMI Supreme Court.

(e) **Construction**. These policies and procedures shall be construed to ensure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay.

(f) **Conflict**. Nothing in these policies and procedures is meant to contravene established Commonwealth and federal laws or regulations, or other court rules, policies or procedures.

(g) **Definition**. Unless defined below, any word found within these policies and procedures shall retain its commonly understood meaning. The following terms are defined:

(1) **Applicant** means the person applying for entrance in MHC.

(2) **Dangerous Offense** means a person currently charged with or convicted of:

(i) murder or sexual felony;
(ii) any violent felony; or
(iii) arson.

(3) **Mental Health Court Docket ("MHC")** means a non-adversarial specialty docket within the Superior Court that seeks the rehabilitation and treatment of the participant with underlying mental health issues through continuous court monitoring and holistic approaches based on best practice standards.

(4) **Mental Health Court Docket Caseworker ("Caseworker")** means a staff member who refers the participant to specific treatment based on individual needs, the Treatment Provider's ability to comply with the court's reporting requirements, and the Treatment Provider's capacity to provide appropriate care (e.g., mental or physical health, language, etc.).

(5) **Mental Health Court Docket Hearing** means:

(i) Change-of-Plea hearing is where the participant enters a guilty plea and the Judge holds the plea in abeyance;
(ii) Review hearing, which is conducted weekly or as mandated;
(iii) Order-to-Show-Cause hearing, which is held for the participant who wants to contest a violation; or
(iv) Termination hearing, which is held to determine whether the participant should be terminated from the program.

(6) **Mental Health Court Docket Judge ("Judge")** means the Presiding Judge or Associate Judge of the CNMI Superior Court assigned to assigned to MHC.

(7) **Mental Health Court Docket Manager ("Manager")** means the person who oversees the docket's daily operations, including case flow, treatment planning, referrals to suitable Treatment Providers, and participants' progress.

(8) **Mental Health Court Docket Officer ("Officer")** means a law enforcement officer of the NMI Judiciary.

(9) **Mental Health Court Docket Team ("Team")** means a collaborative treatment team which includes the Judge, Manager, Caseworker, CNMI Judiciary Law Enforcement Officers, representatives from the Office of the Attorney General, Office of the Public Defender or defense attorney, Department of Public Safety, Department of Corrections, and Treatment Providers.

(10) **Mental Health Court Docket Treatment Provider ("Treatment Provider")** means a public or private community-based treatment provider who works closely with the Team to coordinate and provide mental health treatment.

(11) **Office of the Attorney General or Prosecutor** means a CNMI Office of the Attorney General prosecutor assigned to MHC.

(12) **Office of the Public Defender or Defense Attorney** means the legal advocate for the participant.

(13) **Participant** means the offender who has been accepted in to the MHC.

(14) **Staffing** means a confidential Team meeting that discusses and reports on an applicant's eligibility and suitability or the participant's progress and compliance.

Section 2. Eligibility and Entrance Protocol

Participation in the MHC is voluntary and a privilege. There are both legal and clinical eligibility criteria, as well as a suitability assessment by the judge. The entrance protocol consists of the following steps.

(a) **Referral.** Entry in MHC begins with the referral.

(1) The applicant or the defense attorney requests in writing to the Office of Attorney General for MHC legal eligibility evaluation.

(2) The request must be made prior to the final disposition of the pending criminal case.

(3) At the earliest available status hearing in the regular case docket, the parties shall notify the court that the case is being evaluated for treatment court.

(4) The court shall stay the case proceedings pending legal and clinical evaluation.

(b) **Legal Eligibility.** The second step is the Office of the Attorney General's legal eligibility determination.

(1) The Office of the Attorney General evaluates the applicant on the following criteria:

(i) At least 18 years of age;
(ii) A United States citizen or legal resident;
(iii) Legally competent;
(iv) Has a pending criminal charge;
(v) If there are any restitution fees, the amount is less than $5,000;
(vi) Must not have been convicted of a dangerous offense within the past 10 years; and
(vii) Must not have a sentence imposed which renders the applicant ineligible for probation, whether as a result of a plea or a finding of guilt.

(2) The Office of the Attorney General determines whether the applicant is eligible or not and submits the determination to the Manager.

(c) **Screening.** The screening is the third step in applying to MHC.

(1) The Manager receives the eligibility determination and assigns a Caseworker.
(2) The Caseworker administers applicable screening tools and forwards the results to the Team and the defense attorney. If the applicant is a veteran, the applicant's United States Department of Veterans Affairs benefits eligibility and assessment will also be examined by the Caseworker.
(3) The applicant signs releases for disclosure of information to the Team.
(4) If the applicant meets the initial eligibility criteria, the Caseworker schedules a clinical assessment with a Treatment Provider.

(d) **Clinical Eligibility.** The clinical eligibility is the fourth step in applying to MHC.

(1) Treatment Provider conducts a bio-psychosocial assessment and reviews the Team's screening and assessment results.
(2) If the Treatment Provider agrees that the applicant is clinically eligible, the Treatment Provider will then provide a written assessment to the Team indicating the mental health disorder, any co-occurring substance use disorder, and treatment recommendations. The applicant must meet the following clinical eligibility criteria:

(i) have a serious mental health diagnosis or exhibit symptoms of an undiagnosed serious mental illness or intellectual and developmental disability. Applicants with co-occurring disorders are also accepted so long as the mental health diagnosis is primary;
(ii) agree to treatment, take any and all prescribed medication in the manner prescribed, and follow all Team treatment recommendations; and
(iii) voluntarily agree to participate in the program.

(3) The Treatment Provider prepares a writing report of its findings and submits it to the Caseworker.

(e) **Suitability.** Suitability is the final step in applying to MHC. Suitability is a comprehensive assessment and measures, among other considerations, the likelihood that an offender is ready to participate in and complete the program. Suitability is determined based upon an applicant's risk level of mental health illness or symptoms and treatment needs.

(1) After receiving the Treatment Provider's report, the Caseworker presents a summary of findings to the Team.
(2) The Team convenes to determine whether the applicant meets the legal and clinical criteria and makes its recommendation to the Judge.
(3) The Judge determines whether the applicant is suitable. The Judge considers the Team's input and makes the final decision on whether to accept or deny the application.

(4) An applicant may be determined unsuitable who poses a danger to self or other participants' physical or emotional well-being and recovery efforts.
(5) The Judge may suspend or cancel an applicant's legal or clinical assessments at any time. Acceptance is subject to limited space availability and resources.

(f) **Admission.** The Judge determines admission into MHC.

(1) Upon approval for admission in MHC, the parties in the case shall notify the judge in the regular criminal docket (not the MHC judge) of the approval.
(2) The Presiding Judge shall reassign the participant's case to the MHC Judge.
(3) The applicant is admitted under a post-adjudicatory model after signing a Contract Form to participate in MHC.
(4) The participant appears in a change of plea hearing and enters a guilty plea. and consents in writing to participate in open court.
(5) If the participant does not successfully complete the program, the Judge accepts the plea held in abeyance and sentences the participant.

(g) **Non-admission.** If the applicant is denied entry or decided not to pursue MHC at any time during the screening and assessment process, the case remains in the regular criminal docket.

Section 3. Roles of the Mental Health Court Docket Team Members

(a) **Mental Health Court Docket Team.** The Team is comprised of the Judge, the Office of Attorney General, Office of the Public Defender or defense attorney, a Representative of the Department of Public Safety and Department of Corrections, a Treatment Provider, the Manager, the Caseworker and the Officer. The Team meets prior to each session and acts as a multidisciplinary case management team with respect for each participant. To the greatest extent possible, the Team operates on the basis of professional consensus, with the Judge having the final decision. Each member shares information regarding participants, attends weekly staff meetings and court status hearings, provides training

to others in their discipline, and attends workshops. The Team's responsibilities include:

(1) Discussing applications to MHC and the status of participants at the weekly Team meetings;
(2) Deciding whether to accept or deny an application within a reasonable time after the biopsychosocial assessment has been completed. An applicant who does not keep the scheduled assessment appointment must reappear at the next court date and determine whether or not to participate in MHC;
(3) Determining whether an applicant meets the eligibility criteria, after which the plea agreement must be completed within one week;
(4) Ensuring all review and signing of plea documents are completed before beginning of MHC; and
(5) Keeping comments and actions focused and brief, due to the limitations of staffing, so as to enable all members to contribute in the discussion.

(b) **Mental Health Court Docket Judge**. The Judge heads the Team. To encourage full commitment to the success of the program, the Judge must allow the Team to participate fully in the design and implementation of the program. The Judge is responsible for maintaining a non-adversarial atmosphere and is one of the key motivational factors in convincing participants to pursue recovery, building rapport, and holding them accountable. The Judge serves as a program advocate and represents the program in the community, government, criminal justice agencies, and other public fora. The Judge's responsibilities include:

(1) Attending all team meetings;
(2) Providing guidance to the Team;
(3) Presiding over status hearings and spending enough time with all participants to review their progress;
(4) Receiving recommendations from Team members and making the final determination about incentives, sanctions, therapeutic adjustments, termination, phase advancement, and graduation;
(5) Giving praise and encouragement for compliance with the program, and encouraging commitment to treatment;

(6) Administering sanctions for noncompliance with program rules;
(7) Holding a participant's guilty plea in abeyance and advising them of their rights;
(8) Attending conferences and trainings; and
(9) Advocating in the community for the effectiveness of the program.

(c) **Office of the Attorney General**. The Attorney General determines an applicant's legal eligibility. The Attorney General or designee participates in staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments while ensuring community safety. The Attorney General's responsibilities include:

(1) Reviewing an applicant's criminal history and screening reports;
(2) Contacting police and victims involved in the case to discuss the participant's participation in the program;
(3) Making recommendations for acceptance or denial of an application;
(4) Providing insight on the offense or incident report;
(5) Meeting with defense attorneys to discuss applications;
(6) Attending staffing and court hearings;
(7) Providing input on incentives, sanctions, and therapeutic adjustments;
(8) Making sentence recommendations;
(9) Meeting with the Public Defender or defense attorney to work out sentencing;
(10) Attending conferences and trainings; and
(11) Advocating in the community for the effectiveness of the program.

(d) **Office of The Public Defender or Defense Attorney**. The Public Defender participates in the making and review of referrals. The Public Defender or designee also participates in all staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments while advocating for the legal rights of the participant. In the event that the Public Defender

or designee conflicts out, a court-appointed defense attorney will take their place. The Public Defender's responsibilities include:

(1) Making appropriate referrals to the program;
(2) Providing an applicant with a copy of the Participant Handbook;
(3) Explaining the program in depth to the participant, including requirements, responsibilities, and the legal rights affected by entering the program;
(4) Helping the participant fill out required paperwork and explaining the participant's rights;
(5) Meeting with the Office of the Attorney General's representative to work out sentencing;
(6) Attending staffing and court hearings;
(7) Providing input on incentives, sanctions, and therapeutic adjustments;
(8) Encouraging the participant to be honest with the Judge and Treatment Providers;
(9) Explaining sanctions to the participant and requesting a hearing if the participant disagrees with the alleged program violation;
(10) Representing the participant in hearings;
(11) Advocating in the community for the effectiveness of the program; and
(12) Attending conferences and trainings.

(e) **Treatment Provider**. The Treatment Provider participates in the clinical assessment and makes recommendations for treatment. A Treatment Provider participates in all staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments while advocating for the participant's clinical needs. The Treatment Provider's responsibilities include:

(1) Conducting biopsychosocial assessment and making treatment recommendations;
(2) Developing a treatment plan with the participant, including goal setting, and providing the plan to the Team;
(3) Incorporating evidence-based practices in counseling role;
(4) Making treatment recommendations to the Team regarding the need for therapeutic adjustments;

(5) Reviewing goals and treatment plans every 30 days initially, adjusted to 60 days as the Team deems appropriate;
(6) Providing the Caseworker with a timely written or electronic log of the participant's treatment hours for data collection purposes;
(7) Attending staffing and court hearings;
(8) Providing input on incentives, sanctions, and therapeutic adjustments;
(9) Communicating with the Caseworker as needed to discuss any issues with the participant between court hearings;
(10) Reviewing phase requests and providing clinical input regarding readiness to advance;
(11) Advocating in the community for the effectiveness of the program; and
(12) Attending conferences and trainings.

(f) **Mental Health Court Docket Manager**. The Manager is responsible for coordinating the operations of the program. This includes the financial management of the program, updating policy and procedures, collaborating with the Team, and maintaining relationships with community partners. The Manager participates in staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments while ensuring integrity to the program model. The Manager's responsibilities include:

(1) Coordinating the Team and program staff activities;
(2) Collecting data and compiling program activity reports;
(3) Monitoring adherence to program model and evidence-based practices and recommending necessary changes to policies and procedures;
(4) Preparing written manuals, job descriptions, operating procedures, community education materials, and press releases;
(5) Integrating community resources into the program and developing Treatment Provider contracts;
(6) Managing program fiscal operations, including applying for new and maintaining ongoing grants, preparing annual budget, fiscal reports, and purchasing supplies;
(7) Replying to public inquiries and the press, as appropriate;

(8) Reviewing treatment programs for adherence to evidence-based quality treatment;
(9) Attending staffing and hearings;
(10) Providing input on incentives, sanctions, and therapeutic adjustments;
(11) Preparing staffing agenda;
(12) Assuring visitors sign the Confidentiality Statement and filing it;
(13) Managing the docket caseload;
(14) Facilitating referrals to outside treatment agencies and maintaining contact with those agencies;
(15) Arranging for court-appointed interpreters;
(16) Providing input in performance evaluation of non-management staff;
(17) Advocating in the community for the effectiveness of the program; and
(18) Attending conferences and trainings.

(g) **Department of Public Safety Representative**. The Department of Public Safety Representative serves as a liaison between the Department of Public Safety and other law enforcement agencies and the Team. The representative participates in all staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments from the law enforcement perspective. The representative's responsibilities include:

(1) Searching arrest history and Law Enforcement Agencies Data System;
(2) Tracking rearrest or police contact;
(3) Serving summons or arrest warrants;
(4) Attending staffing and court hearings;
(5) Providing input on incentives, sanctions, and therapeutic adjustments;
(6) Advocating in the community for the effectiveness of the program; and
(7) Attending conferences and trainings.

(h) **Mental Health Court Docket Caseworker**. The Caseworker manages the case, develops individualized case plans that target criminogenic needs, and advocates for effective incentives,

sanctions, and therapeutic adjustments while holding the participant accountable to their docket-ordered conditions. The Caseworker's responsibilities include:

(1) Meeting with the participant and developing case plans;
(2) Monitoring progress and adherence to court-ordered conditions;
(3) Documenting relevant case management contacts, violations, and progress in the case management system;
(4) Verifying accuracy of data collection and outcomes;
(5) Developing, reviewing, and modifying case plans with the participant, including goal setting based on the identified area of risk via the ARA assessment;
(6) Developing payment plans, monitoring payment progress, and reporting status to Team;
(7) Maintaining a working knowledge of community resources and referral procedures;
(8) Attending staffing and hearings;
(9) Providing input on incentives, sanctions, and therapeutic adjustments;
(10) Completing court status reports in accordance with program timelines to include areas of compliance with conditions, violations and status of case plan goals;
(11) Contacting other agencies or dockets as needed to gather information about the participant;
(12) Completing screenings and initial risk assessments and providing Screening Report to Team;
(13) Facilitating referrals to outside treatment agencies and maintaining contact with those agencies when the Manager is unavailable;
(14) Advocating in the community for the effectiveness of the program; and
(15) Attending conferences and trainings.

(i) **Mental Health Court Docket Officer**. The Officer is responsible for monitoring the participant. The Officer is a law enforcement officer under 6 CMC § 1434(b) who monitors the participant and ensures adherence to program terms and conditions, including maintaining public safety, monitoring and enforcing curfew, carrying out community supervision, documenting orders given to

the participant after court appearances, establishing contact with victims about restitution, and providing such information to the Team. The Officer participates in staffing in a non-adversarial role and advocates for effective incentives, sanctions, and therapeutic adjustments while holding the participant accountable to court ordered conditions. The Officer's responsibilities include:

(1) Conducting frequent and random drug testing;
(2) Conducting random searches of the participant's person;
(3) Conducting general searches of the participant's home or living space, and vehicle;
(4) Conducting home visits and field visits;
(5) Documenting relevant case management contacts, violations, and progress in the case management system;
(6) Verifying accuracy of data collection and outcomes;
(7) Identifying environmental threats;
(8) Monitoring impending signs of relapse;
(9) Reporting investigative findings;
(10) Enforcing community obligations;
(11) Attending staffing and hearings;
(12) Providing input on incentives, sanctions, and therapeutic adjustments;
(13) Advocating in the community for the effectiveness of the program; and
(14) Attending conferences and trainings.

Section 4. Program Components

(a) **Case Management and Supervision.** Once an applicant has been accepted, the Caseworker will manage the participant's case. The Caseworker has five key functions in case management comprised of assessment, planning, linking, monitoring, and advocacy. The Caseworker works in collaboration with clinicians, the Team, and other service providers for the participant's benefit. This aids in forming treatment strategies and identifying issues affecting the participant's recovery.

(b) **Treatment.** The Judge relies on the Treatment Providers to assist in developing appropriate treatment plans. The participant may be required to attend inpatient or outpatient treatment which may include group therapy, individual therapy, medication-assisted

treatment (as permitted by law), or medication monitoring with a psychiatrist. The participant will be required to work with a Treatment Provider on treatment goals. Treatment plans will be updated regularly and provided to the Team.

The MHC has a multi-phased treatment process which includes the following:

(1) Initial biopsychosocial assessment and ongoing treatment plan review to ensure the participant's needs are met;
(2) Comprehensive treatment services;
(3) Accessible treatment services;
(4) Adequate and fair funding for treatment;
(5) Treatment services with quality control; and
(6) Treatment designs and delivery that are sensitive and relevant to issues of race, culture, religion, gender, age, ethnicity, and sexual orientation.

(c) **Treatment Phases**. The program is a minimum of 12 months, and in some cases up to 18 months unless otherwise determined by the Judge. The participant must successfully complete each phase of the program before advancing to the next phase. The participant must submit a written request to the Caseworker for phase advancement. There are four treatment phases.

(1) **Phase I: Assessment, Orientation, and Stabilization.** Phase I focuses on assessing the participant's needs and integration into the program structure. The participant's responsibilities include:

(i) Checking in with MHC;
(ii) Attending court hearing;
(iii) Submitting to drug or alcohol testing;
(iv) Developing an individualized treatment plan with a Treatment Provider;
(v) Attending group and individual counseling as dictated by that treatment plan;
(vi) Obtaining and providing valid and current identification documents;
(vii) Obtaining and providing complete immunization record;

(viii) Obtaining Nutritional Assistance Program benefits, if necessary;
(ix) Completing physical, dental, and eye exams;
(x) Completing HIV or STD and TB screening and counseling;
(xi) Taking prescribed medications as directed by the doctor and the treatment plan;
(xii) Obtaining benefits, including insurance, if uninsured to support continuity of care;
(xiii) Developing a case management plan with the Caseworker;
(xiv) Attending case management appointments;
(xv) Identifying a support person (sponsor, mentor, religious figure, supportive family member, or friend) at least 30 days prior to phase advancement, and providing contact information of that person to the Caseworker; and
(xvi) Establishing a payment plan with the Caseworker toward restitution, fees, and court costs, based on ability to pay.

In order to advance to Phase II, the participant shall submit:
(i) A Petition to Move to Another Phase and Decompensation Prevention Plan to the Team, supported by a letter stating lessons learned in Phase I;
(ii) Progress made toward treatment goals as reported by treatment provider; and
(iii) Progress made toward case management goals as reported by the Caseworker.

(2) **Phase II: Symptom Management.** In Phase II, the Team will assist the participant to successfully navigate the treatment plan, control symptoms, and prevent decompensation. The participant's responsibilities include:

(i) Checking in with the Team;
(ii) Attending court hearings;
(iii) Submitting to drug or alcohol testing;

(iv) Updating individualized treatment plan with the Treatment Provider and attending group or individual counseling as dictated by that treatment plan;
(v) Taking prescribed medications as directed by doctor and the treatment plan;
(vi) Updating case management plan with the Caseworker;
(vii) Working on goals related to the case management plan;
(viii) Maintaining contact with a support person;
(ix) Registering to vote; and
(x) Securing employment, beginning an educational program or vocational training, or securing public benefits.

In order to advance to Phase III, the participant shall submit:
(i) Petition to Move to Another Phase to the Team, supported by a letter stating lessons learned in Phase II;
(ii) Treatment Provider's report on progress made toward treatment goals;
(iii) Proof of insurance coverage;
(iv) Caseworker's report on progress made toward case management goals;
(v) Proof of contact with the support person;
(vi) Current payment plan; and
(vii) Verification of employment, educational program, vocational training, or public benefits.

(3) **Phase III: Sustainable Stabilization and Support**. By Phase III, the participant will have made progress in treatment. In this phase, the Team assists the participant with ongoing stabilization. The participant's responsibilities include:

(i) Checking in with the Team;
(ii) Attending court hearings;
(iii) Submitting to drug or alcohol testing;
(iv) Updating individualized treatment plan with the Treatment Provider;

(v) Attending group or individual counseling as dictated by the treatment plan;
(vi) Taking prescribed medications as directed by the doctor and the treatment plan;
(vii) Developing an Ongoing Stabilization and Support Plan with assistance from the Treatment Provider and Caseworker;
(viii) Updating case management plan with Caseworker and working on goals related to the plan;
(ix) Maintaining contact with a support person; and
(x) Maintaining employment, beginning an educational program, beginning vocational training, or securing public benefits.

In order to advance to the Graduation Phase, the participant shall submit:

(i) Petition to Move to Another Phase to the Team asking to be promoted to Graduation;
(ii) The Treatment Provider's report on progress toward treatment goals;
(iii) Proof of insurance coverage;
(iv) The Caseworker's report on progress toward case management goals;
(v) Maintain contact with the support person;
(vi) Proof of contact with the support person;
(vii) Current payment plan; and
(viii) Verification of employment, educational program, vocational training, or public benefits.

(4) **Requirements for Graduation from Mental Health Court.** By Graduation Phase, treatment goals will have been achieved. The participant's responsibilities include:

(i) Submitting Petition to Graduate**,** supported by a letter stating lessons learned in Phase III;
(ii) Reviewing Ongoing Recovery Plan with the Team;
(iii) Adhering to treatment goals as reported by the Treatment Provider, and approved the Ongoing Recovery Plan for follow up after graduation;

(iv) Engaging in community service of no less than 20 hours, as provided by the Caseworker;

(v) Completing case management goals as reported by the Caseworker; and

(vi) Paying in full restitution, fees, and court costs. The participant must pay the program fees. The Judge has discretion to permit alternative payment methods or waive the fees, on a case-by-case basis. Restitution fees are not waivable and must be paid as part of the payment plan.

Section 5. Incentives, Sanctions, and Therapeutic Adjustments

The Team will help to keep the participant on track by rewarding progress for compliant behavior and imposing sanctions for noncompliant behavior. Additionally, the Team will make therapeutic adjustments to the treatment plan when appropriate. The incentives and sanctions are tailored to address the participant's unique history and needs. The Team may develop individualized rewards and sanctions. All responses to a participant's behavior will be predictable, fair, consistent, and without regard to a person's gender, race, nationality, ethnicity, limited English proficiency, disability, socioeconomic status or sexual orientation. The Team will have input in the discussion regarding appropriate responses to a participant's behavior, but the final decision will be made by the Judge. The participant will be treated with respect and dignity throughout the process of receiving incentives, sanctions, and therapeutic adjustments. Before a sanction, incentive, or therapeutic adjustment is given, the Judge will advise the participant in court of the sanction, incentive, or therapeutic adjustment and the reason for giving it. The participant will then be allowed to address the court about the sanction or incentive. The participant shall be given access to an attorney and a hearing, if a jail sanction might be imposed.

(a) **Incentive.** Incentives may include:

(1) Praise, encouragement, and applause in the courtroom;
(2) Reduced frequency of status hearings;
(3) Reduction of pending fines and fees;
(4) Selecting a prize token from the "fish bowl";
(5) Certificate of recognition from the court;

(6) Promotion to next phase or shortening current phase;
(7) Restoration of lost privileges because of behavior infraction; or
(8) Early graduation.

(b) **Sanction.** Sanctions may include:

(1) Admonishment from the Judge;
(2) Reading or writing assignments;
(3) Letter of apology to the court;
(4) Sitting in the courtroom for the entire morning or day, writing about their experience, and giving the report to the court;
(5) Performing public service work;
(6) Increased frequency of status hearings;
(7) Increased urinalysis testing;
(8) Increased frequency of contacts with the staff;
(9) Extended duration in program; or
(10) Jail sanction.

(c) **Therapeutic Adjustments.** Therapeutic Adjustments may include:

(1) Increase or decrease in weekly group attendance;
(2) Increase or decrease in weekly individual counseling appointments;
(3) Increase or decrease attendance in individual or group self-help meetings;
(4) Inpatient treatment;
(5) Sober living environment; or
(6) Successful completion of treatment.

Section 6. Grounds for Sanction or Termination

A participant may be sanctioned or terminated for the following reasons:

(a) Dishonesty to the Team and court personnel;
(b) Willful noncompliance with the treatment plan;
(c) Unexcused absences from counseling session or support group;
(d) Failure to follow treatment conduct rules, policies and procedures, or handbook;

(e) Violent or abusive behavior at a treatment site, program site, or other place of contact or participation;
(f) Failure to attend individual or group self-help per treatment plan recommendation;
(g) Failure to comply with the court, Team, or Treatment Provider's recommendations;
(h) Failure to attend court hearings without good cause;
(i) Failure to attend case management appointment without good cause;
(j) Positive urine test;
(k) Diluted urine sample submitted;
(l) Failure to submit urine sample;
(m) Curfew violation;
(n) Arrest for new offense;
(o) Leaving the participant's designated home island without permission;
(p) Possession or delivery of drugs on treatment site;
(q) Violating Commonwealth laws;
(r) Consumption of alcohol, marijuana, or illegal substances;
(s) Misusing prescribed medication;
(t) New allegation of a felony;
(u) New allegation of a violent misdemeanor;
(v) New allegation of a domestic violence offense; or
(w) Violation of stay away order.

Section 7. Program Outcomes for a Participant

There are four possible outcomes to the program: graduation, neutral discharge, voluntary discharge, or termination.

(a) **Graduation.** Graduation is the desired outcome in MHC.

(1) A participant is eligible for graduation after completing all treatment phases. The Caseworker will provide the participant with a plan outlining continued treatment, education, vocational training, employment, and other resources.
(2) The Judge will preside over the graduation ceremony and issue a certificate of successful program completion.
(3) The Judge will reject the plea held in abeyance and dismiss the case.

(b) **Neutral Discharge.** A participant may be neutrally discharged.

(1) If the Team has determined that the participant has substantially complied with the program terms and conditions but successful completion is improbable after exhausting all reasonable efforts to complete the treatment, then the Judge may neutrally discharge the participant from the program. For example, the participant may have or develop a serious medical or mental health condition, disability, or other factors that prevents requirement completion.
(2) If the participant is neutrally discharged, the Judge shall reject the plea in abeyance and return the case to the regular criminal docket.
(3) The Caseworker will provide the participant with a plan recommending continued treatment, education, vocational training, employment, and other resources.

(c) **Voluntary Discharge.** A participant has the right to withdraw from the program in all circumstances. However, there may be consequences for doing so. Before the discharge, the Judge shall:

(1) Allow the participant to consult with the defense attorney;
(2) Determine in open court that the withdrawal is made voluntarily and knowingly with particular attention given to determining that the participant's decision is not negatively influenced by mental illness, substance use, or course of treatment for mental illness or substance abuse;
(3) Admonish the participant in open court as to the consequences, actual or potential, which will result from withdrawal;
(4) Accept the plea in abeyance and sentence the participant pursuant to the agreement; and
(5) Transfer the case to another judge if participant requests to be sentence by another judge.

(d) **Termination.** The court may terminate a participant for cause.

(1) The court, at the Team's request or on its own motion, may terminate a participant from the program. The seriousness of the treatment violation, repeated failures to comply, limitation

of alternative treatment options, or other good cause may result in termination.

(2) Prior to termination from the program, the participant shall be served notice of termination hearing.

(3) The evidentiary standard for termination shall be that the prosecutor must prove by a preponderance of evidence that the participant committed the alleged violation necessary to trigger termination.

(4) If the participant is terminated, the Judge shall accept the plea in abeyance and sentence the participant pursuant to the agreement.

Section 8. Data Collection and Program Evaluation

(a) **Data**. The Manager will be responsible for collecting and reporting data to the Supreme Court quarterly and annually. The quarterly reports will consist of:

(1) New cases screened;
(2) Supervision activity in a month;
(3) Case exits in a month; and
(4) Any other pertinent data relevant to the sustainability of the program.

(b) **Evaluation**. The Team will have an internal review as needed to evaluate the program and determine its success and areas that need to be improved. The Team will discuss ways in which the program can be improved based on data collected. An outside evaluation will take place according to best practice standards and outcomes will be used to improve the program.

Section 9. Drug and Alcohol Testing Protocol

(a) **Use of Other Substance.** If a participant has a co-occurring substance use disorder, testing for alcohol, THC, and other substances may be used:

(1) As an assessment and diagnostic tool;
(2) To reinforce and validate successful recovery and abstinence;
(3) As an intervention and confrontation tool;

(4) As a deterrent to drug use and to hold the participant accountable;
(5) To provide a non-manipulative environment to monitor progress; and
(6) To assist in determining risk and revocation decisions.

(b) **Honesty.** Honesty is critical in the program. If a participant has used a substance at any time during the program, it is the participant's responsibility to inform staff, or the person administering the drug test, of that fact before taking the test.

(c) **Positive Test.** Drug tests will be observed to ensure freedom from test errors or tampering.

(1) A test that is determined to have been tampered with, or "invalid" due to temperature, specific gravity, or creatinine levels, will be considered a positive test. If a test is missed, the participant must contact the Team immediately and be willing to test when requested.
(2) A missed test may be considered a positive test.
(3) If a participant arrives to submit to a drug test and is unable to provide a sample, it may be considered a positive test.

(d) **Test Outcome**. If a participant has a positive test in any phase, the Judge, based on recommendations from the Team, may apply immediate sanctions or treatment adjustments, including possible jail time, to help stop drug use. A participant who has an infraction in the days before a scheduled court date will be asked to attend court that week regardless of the scheduled court date.

Section 10. Confidentiality

(a) **Governing Law.** MHC is governed by Commonwealth and federal laws pertaining to confidentiality, including but not limited to Health Insurance Portability and Accountability Act of 1996, Section 543 of the Public Health Service Act, 42 U.S.C. § 290dd-2, and its implementing regulation, 42 C.F.R Part 2 (confidentiality of substance abuse records).

(b) **Authorization**. An applicant or participant must authorize disclosure of information to the Team to determine eligibility, treatment, and progress. The consent shall include authorization

to conduct research on treatment success, costs, and recidivism rates. The disclosure includes information regarding diagnosis, attendance, scope of treatment, treatment progress, quality of participation, and termination or completion of treatment.

(c) **Confidentiality Agreement.** Parties and attorneys attending the staffing are obligated to sign a confidentiality agreement. The Judge may allow a person outside of the program to attend hearings if the person agrees in writing to the terms in Section 10.

(d) **Disclosure.** Disclosure of information in the screening process and in the course of treatment is prohibited unless ordered by the court for good cause.

Section 11. Program Sustainability

MHC's success depends on the availability of funds to support the cost of operating the program. To achieve long-term sustainability, the Team shall:

(a) Submit annual funding request to the Chief Justice;
(b) Apply to various grant opportunities; and
(c) Partner with private or government Treatment Providers, agencies, or instrumentalities whose resources can support program needs.

Section 12. Forms

Standard forms may be developed and used for the convenience, efficiency, and uniformity of program usage and may be made available on the Judiciary's website. The Presiding Judge must approve all forms. Forms are not intended to impede or supersede program goals and objectives.