

PLAN FOR THE EXPANSION OF THE DUI TREATMENT DOCKET IN WINDSOR COUNTY
TO THE SOUTHEAST CORRIDOR OF VERMONT
TO INCLUDE WINDHAM, WINDSOR, AND ORANGE COUNTIES
THROUGH THE USE OF A MOBILE TEAM

SUBMITTED BY

ROBERT L. SAND

802-585-6633

robert.sand@vermont.gov

DRAFT

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SUMMARY

DUI Treatment Courts are specially designed dockets within the criminal court system that aim to reduce recidivism for repeat offense impaired drivers through early, continuous, and intense judicial supervision, sustained treatment, regular and random alcohol and other drug testing, sanctions and incentives, and the active engagement of a team of criminal justice professionals. DUI Treatment Courts are accountability programs that operate in a post-conviction, post-sentencing environment. Participants receive the benefit of extensive supportive interventions but they do not avoid a conviction or any mandatory incarceration or license suspension associated with their DUI offense.

DUI and other Drug Treatment Courts are proven effective models for reducing instances of repeat offenses and for saving overall criminal justice costs. Nationally, the very best DUI Treatment Courts reduce recidivism by up to 60% for graduates of the program as compared to non-participants. Moreover, drug courts as a whole save over \$2.00 in criminal justice costs alone for every \$1.00 spent. Properly run DUI Courts adhere to [Ten Guiding Principles](#) as developed and maintained by the National Center for DWI Courts, a division within the National Association of Drug Court Professionals. The model has the support of MADD, the NTSB, NHTSA, GHSP, the International Association of Chiefs of Police, the National District Attorneys Association, and others. Since 2012, the Vermont GHSP Highway Safety [Plan](#) has called for the creation of DUI Treatment Courts in Vermont. In 2014, the Vermont General Assembly recognized the importance of DUI and other Drug Courts in the prefatory language to [Act 195](#), the pretrial services bill.

Planning for Vermont's first DUI Treatment Court began in Windsor County in 2012. The program admitted its first participant in January 2014. In June 2015, the program held a ceremony for its first graduate. The second graduation occurred in October 2015 with more expected in the next few months. A recently-completed evaluation of the Windsor County program by the Crime Research Group found excellent fidelity to the national guiding principles which bodes well for the program's impact on recidivism.

It is now time to expand the DUI Treatment Court model to other locations. Rather than incurring the cost and logistical difficulties in recreating the Windsor County program from scratch in other counties, this proposal endorses the creation of a mobile team, based in Windsor County, that covers the southeast corridor of Vermont to include Windham, Windsor, and Orange Counties. This mobile team comprised of a judge (or specially assigned hearing officer) and a program coordinator, would travel on a regular basis to each of the three counties, partner with local professionals, and provide the DUI Treatment Court model to those locations. The cost of expansion to cover the southeast corridor is approximately \$500,000, which includes the \$225,000 already budgeted for Windsor County alone. The most significant new cost is the personnel expense for the hearing officer assigned to this project. Using a hearing officer instead of a judge would reduce overall costs by about \$45,000. Federal funds and in-kind state contributions would pay for the expansion.

Under Vermont law, the Administrative Judge can "specially assign" a hearing officer to preside in a superior court (4 VSA §22(a)(2)). Accordingly, the Administrative Judge could assign a new hearing officer to preside over the southeast corridor DUI Treatment Court dockets. It would be beneficial, though, to amend 4 VSA § 22(a)(2) so that the hearing officer could be given a limited special assignment and thereby avoid being reassigned to duties other than in the treatment court. Draft statutory language follows at the end of this proposal. The other traveling member of the mobile team is the program coordinator. Lastly, the model proposed here -- developing a host DUI Treatment Court and then expanding it regionally -- is replicable throughout the state, resulting in statewide DUI Treatment Court coverage in three to five years.

DUI TREATMENT COURTS

What are they?

A DUI Treatment Court is a specially scheduled docket within the criminal court system. As such, it is not a separate court building but is instead a problem solving approach used as a corollary to the existing traditional response for repeat offense impaired drivers.

DUI Treatment Courts are specifically designed to lower overall costs while at the same time reducing recidivism for repeat offense, substance dependent drivers. The DUI Treatment Court approach revolves around a presiding judge (or hearing officer) trained in the DUI/Drug court model who spearheads a team that includes a prosecutor, defender, probation officer, treatment providers, law enforcement, and a program coordinator. Repeat offense impaired drivers participate in the program following conviction, sentencing, and the service of any required period of incarceration. They meet regularly with the judicial officer who plays an active role in overseeing the offender's recovery and compliance with conditions of probation. With input from the team, the judicial officer uses incentives and sanctions to help guide the participant to a sober, productive life. Recovery is not a quick process and the DUI Court model typically takes 18 to 24 months to complete.

The judicial officer's role in a DUI Treatment Court differs greatly from the judicial role in a typical docket. Traditionally, after the imposition of a sentence, a judge has no further involvement with the offender and most certainly does not develop a relationship with the offender. The judge's role in a typical case effectively ends at sentencing. The DUI Treatment Court model turns this approach on its head and utilizes the broad problem-solving and interpersonal skills possessed by judges and judicial officers to help positively motivate offenders and hold them accountable for their behaviors. In a DUI Treatment Court, a judicial officer, following sentencing, meets with the offender on a weekly or bi-weekly basis, establishes a rapport with the person, and provides guidance, encouragement, incentives, and sanctions as the person works to achieve sobriety.

The role of the criminal justice professionals who form the team is also non-traditional. In a DUI Treatment Court all of the team members are fully committed to the successful recovery of the participant as a means of improving public safety. The team uses a collaborative approach to achieve consensus, preserving the ability to litigate issues in court where necessary, and always under the guidance and ultimate authority of the judicial officer. For criminal justice professionals more accustomed to a purely adversarial model this team approach requires adjustments and compromise.

Do they work?

One of the key criminal justice advances promoted by the DUI/Drug Court movement is the requirement for evaluation. Expenditure of taxpayer dollars on novel approaches cannot be justified without establishing that the new approaches are in fact evidence-based and achieve the cost savings and promised reduction in recidivism. A further discussion of the need for programmatic evaluation is found on the website of the [National Association of Drug Court Professionals](#) and its related organization the [National Center for DWI Courts](#).

Cost - National

A 2008 meta-analysis concluded that Drug Courts produce an average of \$2.21 in direct benefits to the criminal justice system for every \$1.00 invested in those courts. In instances where the Drug Courts more carefully targeted their services to higher risk offenders, the return on every dollar invested increased to \$3.36. (NADCP Need to Know- [Policy Paper](#)).

“We know beyond a reasonable doubt that Drug Courts significantly reduce drug use and crime and do so with substantial cost savings.”

NADCP Policy Paper

These savings are not surprising. Incarceration is the most expensive criminal justice response and not a particularly effective one at altering behavior in a positive fashion. The intensive treatment and supervision of Drug Courts is not only less costly than incarceration as an initial matter but given its increased effectiveness at reducing recidivism, yields financial savings in the long run. It is also worth noting, though more difficult to quantify, that lower recidivism rates are usually associated with lower health care cost and increased employment opportunities for those people who extricate themselves from the criminal justice system. Thus the reported criminal justice savings of Drug Courts likely underrepresents their overall societal fiscal benefits.

Similar impressive findings exist when looking solely at DUI Courts as compared to the entire universe of Drug Courts. As reported in January 2015:

“DUI Courts reduce DUI recidivism and general criminal recidivism while returning substantial cost savings to taxpayers. Early evidence suggests DUI Courts can also reduce the incidence of car crashes on our nation’s highways.”

NCDC The Bottom Line [Policy Paper](#)

Three separate cost analyses of DUI courts found overall criminal justice expenditures per participant in a DUI court to be \$1500 less than a nonparticipant. The overall cost savings increase to \$5000 for participants who graduate from a DUI court program. Even though the DUI model involves considerable oversight and time, criminal justice systems should anticipate overall cost savings largely through reduction in recidivism. Time spent by judicial officers and a team monitoring and supporting DUI Court participants ultimately saves time in reduced instances of re-offenses.

Recidivism - National

A number of meta-analyses have concluded that DUI Courts substantially reduce not only DUI rearrests but also result in an overall reduction in all criminal activity.

“DWI Courts reduced both DWI recidivism and general criminal recidivism by an average of more than 12 percent. The best DWI Courts reduced recidivism by as much as 50 to 60 percent.”

NCDC [Policy Paper](#)

It is also worth noting that the meta-analysis include data from the early days of DUI Courts before the establishment of national [guiding principles](#). Now, DUI Court programs that closely adhere to the guiding principles achieve enhanced recidivism reduction and improved cost savings.

An emerging area of analysis is the frequency (or infrequency) of involvement of DUI Court participants and graduates in subsequent motor vehicle crashes. A preliminary study suggests that DUI Court participants are half as likely as a similar offense probationer not in a DUI Court program to be involved in a crash. Moreover, program participants were more likely to fulfill license reinstatement requirements and secure lawful driving privileges again.

These findings should not come as a surprise. Intense and supportive supervision and accountability, coupled with intelligently administered incentives and sanctions, provides a far more effective environment for lasting personal change than incarceration or standard probation that lacks the depth of support and accountability provided by a DUI Court.

The Vermont Experience

In 2012, a nine person team from Windsor County, Vermont travelled to California to learn about establishing a DUI Treatment Court. The Governor’s Highway Safety Program and NHTSA funded the trip.

Upon returning to Vermont, the team met regularly under the leadership of a Superior Court Judge and devised its program and procedures [manuals](#) to support the DUI Treatment Court. Although there were no other models to emulate in Vermont, the team had considerable assistance from the National Center for DWI Courts ([NCDC](#)), the entity that hosted the original training.

Closely adhering to the national [guiding principles](#) for DUI and Drug Courts, Windsor County began accepting people into the treatment court program in early 2014. Through regular meetings, on-going training, and consideration of difficult issues that inevitably arise in a new program, the team has revised and updated its procedures and manuals.

In spring 2015, the first person graduated from the Windsor County DUI Treatment Court, sober, employed, validly licensed, and very appreciative of the program, the team, and the judge. The program now has approximately 25 repeat-offense, substance-dependent people enrolled and that number should increase as more professionals, especially more defense attorneys, learn of the benefits of the program and show a willingness to recommend it to their clients.

Although it is too early to draw any quantitative conclusions about recidivism and cost of the Windsor County program, all indications are strong that it will ultimately achieve cost savings and considerable reduction in recidivism. The Crime Research Group of Vermont recently completed a Process Evaluation Report and concluded that the Windsor County program showed extremely strong fidelity to national best practices. Another important measure of the strength of the program comes from the presiding judge who has remarked on more than one occasion:

“My work in the DUI Treatment Court is the most important work I have done since becoming a judge.”
Vermont Superior Court Judge

Mobile Team Proposal

Since the DUI Treatment Court model saves money and reduces recidivism and given the strength of the Windsor County program, how then can we replicate the approach in other parts of Vermont? Principles of fundamental fairness and geographic justice would suggest that beneficial rehabilitative programs that also promote public safety ought to be available throughout Vermont.

The prospect of establishing a stand-alone DUI Treatment Court in each county in Vermont is daunting. Not only would that require substantial local initiative but also significant cost. One alternative involves establishing a few “host” courts and allowing offenders from other counties to travel to those host courts for supervision. This host, or regional court, model has two fundamental shortcomings: first, most participants in a DUI treatment court do not have a valid license at least at the start of the program and so could not easily travel to a remote court; second, each county ought to have its own program and regional biases might weigh against using a host court model.

The difficulty in having the participants travel to a court and the desire to have a treatment docket within each county leads to a novel, innovative, and important approach: a mobile DUI treatment court team. Rather than trying to establish a full, stand-alone program within each county and rather than making the offenders travel outside their own county, this proposal calls for the creation of a mobile team that would travel to the three counties within the southeast corridor of Vermont providing the DUI Treatment Court model to Windham, Windsor, and Orange Counties.

A Dedicated DUI Treatment Court Judge or Hearing Officer

Dedicating a judge to a mobile treatment court team and allowing that judge to preside over a treatment court docket for a number of years results in a high level of expertise. The current practice of rotating Vermont judges to different courts has an unsettling effect on the existing treatment courts. Assigning a judge to preside as a mobile team leader in multiple courts for a number of years will stabilize the programs. Moreover, national data indicates that participants achieve better outcomes if the judge has presided over the docket for two years or more.

“Not surprisingly, the drug court judge who is assigned to the drug court for two years or indefinitely has better participant drug court graduation rates and lower outcome costs than those courts that yearly rotate judges in and out of drug court.”

An equally viable and more flexible model involves assigning a Vermont Hearing Officer to preside over the DUI Treatment Court dockets in the southeast corridor. Hearing Officers have responsibilities in the judicial bureau (4 VSA §1102 et seq). However, Vermont law also authorizes the Administrative Judge to specially assign a hearing officer to the Superior Court (4 VSA §22(a)(2)). The Administrative Judge could fill a Hearing officer position, fund the position through a NHSTSA/GHSP grant, and give a limited special assignment to the hearing officer to preside over the DUI Treatment Dockets in the southeast corridor. Structured as a limited special assignment, the Hearing Officer would only have the authority specified in the assignment and would not have the full, general authority of a Superior Court Judge.

Why a Mobile Team

A mobile team creates numerous advantages over the traditional approach. First, each county in the southeast corridor gets its own Treatment Docket without requiring offenders to travel outside their own county. Second, the traveling judicial officer and team develop expertise at presiding over and maintaining a treatment court. Third, with funding to support the team, the treatment court approach becomes an addition to the court's regular docket and allows the regular presiding judge in each county to continue with his or her customary docket. The treatment court approach enhances, augments, and supplements the offerings of the court without detracting from the regular docket.

Composition of the Team

The judicial officer sits at the center of every DUI Treatment Court team. Although the team seeks consensus in all aspects of program development and with regard to incentives and sanctions for participants, the judicial officer remains the final arbiter. A full team consists of the judicial officer, prosecutor, defender, probation officer, police officer, case manager, community-based treatment provider, and a program coordinator.

Under this proposal, the mobile team consists of the judicial officer and program coordinator. The other team representatives would come from the respective counties under contracts or as in-kind contributions. Thus, the mobile model requires buy in and acceptance by criminal justice professionals in order to be successful. The criminal justice professional in the southeast corridor have been consulted and support this expansion idea.

Proposed Jurisdiction for the Team

This proposal endorses the creation of a mobile team to cover the southeast corridor of Vermont, to include Windham, Windsor, and Orange Counties. On a weekly or bi-weekly schedule, the mobile team judicial officer and program coordinator would travel to the respective criminal courts and, together with local case managers and other partners, provide the DUI Treatment Court model to those three counties. This judicial officer would preside exclusively over this docket and, thereby alleviate some of the case-load from the existing presiding judges. As the program coordinator operates the recording devices in court, the court clerk/recorder is absent during DUI Treatment Court hearings. The logistics of scheduling courtroom space and security will occur as this project gains approval.

Here it is worth noting the replicability of this model – creating a host court and then expanding it regionally. So, for example, Rutland County could develop a host DUI Court. Once established, the host court would expand

with a mobile team that travels regularly to Bennington and Addison Counties to provide the DUI Treatment Court approach to those counties. Five of these mobile teams could cover the entire state from host courts in Rutland, Windsor, Washington, Franklin, and Chittenden Counties as depicted on the map on page 11.

Sustainability

NHTSA has indicated an interest in funding this proposal with federal funds. The ground-breaking nature of this model augurs well for long-term funding. However, there is always a risk in future years of a shortage of funds. The only permanent state position proposed here is the judicial officer, thus limiting the state's financial exposure. The limited service positions and contracts filled under this proposal would end upon the expiration of funding.

Evaluation

Critical to any long-term funding and sustainability is proof that the DUI treatment court approach reduces recidivism and overall criminal justice costs. To that end, any grant funding request sought should include a request for a comprehensive evaluation of the mobile team to determine if the newly created dockets reduce recidivism as compared to similarly charged offenders who do not participate in a DUI Treatment Court and a comparison of the offender costs for those who participate in the program as compared to those who are supervised or incarcerated under a traditional approach.

PROPOSED AMENDMENT

Introduction:

To support the expansion of DUI Treatment Courts Title 4 Section 22 is amended to read:

§ 22. Designation and special assignment of judicial officers and retired judicial officers
(a)(1) The Chief Justice may appoint and assign a retired Justice or judge with his or her consent or a Superior or Probate judge to a special assignment on the Supreme Court. The Chief Justice may appoint, and the Administrative Judge shall assign, an active or retired Justice or a retired judge, with his or her consent, to any special assignment in the Superior Court or the Judicial Bureau.

(2) The Administrative Judge may appoint and assign a judge to any special or limited special assignment in the Superior Court. As used in this subdivision, a judge shall include a Superior judge, a Probate judge, a Family Division magistrate, or a judicial hearing officer. The scope of authority and duties of an assignment under this subsection shall be detailed by the Administrative Judge. A person assigned under this subsection shall not be entitled to any change in compensation or benefits.

MAP OF PROPOSED HOST AND RECEIVING COURTS

