

KEEPING YOUR DRUG COURT ALIVE

Building A Team To Last

By

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Introduction

This planning guide is based on a 10 year effort to reduce repeat drunk driving in the communities served by the 52/1st District Court. The impetus for this guide can be traced to the frustration many in local criminal justice system felt about seeing a large number of defendants charged repeatedly with drunk driving. In 1999, 1200 drunk driving cases were filed in the 52/1st District Court, thirty-six percent were of which repeat offenders. Our experience was consistent with national studies that establish about one-third of all DUI arrests are repeat offenders.

Research conducted in 1997 by the National Highway Traffic Safety Administration (NHTA) indicated that 46% of car crashes involved alcohol. Of those crashes, 39% were fatal. Fatally injured drivers were seven times more likely to have had a prior conviction for drunk driving. NHTA projected in this study that drivers with a blood alcohol content over .15% are at increased risk for fatal crashes by a factor of 200. If the blood alcohol level is greater than .20%, they are 460 times more likely to be involved in a fatal crash. Although drivers with very high blood alcohol levels account for only one per cent of all drivers, they are implicated in half of all fatal crashes in the United States, specifically those that occur at night and on the weekends. The same group of drivers is responsible for serious injury, high medical expenses, increasing insurance costs, property damage and escalating costs to the courts.

From the standpoint of court resources, drunk driving cases are the misdemeanor charges most likely to go trial. These defendants are more likely do demand jury trials. They generate more motions and evidentiary hearings. As a result, these cases never seem to be ready to go to trial, creating multiple scheduling contacts. If convicted then most state laws require that the offender submit to an alcohol assessment prior to sentencing. And finally, these defendants are the most likely to violate a probation order that brings them back into court.

They are also the misdemeanant most likely to be sent to jail. Yet, most troubling of all, a jail sentence may little affect on their behavior.

Given the nature of the problem, what can the criminal justice system do?

In March of 2001 the 52/1st District Court instituted a DWI-Drug Court, known in Michigan as “a sobriety court”. Now entering its 10th year, this effort has significantly affected the incidence of repeat drunk driving.

This planning guide is an attempt to capture and convey our experience, and is offered with the understanding that every Court has unique resources, needs and populations to serve. Consider this guide as a series of suggestions to help create a long-lasting drug court.

GETTING STARTED

Change is difficult. Before there can be change there must be a perception that change is needed. There must also be a belief that a solution is possible. As you imagine changing your own court's strategies and structures, consider which government agencies and local groups have an interest in your type of drug court, and invite those leaders to a planning meeting. It is vital that you work together, to create a consensus about the need for change and how to create that change, at your very first meeting. This consensus will be critical to implementing enduring change. Once this agreement exists you can begin to plan your program.

PLANNING

STRUCTURE

Begin by creating a meeting structure. Without a strong structure, a project can become little more than a set of gatherings with limited, even contradictory, direction and focus. Individuals assigned to tasks without leadership can begin to work at cross-purposes. To prevent this, a leader who is thoroughly committed to the project should act as coordinator. Because of the nature of the criminal justice system, a judge should be on the planning committee. Careful consideration should even be given to making that judge the coordinator, if your state's judicial ethics rules allow for this.

When a coordinator has been chosen, they should schedule monthly meetings, involving all interested parties, including judges, court personnel, probation officers, victim advocates, prosecutors, and a variety of relevant social service agencies. Team planning meetings will allow members to exchange information and ideas on the most effective way to structure your drug court. The periods between formal meetings will allow members of your team to informally communicate with each other.

MISSION OR GOAL STATEMENT

Very early in the planning process, write a mission statement for your drug court. As part of this exercise, you should formulate clear goals. This should be a collaborative process with contributions from every organization that is a part of the team. Participation in goal development ensures that team members gain an understanding of the project and the reasons the other members are involved, and brings about ownership for the ideas

established. This collaboration will also pay significant dividends over time, as each organization is asked to sustain the energy levels necessary to promote and defend these new methods.

In setting your goals, the primary question will be “What do we want to accomplish?” To find this answer, your group should be encouraged to be freewheeling, unrestrained, and imaginative. After considering all possibilities, the group then can select, sort, and prioritize possibilities into meaningful and achievable goals. Some of the goals that emerged from our planning were:

- A common understanding that drunk driving is a dangerous crime and should be treated like one.
- Holding perpetrators accountable for their behavior and for stopping that behavior.
- Rehabilitation of the perpetrator through appropriate intervention.
- Protecting the general public.
- Improving public trust and confidence in the criminal justice system.
- Reducing drunk driving recidivism to under ten percent.

Once your goals have been agreed upon, you should outline the steps that must be taken to reach them. This will constitute your plan.

BASIC AGREEMENTS

Using the process described above, the 52/1st District Court, working with, the Oakland County Prosecutors office, Jail Alternatives for Michigan, Sequoia Recovery Services, law enforcement, MADD, a local defense attorney and other treatment professionals, reached a series of agreements.

The first and most important of these involved selecting repeat drunk drivers as the target population. Agreeing to focus resources on this group had far reaching consequences, and served as the foundation for each subsequent agreement and action.

The second agreement was to limit admissions to defendants from the communities served by the court.

The third agreement was to set up a small pilot program. Because the initial program was compact, it could be established quickly and easily, without any agency or entity being overwhelmed. At the outset, it was agreed no more than 10 defendants were to be accepted into the program, but as the experience and confidence of the team grew, additional defendants would be admitted.

The fourth agreement was that, in this new court environment, new forms of communication were necessary. Judges, probation officers, counselors, prosecutors and defense advocates must to be able to speak freely with and to each other.

The fifth agreement was a commitment to find and fund continuous training for everyone involved.

The sixth agreement was that all judges in the court would participate in the program and utilize a uniform approach for all defendants.

The seventh agreement was that defendants would only be supervised by experienced probation officers.

The eighth agreement was to create a non-profit advisory board to provide victims and community groups the opportunity to participate in the program and to raise monies for such things as rewards and graduation ceremonies.

The final agreement was to apply for grant money to fund the sobriety court and to seek at least one non-grant source of program funds.

A final cautionary note on planning: Don't hurry in recruiting team members or in creating your new drug court. There is a tendency to feel that each day without a program is a lost day, but a bad plan can actually be worse than no drug court at all. Planning for the 52/1st District Court program took almost a year, but in that year many problems were discovered, and as a result, were addressed before the first defendant entered.

PLANNING PROBLEMS

Part of the reason you should be patient and methodical when building your drug court is that you are going to experience problems during planning. Here are some of the problems we encountered in creating our sobriety court:

- Each judge had a different sentencing philosophy. Our resolution was to forge a written common approach that all judges agreed to follow.
- There was a concern that outside defense attorneys would obstruct the cooperative approach of drug court. Our resolution was to incorporate a provision into the defendant's waiver of rights, whereby they agreed to waive their right to the attorney of their choice, and to be represented by the sobriety court defense advocate, so long as they were in sobriety court.
- There was a concern that putting a defendant on probation for a year or less would not be sufficient, but that continuing beyond a year would drain too many resources and burn out staff. Our resolution was to split the program into two phases. An intensive sobriety court phase of 9 months in duration, followed by a regular probation aftercare phase of 9 months.
- There was concern that defendants would not be able to comply with all of the demands of the program. Our resolution was to create support services, including a website, where defendants could help each other.
- There was also concern that the other members of the team would not feel free to communicate disagreements with the judges. Our resolution was to create an environment that encouraged open lines of communication based upon a commitment by the judges to work within the team framework and to listen to each team member.

IMPLEMENTATION

IMPLEMENTATION PLANNING

The quality of your outcomes will be directly proportional to the care you take in implementing your program. Our sobriety court committed to the following implementation strategy.

Prior to attending federal grant training, the coordinating judge and chief of probation met and selected experienced probation officers to become the sobriety court probation staff. The judges invited a defense attorney who they believed shared their philosophy to become the first defense advocate. Court personal met with members of the prosecutors office and an assistant prosecutor was assigned to the team. Then a well respect member of the treatment community was approached and he agreed to participate. The coordinating judge met with the boards of local victim's organizations and asked them to send a representative to the sobriety court advisory board. This constituted the team that went to federal drug court training.

A policies and procedures manual was created, by the head of the court's probation department, setting forth the criteria and operation standards for our sobriety court. Defendants were deemed eligible for sobriety court if they have a prior alcohol-related driving conviction, or were a high-risk first offenders and lived within the jurisdiction of the court. The initial screening for eligibility began when the arresting officer noted on the ticket that a defendant had a prior drunk driving conviction. All defendants arrested on a drunk driving charge who had a prior offense were automatically placed on an expedited docket. The expedited docket system decreased delays in the court process; decreasing the time between arrest, conviction, identification of treatment needs of the offender during the assessment process, and monitoring of the defendant in the community.

Only those defendants who plead guilty, agreed in advance to the waiver of certain of their rights to privacy and accepted all sobriety court intensive conditions were admitted. As part of their agreement defendants signed a waiver form and requested to enter sobriety court on the record.

It was decided that meetings with the judge would begin thirty days following a defendants entrance into sobriety court. Hearings would continue monthly, based upon the defendant's progress. At the first judicial review, a defendant would be required to provide proof of enrollment in counseling. They would appear for a judicial status hearing the first business day following any infraction. Should a participant fail to appear for a judicial status hearing, based upon a bench warrant issued by the judge, a law enforcement official would immediately go and arrest them.

The head of the 521st district court's probation department became the gatekeeper for the program. She made sure every defendant who was considered for admittance met the admission criteria. She then assigned each defendant to a sobriety court intensive probation officers who acted as the case manager, monitoring the defendant throughout the eighteen-month program. That probation officer would open the sobriety court file,

review the Participant Guide and sobriety court contract, and explain the process of graduation and revocation. Participants would be drug tested each time they reported to probation, and randomly through an outside testing agency, while in the intensive phase of the program. The probation officer could also drug test the defendant for alcohol/drugs at the time of a home visit. Since the intensive officers would be required to be preliminary breath test certified, alcohol tests would be conducted on site by the probation officer whenever they met with the defendant. The sobriety court judge would be immediately notified of a failed drug test, altered test or failure to test.

Although the initial phase was designed as a nine month program with a gradual reduction in intensity, it was decided that participation in the intensive phase of drug court could also be extended. Upon entry into sobriety court, a defendant would be assigned to an intensive probation officer and be placed on an intensive track. If the defendant did not progress in treatment or comply with sanctions, the intensive supervision phase could be extended to 12 months. Following graduation from the intensive phase, the defendant would move to the probationary aftercare phase. Failure to graduate from the intensive phase of drug court within 12 months would result in revocation of drug court status and immediate sentencing.

IMPLEMENTATION PROCESS

In March 2001, the 52/1st District Court started its sobriety court.

The nine targeted defendants were immediately admitted into the sobriety court program. The time it took to open a file and conduct an arraignment on drunk driving cases was reduced to less than two hours. This change meant police departments were more willing to hold high risk drunk driving defendants overnight and then transport them to court for a formal arraignment, rather than releasing them to appear on their own recognizance. This in turn allowed the arranging magistrate to set additional bond conditions such as prohibiting alcohol and daily alcohol/drug testing while the case was pending. If pretrials could not be set the same day as the arraignment, they were scheduled within 6 days. Jury trials were scheduled no more than 14 days from the pretrial and bench trials in no more than 21 days.

Within two months, the team members agreed the program was working well and should admit any qualified defendant.

Nine months after the program began, 75 individuals had been accepted, with 7 defendants terminated due to non-compliance. The original 9 all graduated from the intensive phase at the first sobriety court graduation ceremony held on December 12, 2001. No individual in that first nine months was arrested for a new drunk driving offense.

IMPLEMENTATION PROCESS: PROBLEMS

No matter how good your planning, no matter how closely organizations work together, there will be implementation problems. Here are some (certainly not all) of the problems

and the solutions we experienced in implementing the team approach.

- Female defendants were having difficulty completing the program, in fact, only those women who were college graduates were able to do so. The entire team met with a number of outside experts and as a result, the treatment approach for women was changed. A new counseling program for women was adopted which focused upon the triggers for addictive behaviors. Also, an all-women's AA meeting was started. As a result, the number of female graduates eventually mirrored that of their male counterparts.
- Two probation officers could not handle all of the defendants who were eligible to enter the program. A retired probation officer was hired to supervise the graduates from the intensive phase. When his adult son became seriously ill he quit. The next probation officer came from another court but was offered another job and left. Another was hired, who also left. The instability was affecting the defendants progress. Once again the team met and decided to change the way defendants were supervised. Thereafter, each probation officer supervised a defendant in both the intensive and probationary aftercare phases. Additionally, it was decided to hire a probation officer without experience. The new probation officer was sent to drug court training and then shadowed the two existing probation officers for three months. The addition of the third probation officer allowed the court in to increase the number of defendants in sobriety court.
- The state and federal grant used to pay for the probation officers was a declining grant. To address grant fund reductions the court created a new fee, used exclusively for sobriety court, which was charged to every defendant convicted of drunk driving. By slowly increasing this fee each year to match the decline in the grant, the monies were replaced and the program remained intact.
- One of the sobriety court probation officers took family leave. The number of people admitted to sobriety was cut by a third during her leave. The position was held open for the officer who returned.
- Individuals in the second nine month probationary phase relapsed. The team met and decided to create a shorter version of the intensive phase for those who drank in the probationary aftercare phase. After completing this new intensive phase, a defendant would restart the aftercare phase of probation.
- The stylistic differences among the judges became a problem. At a team meeting the initial agreements among the judges was modified. The new agreements were then implemented. The ability of the team members to bring the problem to the judges attention and the meeting that resulted, enhanced communication thereafter.
- The original defense advocate could not handle the entire caseload. Therefore two more defense advocates were appointed and trained, and an attorney rotation was created.
- One of the original judges who helped design sobriety court left and a new judge, unfamiliar with the principles of drug courts, was elected. He agreed to continue his predecessors sobriety court docket and to attend several state and national trainings.

Evaluation

As of December 31, 2008, 788 individuals had been accepted into the 52/1st sobriety court. 91 individuals were in the intensive phase and 37 were participating in the probationary aftercare phase. Only 20 defendants who were admitted into the program were re-arrested for a new drunk driving offense. This equates to a recidivism rate of 2.5% four times better than our original goal.

In 2004, an evaluation of the sobriety court program was conducted by Evaluation Associates and Consultants, LLC. Their findings stated, "The Novi sobriety court has clearly met its primary goal of improving public safety by reducing drunk-driving recidivism among high-risk drivers."

CONCLUSION

As our sobriety court enters its tenth year we believe certain things can be emphasized with regard to maintaining a team:

1. Strong judicial leadership is a necessity if the team is to work and that leadership must be committed and receptive
2. An open team approach with regard to communication and problem solving is a necessity and must be maintained at all times.
3. The greater the level of experience the better the team works.
4. Continuous team training helps to maintain a fresh sense of commitment and any new team member must attend training immediately.
5. Agreed upon operational structure is a necessity.
6. A review of outcomes by team members can help solve problems that otherwise seem unsolvable.