



AMERICAN UNIVERSITY

School of Public Affairs
Justice Programs Office

A Technical Assistance Guide For Drug Court Judges on Drug Court Treatment Services

EXCERPT

Making the Diagnosis of Substance Abuse Addiction: Screening and Assessment, Determining Level of Care, Identifying Criminogenic Risk, and Developing Individualized Treatment Plans

Lead Authors:

Jeffrey N. Kushner, MHRA
State Drug Court Coordinator, Montana Supreme Court

Roger H. Peters, Ph.D.
University of South Florida

Caroline S. Cooper
BJA Drug Court Technical Assistance Project
School of Public Affairs
American University

May 1, 2014

This report was prepared under the auspices of the Bureau of Justice Assistance (BJA) Drug Courts Technical Assistance Project at American University, Washington, D.C. This project has been supported by Grant Nos. 2012-DC-BX-K005 and 2010-DC-BX-K087 awarded to American University by the Bureau of Justice Assistance. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the authors and do not represent the official position or policies of the U.S. Department of Justice.

CONTRIBUTORS

Vivian Brown, Ph.D.

Christine Grella, Ph.D.

Judge Peggy Hora (Ret.)

Leo Kadehjian, Ph.D.

Judge Stephen Manley

David Mee-Lee, M.D.

Angie Plunkett

Richard Rapp, M.S.W., Ph.D.

Robert P. Schwartz, M.D.

Mona Sumner, M.H.A.

Darryl Turpin, M.P.A.

Guy Wheeler, M.S.W.

Judge Robert Ziemian (Ret.)

Table Of Contents

I. Introduction	1
II. Key Concepts Relevant To Drug Court Treatment And Related Services	2
A. Drug Court Treatment Services: How Do They Differ From Drug Treatment Services In A Non-drug Court Setting?	
B. Key Elements Of The Drug Court Treatment Model	
C. Substance Addiction Treatment: A Quick Overview	
1. Recognizing Addiction As A Chronic Disease Of The Brain And Implications For Drug Court Program Operations	
2. Making The Diagnosis Of Substance Addiction: Screening And Assessment	
3. Determining Level Of Care Needed	
4. Identifying Criminogenic Risk	
5. Developing Individualized Treatment Plans	
D. Ensuring Drug Court Treatment Services Use Evidence-Based Practices	
1. What Is Evidenced-Based Practice?	
2. Evidence-Based Practices Applicable To Drug Courts	
a. Treatment Processes	
b. Treatment Services	
c. Treatment Models	
E. Case Management Services	
F. Recovery Management/Continuing Care: When Should It Start? How Long Should It Last? What Strategies Can Be Used?	
III. Medication Assisted Treatment, Acupuncture, and Self-Help Groups	16
A. Medication-Assisted Treatment (MAT) In Drug Courts: How Should MAT Be Utilized?	
1. Medications For Opioid Use Disorder	
2. Medications For Alcohol Use Disorder	
3. Overcoming Barriers To Use Of MAT In Drug Courts	
4. Costs	
B. The Role of Acupuncture	
C. Role Of Support Groups (e.g., AA/NA, 12-Step, Etc.)	
IV. Addressing The Needs Of Special Populations	21
A. Providing Specialized Drug Court Services For Participants With Co-Occurring Mental Health And Substance Use Disorders	
B. Dealing With Victims Of Trauma	
C. Persons With Cognitive And Intellectual Disabilities	
D. Racial And Ethnic Populations: Cultural Proficiency	
E. Gender Specific Services	
1. Special Services For Women	
2. Special Services For Males	
3. Other Issues Relating To Gender: Gender Identification And Sexual Orientation	
F. Young Adult Males	
V. Other Treatment Related Issues	36
A. "Incentives And Sanctions": The Underlying Concept And How It Is Applied	
B. Confidentiality And Communication	
C. "Coerced Treatment" And The Role Of "Motivation"	
G. Drug Testing In A Drug Court Environment	
H. Drug Court Program Phases: How Should They Be Structured?	

VI. Paying for Treatment Services: Barriers and Opportunities.....	48
VII. Drug Courts In Rural Areas: Responses To Special Challenges	50
A. Lack Of Treatment Capacity And Available Continuum Of Services	
B. Use Of Medication Assisted Treatment (MAT)	
C. Quality Of Treatment Program: Staff Training And Turnover	
D. Dealing With Co-Occurring Disorders Of Drug Court Participants	
E. Need For Wrap Around Services	
F. Housing	
G. Transportation	
H. Family Services	
I. Drug Testing	
J. Self- Help Meetings	
K. Confidentiality	
L. Community Supervision	
M. Local Support Resources	
N. Judicial Leadership/Resources To Institute And Sustain A Drug Court Program	
O. Sustaining Operations Of The Drug Court Program	
VIII. The Role Of The Drug Court Judge In Ensuring Evidence-Based Treatment Services For Participants	61
IX. Summary.....	63
Appendix A: A Checklist Of Evidence-Based Drug Court Treatment Practices	
Appendix B: Summary Of Research Findings On Effective Substance Addiction Treatment	
Appendix C: Recovery Support, Relapse Prevention And Continuing Care: Applying Research Findings To Practice	
Appendix D: Judicial Leadership Initiative: Over-Riding Principles (Draft)	

MAKING THE DIAGNOSIS OF SUBSTANCE ABUSE ADDICTION: SCREENING AND ASSESSMENT, DETERMINING LEVEL OF CARE NEEDED, IDENTIFYING CRIMINOGENIC RISK, AND DEVELOPING INDIVIDUALIZED TREATMENT PLANS

II. KEY CONCEPTS RELEVANT TO DRUG COURT TREATMENT AND RELATED SERVICES

C. SUBSTANCE ADDICTION TREATMENT: A QUICK OVERVIEW

2. Making The Diagnosis Of Substance Addiction: Screening And Assessment

All persons being considered for a drug court program should be screened for program eligibility. The screening generally entails: (a) criminal justice screening; and (b) clinical screening.

The *criminal justice screening* focuses on the individual's current charges, criminal history, and the degree to which he/she presents a threat to public safety. The *clinical screening* focuses on the nature and degree of the individual's substance use to determine whether he/she meets the diagnostic criteria for a "substance-related and/or addictive disorder" and, if so, the nature of his/her disorder and the level of care (e.g., treatment) needed.

A diagnosis of a substance use disorder can be made based on several reference tools, the most common of which is the *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*¹ which describes substance use disorder among a variety of diagnostic criteria as an individual's "persistent use of alcohol or other drugs despite problems related to use of the substance".

The diagnosis of substance use disorder and subsequent development of an appropriate treatment plan is made through the process of screening and assessment. While the terms *screening* and *assessment* are often used interchangeably, they are actually distinct processes in drug courts.

Screening, when applied in a drug court setting, refers to the process of determining the appropriateness and eligibility of the person for admission to a drug court. In this process, brief screening tools are used and should be selected for their application to criminal justice populations, cost, ease of and time needed for administration. Screening in the context of drug courts is a brief process conducted prior to program entry and designed to identify the following:

- That the individual has a substance use disorder;
- The severity of that disorder;

¹ American Psychiatric Association: *Diagnostic and Statistical Manual of Mental Disorders*, Fifth Edition, Arlington, VA, American Psychiatric Association, 2013

- Whether there is evidence of a co-occurring mental disorder;
- The criminogenic² needs and risks presented by the individual;
- Whether he/she meets the eligibility requirements of the drug court; and
- The level and intensity of treatment services the individual will need.

The determination of the "level and intensity of treatment services" needed is commonly performed through the application of the *ASAM Criteria - Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*.³ Although *risk assessment* is a common practice conducted in criminal justice settings that focuses on the *risk of reoffending*, in a drug court setting risk assessment screening tools should be used that focus primarily on the risk of continuing drug use. Only tools that have been validated for application to drug using offenders should be used. Out of the over sixty risk assessment tools in existence, only twelve have been validated.⁴ However, these tools do not predict the likelihood of reducing recidivism unless they are "...used in conjunction with a comprehensive case plan that addresses the areas of risk, needs, and builds on the offenders' strengths."⁵

Assessment refers to an intensive bio-psychosocial analysis of the individual's current situation and history by trained treatment team professionals who are most likely to be delivering the treatment services. The goals of the assessment process are to identify:

- The clinical and criminogenic needs of the client in sufficient detail that an individualized and comprehensive treatment plan can be developed; and
- Any special treatment modalities the client may need, such as trauma mitigation, criminal thinking curriculums, special case management services as well as any referrals necessary for further evaluation

² *Criminogenic* refers to factors associated with the likelihood of the individual to relapse and recidivate.

³ Mee-Lee D, Shulman GD, Fishman MJ, and Gastfriend DR, Miller MM eds. (2013). *The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*. Third Edition. Carson City, NV: The Change Companies.

⁴ See *Understanding Risk Assessment and Its Applications* (PowerPoint Presentation <http://csgjusticecenter.org/wp-content/uploads/2013/04/Plenary-2-.pdf>) by Dr. Sarah Desmarais of North Carolina State University.

⁵ *Ibid.*

or treatment of co-occurring mental or other disorders.

Assessment is an ongoing process that should be conducted periodically to reflect the participant's progress or lack thereof in treatment as well as new issues that may emerge.

Current practice is to move away from "one-dimensional diagnosis-driven" approaches to treatment, to focus on special domains that reflect different areas of an individual's life to determine their treatment needs and necessary level of care placement.

The American Society of Addiction Medicine has identified the following six "dimensions"⁶ that an assessment should address:

Dimension 1: Acute Intoxication And/or Withdrawal Potential: assessing the need for stabilization of acute intoxication, including the type and intensive of withdrawal management services that may be needed

Dimension 2: Biomedical Conditions and Complications: assessing the need for physical health services, including whether there are needs for acute stabilization and/or ongoing disease management for a chronic physical health condition.

Dimension 3: Emotional, Behavioral, Or Cognitive Conditions and Complications: assessing the need for mental health services. Depending on the results of the assessment, mental health needs may be treatable as part of the addiction treatment plan or, if related to a concurrent Bipolar Disorder, additional mental health services may be needed. The areas for assessment of mental health conditions include trauma-related issues and conditions such as posttraumatic stress; cognitive conditions and developmental disorders; and substance related mental health conditions. As part of the assessment within Dimension 3, various "risk" domains are assessed, including the individual's (a) potential risk to him/herself or others; (b) ability to focus on his/her addiction recovery; (c) social functioning; (d) ability to care for oneself; and (e) the history of the individual's illness and response to treatment.

Dimension 4: Readiness To Change: assessing the need for motivational enhancement services to engage the individual in the recovery process, building on the

"stages of change models" of Prochaska, DiClemente, & Norcross.⁷

Dimension 5: Relapse, Continued Use, Or Continued Problem Potential: assessing the need for relapse prevention services if the individual has achieved a period of recovery from which he/she might relapse; or, if he/she has not achieved that period of recovery, the potential for continued use

Dimension 6: Recovery/Living Environment: assessing the need for specific individualized family, housing, vocational, transportation, childcare or other services.

As applied to drug courts the screening and assessment process should pay particular attention to the presence of mental disorders and history of trauma and Post-Traumatic Stress Disorder (PTSD), given the high rates of these disorders among offenders. Assessment of offender risk for recidivism should also be made to help drug courts target participants who are at higher levels of risk for continued drug use.

As noted earlier, the screening and assessment process should also utilize standardized instruments that have been validated for use with criminal justice populations. A variety of inexpensive evidence-based instruments are available, many of which are in the public domain. Not all screening and assessment instruments are equally effective with offenders, and drug courts should be aware of the advantages and disadvantages of using different instruments. The SAMSHA websites are an excellent source of information about screening and assessment tools.⁸

The following are examples of validated evidence-based instruments that can be used for conducting the screening and assessment drug court programs require:

- Screening Instruments

Mental Health Screening: Brief Jail Mental Health Screen, Global Appraisal of Individual Needs (Short Screener), Mental Health Screening Form III, MINI Screen;

Substance Use Disorders Screening: Addiction Severity Index (Alcohol/Drug Abuse sections), Global Appraisal of Individual Needs (Short Screener), Simple Screening Instrument, Texas Christian University-Drug Screen 2;

⁷ Prochaska, J.O., DiClemente, C.C., & Norcross, J. (1992). *In search of how people change: Applications to addictive behaviors*. *American Psychologist*, 47: 1102-1114.

⁸ The Substance Abuse and Mental Health Services Administration, n.d. Retrieved from web: <http://www.samhsa.gov/co-occurring/topics/screening-and-assessment/>

⁶ See Footnote 11.

- Psychosocial And Addiction Severity Assessment Instruments

Addiction Severity Instrument, Global Appraisal of Individual Needs (Quick, or Initial), Texas Christian University-Institute for Behavioral Research (Brief Intake Interview, or Comprehensive Intake);

- Risk Assessment Instruments

Risk Assessment: Risk and Needs Triage (RANT), the Level of Service Inventor–Revised (LSI-R), and the Ohio Risk Assessment System (ORAS);

- Assessment Instruments For Trauma

Trauma/PTSD: Clinician Administered PTSD Scale, Post-traumatic Diagnostic Scale, Primary Care PTSD Screen, PTSD Checklist – Civilian Version, Stressful Life Events Screening Questionnaire – Revised

Once a diagnosis of drug and/or alcohol disorder is made using the diagnostic criteria established the Diagnostic and Statistical Manual of Mental Disorders⁹, the ASAM criteria for determining level of care can be applied. The ASAM criteria encompass a continuum of five broad levels of care within which are additional discrete levels of recommended care and intensity of services¹⁰ (See table on next page *ASAM Criteria for Determining Level of Care*)

The ASAM Criteria also take note of special issues presented by “transitional age youth” – older adolescents and younger “20-somethings” who have a “foot in both worlds – adolescence and adulthood, roughly considered to be the 17 – 26 age groups who, from a national perspective, have presented challenges to many drug courts to initially engage and then retain.

An individualized approach is needed for these “transition age youth”, who often present social vulnerabilities, needs as well as strengths. (See also **Section IV.**)

4. Identifying Criminogenic Risk

Criminogenic Risk refers to the factors listed below that have been found to be associated with the increased likelihood that an individual will continue to be involved in the criminal justice system if these factors are not treated or otherwise addressed:

- Anti-social attitudes
- Antisocial friends and peers
- Antisocial personality patterns
- Substance abuse
- Family and/or marital problems
- Lack of education
- Poor employment history; and
- Lack of pro-social leisure activities

Individuals involved in the criminal justice system present a relatively high frequency of substance use, mental and other health disorders. Individuals for whom these disorders are undetected and not treated are likely to cycle back through the criminal justice system repeatedly. Adequate screening and assessment of each individual therefore promotes development of individualized treatment

MAKING THE DIAGNOSIS OF SUBSTANCE ADDICTION APPLICATION TO DRUG COURT PRACTICE

- *Participants should be screened at the earliest point possible for legal eligibility for the drug court program and, if legally eligible, for clinical eligibility to expedite engagement in drug court treatment and related services.*
- *Universal screening should be conducted for all individuals who meet the legal eligibility requirements of the drug court for substance use disorders, mental disorders, and history of trauma and PTSD. Standardized screening instruments that have been validated with criminal justice populations should be used.*
- *A risk assessment should be conducted to identify appropriate candidates for admission (i.e., those who are at moderate to high risk for continuing drug use, and those who present high levels of ‘criminogenic needs, such as substance use disorders, lack of employment/employable skills, etc.), to determine the need for services in key areas associated with recidivism, and to guide placement of participants in different levels of treatment and supervision, as appropriate;*
- *A follow-up comprehensive assessment should then be conducted for all participants who are admitted to the drug court, with a diagnosis made regarding the substance use disorder and any associated conditions which should be addressed in the development of the individual’s treatment plan. Results of the assessment should be reviewed by the drug court team and used to develop an individualized treatment plan (see below).*
- *Accuracy of drug court screening and assessment can be enhanced through review of collateral information (e.g., from persons residing with the drug court participant) and drug testing.*

3. Determining Level Of Care Needed

⁹ American Psychiatric Association. (2013). *Diagnostic and statistical manual of mental disorders (DSM-V)* (5th ed.). Arlington, VA: American Psychiatric Publishing.

¹⁰ See Footnote 11.

ASAM CRITERIA FOR DETERMINING LEVEL OF CARE		
ASAM CRITERIA LEVELS OF CARE	LEVEL	DESCRIPTION OF ASAM LEVELS OF CARE
Early Intervention	0.5	Assessment and education for at-risk individuals who do not meet diagnostic criteria for a Substance-Related Disorder
Outpatient Services	1	Less than 9 hours of service/week (adults); less than 6 hours/week (adolescents) for the recovery or motivational enhancement therapies/strategies
Intensive Outpatient (IOP)	2.1	9 or more hours of services/week (adults); 6 or more hours/ week (adolescents) to treat multidimensional instability
Partial Hospitalization (PHP)	2.5	20 or more hours of service/week for multidimensional instability not requiring 24-hour care
Clinically Managed Low-Intensity Residential	3.1	24-hour structure with available trained personnel; at least 5 hours of clinical service/week (e.g., halfway house)
Clinically Managed Population-Specific High-Intensity Residential	3.3 (Adult populations only)	24-hour care with trained counselors to stabilize multi-dimensional imminent danger. Less intense milieu and group treatment for those with cognitive or other impairments unable to use full active milieu or therapeutic community
	Not designated for adolescent populations	
Clinically Managed High-Intensity Residential	3.5	24-hour care with trained counselors to stabilize multi-dimensional imminent danger and prepare for outpatient treatment. Able to tolerate and use full active milieu or therapeutic community
Medically Monitored Intensive Inpatient	3.7	24-hour nursing care with physician availability for significant problems in Dimensions 1, 2, or 3. 16 hours/day counselor availability
Medically Managed Intensive Inpatient	4	24-hour nursing care and daily physician care for severe, unstable problems in Dimensions 1, 2 or 3. Counseling available to engage patient in treatment
Opioid Treatment Program (OTP) (Level 1)	OTP	Daily or several times weekly opioid medication and counseling available to maintain multidimensional stability for those with severe opioid use disorder

plans for each individual which target the criminogenic needs he/she presents and links them to appropriate treatment services.

Drug courts have been found to be most effective with persons who are determined to be “high risk”/“high need”, exhibiting all or many of the eight criminogenic risk factors listed above. Addressing these needs is a prime focus of drug court programs through the holistic treatment and support services they need to provide. For those who can benefit from drug court services but who may present lower risk or lower need, appropriate tracks can be established tailoring the supervision, treatment and related services to the lower needs and/or risks the individual(s) present.

5. *Developing Individualized Treatment Plans*

The diagnostic and assessment process should result in a written individualized treatment plan for each individual, which the individual and the clinician jointly develop. The treatment plan should provide for a continuum of services to address the level of care determined needed for each dimension. The treatment plan should provide the framework for the treatment provider, the participant, and the Drug Court judge and team to work together to promote the participant’s achievement of the goals

and milestones specified in the plan. The treatment plan should be shared with the court and team members and updated regularly.

An initial treatment plan should include such information as:

- Reason for referral
- Client strengths
- Client barriers to progress
- Support
- Current symptoms and priorities
- Modality of treatment to be used
- Frequency of treatment services; and
- Specific goals and objectives the Client has agreed to work on, with timeframe(s) for their completion, and anticipated milestones

Updates of the plan should indicate any new developments that may affect the initial treatment plan, a narrative of the progress made to date, additional interventions that may be recommended, additional challenges that may need to be addressed, and updated goals, objectives, timeframes and milestones, as appropriate.