

The Sequential Intercept Model

Advocating with Judges: Access to Treatment Not Jail

The Honorable Marina Lolley Sabett

Associate Judge and Mental Health Court Coordinating Judge

District Court of Maryland for Montgomery County

11/27/2022 Draft

Problem- Solving Courts: A Definition

Problem-solving courts collaborate with community and government stakeholders to provide the services necessary to increase public safety, reduce recidivism and improve outcomes for those defendants who are willing to participate.

Operational Problem-Solving Courts in Maryland

County	Adult District Drug Court	Adult Circuit Drug Court	Juvenile Drug Court	Family/Dependency Drug Court	DUI/Drug Court	Circuit Court Mental Health	District Court Mental Health Court	Truancy Reduction Court	Re-entry Court	Veterans Court	Back on Track	Grand Total
Allegany		●										1
Anne Arundel	● 1	● 1			● 1					● 1	●	4
Baltimore City	●	●		●		●	●			●		6
Baltimore Co.	● 1	● 1		● 1			● 1				●	4
Calvert		●										1
Caroline		● 1									●	1
Carroll		●										1
Cecil		● 1									●	1
Charles		●		●								2
Dorchester	● 1							● 1		● 1	●	3
Frederick		●					●					2
Garrett												
Harford	●	●		●			●	●				5
Howard	● 1				● 1						●	2
Kent								●				1
Montgomery		● 1				● 1	● 1				●	3
Prince George's	●	●	●				●	●	●	●	●	8
Queen Anne's		● 1									●	1
Somerset		●						●		●		3
St. Mary's		● 1		● 1	● 1						●	3
Talbot		●							●			2
Washington		● 1									●	1
Wicomico		●						●		●		3
Worcester	● 1	● 1						● 1		● 1	●	4
Grand Total	● 8	● 20	● 1	● 5	● 3	● 2	● 6	● 7	● 2	● 7	● 1	62

Contact with the Court

- Judges and Magistrates met with PSC participants **22,675** times in court hearings in FY 2022
- PSC's served **3,148** participants in FY 2022



Judicial Interaction

- Regularly scheduled court reviews to review progress
- Progressive incentives and sanctions - Immediate and consistent responses to program violations utilizing a graduated system of sanctions and incentives to promote compliance and accountability.



Judicial Interaction

- Participants report **“Close Supervision and Encouragement by Judges”** as the largest factor leading to their success in the Treatment Court.
- The judge was assigned to Treatment court on a voluntary basis (**Recidivism ↓ 84%**
Costs Savings ↑ 4%)
- Judge spends an average of 3 minutes or greater per participant during status review hearings (**Recidivism ↓ 153%**
Costs Savings ↑ 36%)

Exploring the Key Components of Drug Courts: A Comparative Study of 18 Adult Drug Courts on Practices, Outcomes, and Costs

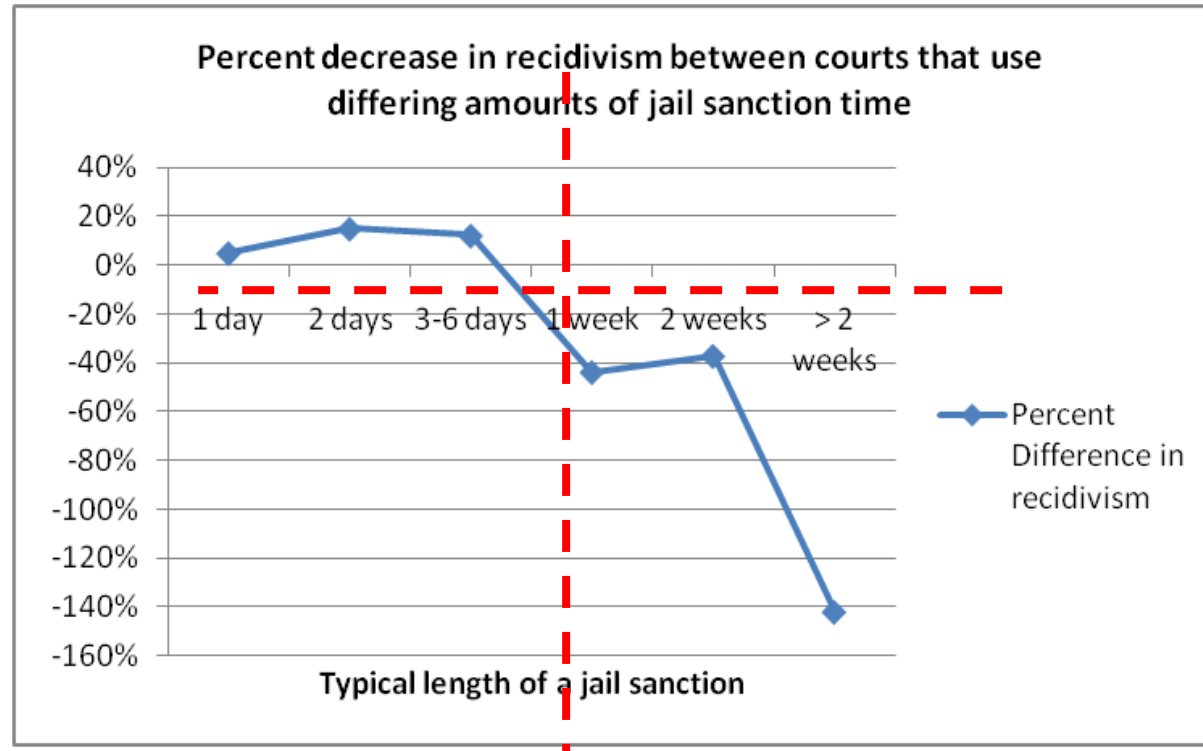
<https://www.ojp.gov/pdffiles1/nij/grants/223853.pdf>



Judge Chandlee and Graduate at a Drug Court Graduation

Judicial Interaction

Courts that use jail greater than 6 days have **worse** (higher) recidivism



Bureau of Justice Statistics reports that 41% of jail deaths occurred within the first week of a person's jail stay

Adult Drug Court Best Practices Standards: Vol I

<https://www.nadcp.org/wp-content/uploads/2018/12/Adult-Drug-Court-Best-Practice-Standards-Volume-I-Text-Revision-December-2018-1.pdf>

Mental Health Courts

Strive to increase public safety and more appropriately deal with individuals with mental disorders who enter the criminal justice system. These courts are committed to focusing resources, training, and expertise on the mental health and criminogenic needs of these individuals.

The District Court for Montgomery County's Mental Health Court is a collaborative effort of:

The District Court for Montgomery County

Office of Problem-Solving Courts Administrative Office of the Courts

The Office of the State's Attorney

The Office of the Public Defender

Department of Public Safety and Correctional Services - Division of Parole and Probation

The Montgomery County Department of Health and Human Services, Behavioral Health Services

Montgomery County Department of Corrections and Rehabilitation – Pre-Trial Services

Montgomery County Police Department

Montgomery County Commissioners Office

Office of the Sherriff for Montgomery County

Maryland Department of Health

Community Mental Health Providers

Montgomery County District Court Mental Health Court

- **Mental Health Court Participant Docket**
- **Competency Docket**



Mental Health Court (MHC) Participant Docket

MHC Team is comprised of:

- MHC Judges
- MHC Court Coordinator
- Court Case Managers
- 3 DHHS Clinicians and a Clinical Supervisor
- State's Attorney's Office Representatives
- Public Defender's Office Representatives
- Probation Agent

MHC Participant Docket

Eligibility Criteria:

- Applicant is a Montgomery county resident
- Applicant is charged with a crime within the jurisdiction of the District Court for Montgomery County
- Applicant is at least 18 years of age
- Applicant is diagnosed with mental illness, developmental disability, or traumatic brain injury
- Applicant does not show a pattern of violent behavior
- Applicant is willing and able to participate in the Mental Health Court

Ineligibility Criteria:

- Applicant has a pending Violation of Probation outside of District Court for Montgomery County, or a detainer, pending sentencing hearing or outstanding warrant in any jurisdiction that will interfere with treatment or other program requirements
- Applicant is charged with a violent or other ineligible crime, as requested by the Office of the State's Attorney.
- Applicant's mental health or medical issues would prevent them from full participation (signed contract) in the Mental Health Court

Eligible clients review and sign a Participant's Agreement and Consent to Exchange Health Information, are assigned an MHC Court Case Manager, and officially enter the program.

MHC Participant Docket

- The MHC Coordinator initially screens the referred participant (from community, lawyers, judges, clinicians, etc.) to determine if basic criteria met and, if yes, facilitate next levels of review.
- The SAO determines if any disqualifying crimes.
- The assigned MHC clinician assesses the referred participant's amenability to the treatment resources that MHC has to offer.

MHC Participant Docket

- The average stay in our program is 12-18 months.
- Participant has obligation to take medication as prescribed, follow housing rules, attend therapy and psychiatry appointments with their community provider(s), report to case manager weekly, do weekly drug testing, etc., and do anything else to which the participant has agreed in his or her Phase Plan.
- There are 4 phases in our program and a plan is created between the participant and assigned MHC clinician and agreed to by the participant at each phase.
- The 4 phases are: Phase 1 - Engagement and Compliance; Phase 2 - Life Skill Building and Treatment; Phase 3 - Empowerment and Positive Relationships; and Phase 4 - Maintenance and Independence.

MHC Participant Docket

Phases

Phase 1 - Engagement and Compliance: The moment that someone enters MHC, we are trying to engage him or her in treatment and ensure compliance with medication, housing rules, appointment times, GPS monitor times/curfew, MHC rules, etc. In addition to weekly court appearances, an MHC participant in Phase 1 can expect to submit to weekly random drug testing (or more, as applicable), attend all required AA or NA meetings (as applicable), and meet with a probation or pre-trial agent and/or MHC therapist at least once per week.

Phase 2 - Life Skill Building and Treatment: After successful and continued compliance with the expectations in Phase I, an MHC participant in Phase 2 can expect to make court appearances every two to three weeks, meet with a probation or pre-trial agent and/or MHC case manager approximately once every two weeks, receive a later curfew (if applicable), attend all required AA or NA meetings (as applicable), and engage in less frequent drug testing (if applicable). In Phase 2, an MHC participant will focus on building life skills that will help sustain housing and increase job and educational opportunities. The participant also will focus on the importance of continued compliance with treatment, and of maintaining a healthy lifestyle, including being drug and alcohol free.

Phase 3 - Empowerment and Positive Relationships: After successful and continued compliance with the expectations in Phases 1 and 2, an MHC participant in Phase 3 can expect: court appearances to be one month to every six weeks; monthly probation, pre-trial and/or case management contact; later curfew (as applicable); to attend all required AA or NA meetings (as applicable); and less frequent random drug testing (as applicable). In Phase 3, an MHC participant will focus on goals and objectives that empower the participant to create and maintain stable housing, jobs, educational opportunities, positions in the community, and an overall healthy lifestyle. A participant also will focus on maintaining positive social relationships with people, including members of the community and housing and treatment providers.

Phase 4 - Maintenance and Independence: After successful and continued compliance with the expectations in Phases 1, 2 and 3, an MHC participant can expect: court appearances every six weeks; probation, pre-trial and/or case management contact one month to every six weeks; removal of curfew (as applicable); to attend all required AA or NA meetings (as applicable); and less frequent random drug testing (as applicable). In Phase 4, a participant will focus on maintaining a healthy lifestyle, including participation in ongoing treatment, with decreased supervision by MHC. The participant also will create a reflection/relapse plan in anticipation of graduation from MHC.

MHC Participant Docket

At every phase, Mental Health Court uses incentives, sanctions, and treatment responses to encourage progress and compliance in the program. At each MHC status hearing, clients are subject to both incentives and sanctions based on his/her performance during the reporting period. Incentives, sanctions, and therapeutic responses are based on all MHC requirements, including treatment compliance, drug testing attendance and results, and/or check-in requirements with an MHC Case Manager.

MHC Participant Docket

Incentives

Incentives reward participants for progress in the program and their efforts in recovery. When a client is working hard to comply with the terms of the MHC, the judge may implement incentives as a reward or recognition of the participant's efforts. Incentives may include:

- ◆ Recognition and praise by the judge
- ◆ Courtroom recognition/applause by the team and peers
- ◆ Called first in the docket
- ◆ Certificate of achievement
- ◆ Decrease status court appearances
- ◆ Virtual appearance
- ◆ Decrease regularity of drug testing
- ◆ Star of the Week
- ◆ Incentive tokens
- ◆ Phase promotion
- ◆ Successful case disposition

MHC Participant Docket

Sanctions

Sanctions, on the other hand, impose a consequence for non-compliance. MHC imposes graduated sanctions, which increase with the number or severity of violations. When ordering sanctions, a judge may consider the nature of the infraction, progress in the program, previous sanctions, a client's attitude, and/or any comments the client offers regarding the offense. MHC sanctions may include:

- ◆ Reprimand from judge
- ◆ Called last on the docket
- ◆ Writing assignment
- ◆ Increased court appearances
- ◆ Increased drug testing
- ◆ Curfew
- ◆ Increased frequency calls to MHC Case Manager
- ◆ Revocation of Pre-Trial Release
- ◆ Community Service
- ◆ Incarceration

MHC Participant Docket

Therapeutic Responses

As with incentives and sanctions, the Court employs therapeutic responses to encourage compliance with treatment and other requirements.

Sample treatment responses are listed below.

- Increased/reduced treatment requirements
- Increased/reduced AA/NA attendance
- Jail-based substance abuse treatment program
- Clinical needs assessment

MHC Participant Docket

Each Wednesday, the clinical team meets to discuss clinical issues with the court case managers to formulate discussion points and recommendations for the team meeting the next day.

Each Thursday, entire team meets to discuss each person on the docket (approx. 3 hours in the morning) with hearings in the afternoon.

The Judge, with input from the team, determines the incentives, sanctions or therapeutic interventions that may be necessary for each participant in the hearing.

Risk/Need/Responsivity Model as a Guide to Best Practice

- **Risk Principle:** Match the intensity of individual's intervention to their risk of reoffending (*Supervision Level*)
- **Needs Principle:** Target criminogenic needs, such as antisocial behavior, substance abuse, antisocial attitudes, and criminogenic peers (*WHAT to target*)
- **Responsivity Principle:** Tailor the intervention to the learning style/disability, motivation, culture, demographics, and abilities of the individual (*HOW to best target*)

Montgomery County District Court Competency Docket

A few words about Competency...

Competency is **constitutional**. *Dusky v. United States*, 362 U.S. 402 (1960).

“A competency hearing and determination must meet the due process requirements under the Fourteenth Amendment to the United States Constitution and Article 21 of the Maryland Declaration of Rights.” *Gregg v. State*, 377 Md. 515, 537, 833 A.2d 1040, 1053 (2003) (internal citations omitted).

What is the legal definition of Incompetent to Stand Trial (IST)?

“Incompetent to stand trial” means not able:

- (1) to **understand** the nature or object of the proceeding; or
- (2) **to assist** in one's defense.

Md. Code Ann., Crim. Proc. § 3-101 (emphasis added).

What is the required **understanding** and **ability to assist counsel**?

The defendant must have “a rational as well as factual understanding of the proceedings against him” and “have sufficient present ability to *consult* with his lawyer with a reasonable degree of rational understanding.”

Thanos v. State, 330 Md 77, 85 (1993), *citing Dusky v. United States*, 362 U.S. 402 (1960). *Raithel v. State*, 280 Md. 291, 299-300 (1977).

Can be raised **anytime before final judgment**, including sentencing and violation probation.
CP § 3-104(a)



Montgomery County District Court Competency Docket

Why a separate docket?

1. Allows the Court to better understand and serve those defendants with mental health issues, including potential referral to MHC once competent.
2. Dedicated Competency Docket allows the Court to make a competency determination separate from any trial, thereby reducing the risk of prejudice.
3. Allows for better coordination of resources between the Court, our DHHS liaison and MDH to help ensure the defendant's continued competency for purposes of trial and beyond.

Montgomery County District Court Competency Docket

Although not part of the MHC Participant Docket, the Competency Docket is staffed by the same Judges, other Court personnel and public defenders as the MHC Participant Docket. By staffing the docket with those most familiar with the law and other issues of those defendants with mental health needs, the Court is better able to safeguard the due process rights of these defendants and work more collaboratively with MDH, Montgomery County DHHS and other stakeholders to maintain competency and help avoid unnecessary jail or hospital stays prior to trial.

QUESTIONS?

➤ ***Marina Lolley Sabett***

Associate Judge and Mental Health Court Coordinating Judge, District Court of Maryland for Montgomery County

Marina.Sabett@mdcourts.gov

➤ ***Maxine Curtis, MSW***

Mental Health Court Coordinator, District Court of Maryland for Montgomery County

Maxine.Curtis@mdcourts.gov

➤ ***Richard “Gray” Barton***

Program Director, Problem-Solving Courts, Administrative Office of the Courts, Maryland Judiciary

Richard.Barton@mdcourts.gov

