

ROCK COUNTY OWI COURT POLICIES AND PROCEDURES MANUAL

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OWI COURT TEAM

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MISSION STATEMENT

The Rock County OWI Court's mission is to improve public safety by producing sober drivers. The Court will incorporate research driven principles and accountability to save money, lives, and create a better community. The Mission of the Rock County OWI Treatment Court is to use accountability and research-proven practices to create a safer community with sober drivers, be good stewards of community resources and improve the lives of our participants through creating healthy habits and productive life goals.

STRUCTURE/ MODEL

A post-conviction structured OWI court will be utilized to best meet the needs of participants.

PROGRAM INCENTIVES

- ❖ Defendants will receive lowest penalties as allowed under Wisconsin Statutes
- ❖ Reduced fees & fines
- ❖ Jail sentence significantly reduced—participant receives preference for Electronic Monitoring
- ❖ Time on Probation will be reduced upon program completion for an OWI 3rd offense
- ❖ Time on Probation may be reduced upon program completion for an OWI 4th offense
- ❖ Evidence-based AODA treatment provided free of charge to participants without insurance
- ❖ IID timeframe/costs reduced
- ❖ IDP assessment provided at no cost for 3rd offenses
- ❖ Period of license revocation lessened
- ❖ Improve chance for a healthy, sober life

ELIGIBILITY CRITERIA

An offender is eligible to participate in the Rock County OWI Court if:

- ❖ The defendant is a resident of Rock County;
- ❖ The defendant is charged as an adult;
- ❖ The defendant is convicted of a 3rd or 4th offense of operating while intoxicated, or equivalent offense, in Rock County and are placed on Probation. or the offender is referred as an Alternative to Revocation by the Department of Corrections and is on supervision for a 3rd, 4th, or 5th offense OWI;
- ❖ The defendant is willing to comply with the OWI Court program rules;
- ❖ The defendant is found, through use of a screening and assessment tools, to be a person with a moderate to severe substance abuse disorder and at risk to commit another OWI offense,
- ❖ The defendant is able to physically participate in treatment activities (within guidelines of the American with Disabilities Act);

- ❖ OWI 4th or 5th Defendants with prior violent¹ felony convictions are not eligible;

ENTRY PROCESS

Referrals may be made by the District Attorney's office, probation agent, defense attorney, defendant, or treatment professional.

Defendants interested in the program shall contact Rock County Treatment Court Services at 608-743-2258 to schedule an appointment. Treatment staff will meet with the defendant to conduct a screening and explain all expectations of the court and orientate him/her to the process. All assessment information will be presented back to the team for acceptance or denial to the program. If the team approves the defendant's acceptance into the program and the defendant agrees to participate, a plea hearing will be scheduled as soon as possible. If the plea has not been completed within 30 days of the screening, the defendant will need to be re-screened.

The defendant will:

- ❖ Enter a plea of guilty to the relevant charges and be placed on probation;
 - Or signed Alternative to Revocation Agreement;
- ❖ Be scheduled for OWI Court hearings on a regular basis;
- ❖ Participate in a treatment program, based on the completed assessment;
- ❖ Submit to observed drug and alcohol testing on a scheduled and/or random basis;
- ❖ Submit to visits at home and/or work by assigned probation officers, counselors, OWI Court personnel, or law enforcement officers.

COURT PHASES

ROCK COUNTY ADULT OWI TREATMENT COURT PHASES

The Rock County OWI Court program shall consist of five phases. The OWI Court Judge, upon recommendation of the OWI Court team and completion of the Phase Application by the participant, shall determine promotions to a higher phase.

Participant shall complete the recommended treatment services in each phase before transfer to the next phase.

Participant shall cooperate with office and home visits as directed by the OWI Court treatment staff, probation, and the OWI Court Team.

Participant shall avoid any premises where alcohol is the primary source of income.

Participant shall not associate with any person or place where illegal drugs are being used.

¹ To be eligible, an OWI 4th or 5th Defendant must not be classified as a "violent offender" as defined in 42 U.S.C. 3797u-2. Wisconsin Statutes further defines violent crimes under Wis. Stat. § 165.84(7).

Participant shall call the service providers for excused absence *prior* to all appointments. For example, if faced with an unavoidable conflict, contact the service provider in advance of the time for the appointment to reschedule. Failure to do so will be treated as a missed appointment and be subject to sanction.

****Participants' advancement in OWI Court will stop if incarcerated or otherwise unavailable for treatment for more than 14 days.****

Phase 1- Acute Stabilization (60 days)

- Court appearances every week
- Engaged with treatment
- Comply with supervision
- Develop case plan
- Home visits as determined by team
- Weekly Case Management meetings
- Random drug testing and daily alcohol testing
- Address housing
- Complete GAIN assessment (within first 30 days)
- Complete IDP assessment
- Start changing people, places, and things
- Develop transportation plan
- Complete required jail time

Minimum of 14 days sober, no missed treatment obligations or violations in past week, 60 days in program since intake, engaged in treatment and compliance with supervision to apply for phase 2.

Phase 2- Clinical Stabilization (90 days)

- Court appearances a minimum of bi-weekly
- Engaged with treatment
- Comply with supervision
- Review case plan, including: financial, medical, and employment issues
- Weekly case management meetings
- Home visits as determined by team
- Random drug testing and daily alcohol testing
- Begin developing plan for pro-social activities
- Continue addressing/maintain housing
- Follow transportation plan
- Demonstrate changing people, places, and things

Minimum of 30 days sober, 90 days in Phase 2, no missed treatment obligations for past two weeks, no violations in past week, engaged in treatment, and compliance with supervision to apply for phase 3.

Phase 3- Pro-Social Habilitation (90 days)

- Court appearances a minimum of every 3 weeks
- Engaged with treatment
- Comply with supervision
- Minimum of bi-weekly case management meetings
- Home visits as determined by team
- Random drug and alcohol testing
- Address life skills
- Begin Moral Reconciliation Therapy (MRT)
- Participate in 3 pro-social activities weekly
- Review case plan, including: financial, medical, and employment issues
- Maintain Housing
- Follow transportation plan
- Demonstrate changing people, places, and things

Minimum of 45 days sober, 90 days in Phase 3, no missed treatment obligations in the past three weeks, no violations within the past week engaged in treatment, compliance with supervision, pro-social activities established, established recovery network, and starting MRT to apply for phase 4.

Phase 4- Adaptive Habilitation (90 days)

- Court appearances a minimum of once per month
- Engaged with treatment
- Complete Moral Reconciliation Therapy (MRT)
- Comply with supervision
- Minimum of bi-weekly case management meetings
- Home visits as determined by team
- Random drug and alcohol testing
- Maintain 3 pro-social activities per week
- Maintain housing
- Review case plan, including: financial, medical, and employment issues
- Maintain recovery network
- Follow transportation plan
- Begin job, vocational training, job search, or schooling
- Address ancillary services (e.g.: parenting, family support, DBT, trauma, anger management groups, etc.)
- Demonstrate changing people, places, and things
- Complete Victim Impact Panel

Minimum of 60 days sober, 90 days in phase 4, engaged in treatment, compliance with supervision, no missed treatment obligations for past four weeks, no violations in past week, engaged in pro-social activities and recovery network, addressing employment/education/job training, etc., completing MRT, and addressing ancillary services (additional groups, parenting, family support etc.) to apply for phase 5.

Phase 5- Continuing Care (90 days)

- Court appearances a minimum of once per month
- Engaged in treatment
- Comply with supervision
- Random drug and alcohol Testing
- Review case plan, including: financial, medical, and employment issues
- Case management meetings as needed
- Home visits as needed
- Complete all treatment programs
- Develop continuing care plan
- Maintain recovery network
- Maintain housing
- Maintain employment, vocational training, or schooling
- Demonstrate changing people, places, and things
- Maintain 3 pro-social activities per week
- Follow transportation plan
- Complete any other obligations set forth by the case manager or court

Must have a minimum of 90 days sober, 90 days in phase 5, no missed treatment obligations for past five weeks, no violations with in past week, engaged in treatment, compliance with supervision, maintaining pro-social activities and recovery network, maintaining employment/vocational training/school, addressing ancillary services, and able to articulate continuing care plan to apply for graduation.

GRADUATION CRITERIA

Participants must complete all phases of the program and complete an application to be considered eligible for graduation. The OWI Court team must approve any exceptions. The OWI Court team must approve candidates for graduation.

Once a participant is approved for graduation, a graduation ceremony will take place in the final OWI Court session. Family members, friends, sponsors, and other supportive individuals are encouraged to attend the graduation ceremony.

The OWI Court treatment staff will obtain the graduate's input through an exit interview and/or client satisfaction survey with the graduate. Results will be maintained and evaluated by the Rock County Justice System Manager.

INCENTIVES AND SANCTIONS

Incentives in Rock County OWI Court may include, but are not limited to, the following:

- ◆ Verbal praise from the Judge
- ◆ Applause/Special Recognition
- ◆ Gift Cards

- ◆ Certificates of recognition and/or completion
- ◆ Advancement to the next OWI Court phase
- ◆ Curfew reductions
- ◆ Gain of privileges; for example, overnights
- ◆ Decrease attendance at OWI Court sessions
- ◆ Sobriety and drug free living
- ◆ Decreased reporting to Probation
- ◆ “Talk and Walk”
- ◆ Fishbowl Drawings **

** Fishbowl Drawings: Participants are eligible for fishbowl drawings at every court session if they have met the following criteria since the last court date:

1. Attended all groups
2. Complied with all appointments (cancellations must be approved 24-hours in advance)
3. All drug testing results negative, no missed drug or alcohol tests, and no late Soberlink tests
4. Honesty in all interactions

Sanctions in Rock County OWI Court may include, but are not limited to, the following:

- ◆ Verbal warning by the Judge
- ◆ An essay writing assignment or workbook
- ◆ Attendance at additional/special OWI Court sessions
- ◆ Community service assignments
- ◆ Impose/Modify curfew restrictions
- ◆ Loss of privileges; for example, overnights, etc.
- ◆ Verbal or written apologies to judge and group
- ◆ Electronic Monitoring
- ◆ Warrant for arrest
- ◆ Jail time
- ◆ Dismissal from the OWI Court program

***A sanctions matrix is attached to this Policies and Procedures manual, which may be used by the team for sanctioning purposes. The team will use it to guide their decisions, however, each situation will be evaluated on its own merits.

TESTING PROTOCOL

Testing Procedure:

All urine (UDT), breathalyzer (BA), and oral swab testing will be completed on a random basis. Each Participant will be given a Personal Identification Number (PIN) and it is their responsibility to call the Averhealth office on a daily basis. The call line for testing is available from 7AM to 6PM Monday through Friday and 7AM to 12PM Saturday, Sunday and Holidays.

The voice message at the designated number will inform the participant if they are scheduled to test that day or not. If the participant is scheduled to test, he/ she must report to the Averhealth office within the predetermined time slots or the drug test will be assumed positive and/or missed.

Testing will take place under the supervision of the Averhealth technician. Same sex staff will observe/witness collection of all UDT samples when possible. This means staff will accompany the participant into the restroom to ensure that altering of the UDT sample does not occur.

They will have the entirety of open office time to complete the test. If the participant is not able to complete the test in time the test will be considered failed.

All positive tests and/or “no shows” for testing will be reported to the OWI Court team and Judge for possible sanctions. OWI Court participants are not allowed to consume “non-alcoholic” beer or use products that contain alcohol, such as, NyQuil and mouthwash. Any breath tests that are positive for the presence of alcohol will be deemed a positive test by the OWI Court team, and any claims that the test may be due to use of alcohol based products will not change this determination.

If a participant disputes the results of a test they may request a confirmation test be done. The OWI Court team reserves the right to request a confirmation test be completed when a participant has positive drug test result. UDT tests may also be sent in for confirmation if the UDT test appears to be tampered or flushed in any manner.

Tampering with Drug-Testing:

Tampering with urine or interfering with drug testing, including ingesting substances in an attempt to alter the result, or putting something in the urine, providing a sample that is not urine or not from the person being tested, or in any other manner is a very serious offense. Success in OWI Court depends on a relationship of trust among staff and participants, and participants are expected to be honest and truthful in their interactions with treatment personnel. Therefore, tampering offenses may result in significant consequences .

TERMINATION CRITERIA

Termination Procedure:

If the OWI Court team determines that a participant should be terminated from the program, the State will file a Notice and Motion to Terminate from OWI Court. The motion will set forth the team’s reasons for seeking termination and will be scheduled for hearing before a judge who is not currently assigned to preside over OWI Court. Throughout the termination process, the participant will have the following rights:

- To be represented by an attorney. If the participant does not have an attorney, one will be appointed by the State Public Defender's Office, or the Court, subject to their eligibility criteria.
- To written notice of the alleged violations prompting the termination hearing.
- To disclosure of the evidence against the participant.
- To present evidence and to testify at the hearing.
- To call witnesses and to confront and cross examine any adverse witnesses.
- The decision of a neutral judge setting forth his/her findings, the evidence relied upon and the reason for the decision.

At the hearing, the State will have the burden of showing, by a preponderance of the evidence, that the participant has violated the terms of his/her OWI Court contract and that termination is appropriate.

The participant may stipulate to any or all of the violations without waiving the right to contest the termination itself. The participant may also waive the right to the termination hearing in its entirety. If the participant chooses to stipulate to a violation or to waive his/her right to the termination hearing, the Court will engage the participant in a discussion, while on the record, designed to ensure the Court that the participant is making a knowing and voluntary stipulation or waiver.

An OWI Court participant does not have the option to quit or remove him or herself from the OWI Court program. Successful completion and termination are the only methods by which a participant may leave OWI Court.

Need to work out how a 5th offense OWI would work—or can they be in the program currently.**Automatic Termination:**

Failure to complete the Global Appraisal of Individual Needs (**GAIN**) Assessment within 30 days of entry into the program, absconding from the program for 30 days or more, or a new criminal charge for Operating While Intoxicated (OWI) are grounds for automatic termination from the program and do not require a hearing.

CONFIDENTIALITY AND RELEASES

The participant's identity and privacy will be protected consistent with federal confidentiality laws; 42 United States Code (USC) Section 2990dd-2, and the regulations implementing these laws at 42 Code of Federal Regulations (CFR, Part 2) and Wisconsin law. Treatment courts and confidentiality laws are designed to achieve the shared goal of encouraging substance abusers to obtain and remain in treatment. The Rock County OWI Court can only function if information is shared among team members.

Participants will be required to authorize the release of pertinent information to selected persons or agencies. This includes, but is not limited to: Rock County Court, District Attorney, Public Defender or Defense Attorney, Rock County Sheriff's Office, other Law Enforcement agencies, independent program evaluators (to include TAD funders), Rock County Justice System Manager, Probation/Parole Agents, referring agencies, employers, significant others (or members of household), community support sponsor and any specialized service the participant is receiving. The purpose of this communication is to facilitate treatment coordination between the Case Management Unit and the designated person or agency. Case Management shall communicate any information regarding a participant's progress or lack of progress as well as any renewed criminal activity to the appropriate authorities.

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