



**STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF KENT**

ORDER FOR THE ESTABLISHMENT OF A JUVENILE MENTAL HEALTH COURT PROGRAM

ADMINISTRATIVE ORDER: 2020-06

At a session of said Court, held in the Kent County Courthouse, in the City of Grand Rapids, in said County on 9-2-2020

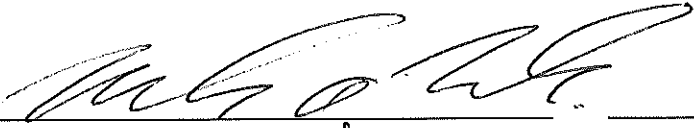
Present: HONORABLE MARK A. TRUSOCK, Chief Circuit Judge.

IT IS ORDERED: This administrative order is issued in accordance with MCL 600.1099b, *et. Seq.* The purpose of this order is to establish a juvenile mental health court program (JMHC) in 17th Circuit Court to service Kent County upon approval by the State Court Administrative Office (SCAO). All policies and procedures comply with the statute and are consistent with the 10 Essential Elements of a Mental Health Court promulgated by the Bureau of Justice Assistance (see attachment A) and the 7 common Characteristics of Juvenile Mental Health Courts identified in a study funded by the National Institute of Justice and promulgated by the State Court Administrative Office (see attachment B).

1. The court has entered into a memorandum of understanding with the prosecuting attorney in the 17th circuit court, a representative of the criminal defense bar, a representative of Network180, the mental health authority for Kent County and partner who contracts with a network of mental health and substance use disorder service providers, and other key parties pursuant to MCL 600.1099c. The Memorandum of Understanding describes the role of each party and is attached (see attachment C).
2. A multidisciplinary group of stakeholders participated in the planning and program design of the juvenile mental health court.
3. Team members have familiarized themselves with the operations of an existing juvenile mental health court (s) and cross-trained between mental health and judicial systems.
4. The JMHC has established eligibility criteria that are consistent with MCL 600.1099e through MCL 600.1099h. Criteria, both legal and clinical, are clearly defined for admission.
5. In compliance with MCL 600.1099e(3), no participant will be admitted until a complete preadmission screening and an evaluation assessment are completed. Policies that facilitate timely participant identification, referral, and admission into the juvenile mental health court have been developed.

6. The parent, legal guardian, or legal custodian, and juvenile will sign a written agreement to participate in the program in conformance with MCL 600.1099f. Policies and procedures describing the program length, level of supervision, treatment plan development, requirements for successful completion, expulsion criteria, case disposition whether successful or unsuccessful completion of the program, sanctions, incentives, and other key program components are developed and will be explained to eligible participants as part of the terms of participation.
7. The JMHC will provide consistent and close monitoring of the participant as required by MCL 600.1099i(1). Policies and procedures on the methods and frequency in which the responsible individuals will monitor participant compliance with the program requirements have been rejected.
8. The court will remain case files in compliance with the General Records Retention and Disposal Schedule #15, the Michigan Trial Court Case File Management Standards, and Part 2 of Title 42 Code of Federal Regulations to assure confidentiality of mental health court records.
9. Pursuant to MCL 600.1099i(1), the coordinating court will provide the SCAO with the minimum standard data established by the SCAO for each individual applicant and participant of the juvenile mental health court.
10. The court will use the Drug Court Case Management standard data as determined by the SCAO.
11. Upon execution of the written Agreement to Participate in the juvenile mental health court, the case shall be assigned to the presiding Judge of the Juvenile Treatment and Support Court.
12. If certification becomes a requirement to continue operation of the juvenile mental health court, the Juvenile Treatment and Support Court, at 17th Circuit Court, will apply for certification status.

Effective Date: _____

_____  _____
Date Chief Circuit Judge Signature Court

ATTACHMENT A The 10 Essential Elements of a Mental Health Court

Essential Element #1 – Planning and Administration

A broad-based group of stakeholders representing the criminal justice, mental health, substance abuse treatment, and related systems and the community guides the planning and administration of the court.

Essential Element #2 – Target Population

Eligibility criteria address public safety and consider a community's treatment capacity, in addition to the availability of alternatives to pretrial detention for defendants with mental illnesses. Eligibility criteria also take into account the relationship between mental illness and a defendant's offenses, while allowing the individual circumstances of each case to be considered.

Essential Element #3 – Timely Participant Identification and Linkage to Services

Participants are identified, referred, and accepted into mental health courts, and then linked to community-based service providers as quickly as possible.

Essential Element #4 – Terms of Participation

Terms of participation are clear, promote public safety, facilitate the defendant's engagement in treatment, are individualized to correspond to the level of risk that the defendant presents to the community, and provide for positive legal outcomes for those individuals who successfully complete the program.

Essential Element #5 – Informed Choice

Defendants fully understand the program requirements before agreeing to participate in a mental health court. They are provided legal counsel to inform this decision and subsequent decisions about program involvement. Procedures exist in the mental health court to address, in a timely fashion, concerns about a defendant's competency whenever they arise.

Essential Element #6 – Treatment Supports and Services

Mental health courts connect participants to comprehensive and individualized treatment supports and services in the community. They strive to use—and increase the availability of—treatment and services that are evidence-based.

Essential Element #7 – Confidentiality

Health and legal information should be shared in a way that protects potential participants' confidentiality rights as mental health consumers and their constitutional rights as defendants. Information gathered as part of the participants' court-ordered treatment program or services should be safeguarded in the event that participants are returned to traditional court processing.

Essential Element #8 – Court Team

A team of criminal justice and mental health staff and service and treatment providers receives special, ongoing training and helps mental health court participants achieve treatment and criminal justice goals by regularly reviewing and revising the court process.

Essential Element #9 – Monitoring Participant Progress

Criminal justice and mental health staff collaboratively monitor participants' adherence to court conditions, offer individualized graduated incentives and sanctions, and modify treatment as necessary to promote public safety and participants' recovery.

Essential Element #10 – Sustainability

Data are collected and analyzed to demonstrate the impact of the mental health court, its performance is assessed periodically (and procedures are modified accordingly), court processes are institutionalized, and support for the court in the community is cultivated and expanded.

ATTACHMENT B 7 Common Characteristics of Juvenile Mental Health Court

Characteristic #1- Regularly Scheduled Special Docket

JMCHs are distinguished from regular juvenile courts in having a regular time and day of week set aside for status hearings, a team meeting to discuss program suitability for youth referred, and status updates on active cases.

Characteristic #2- Less Formal Style of Interaction among Court Official and Participants

Like formal courts the judge presides over the hearings however, in a JMHC the judge engages with the youth personally and converses about how their week has gone, asks about unmet needs, praises them for adhering to conditions and achieving milestones, and admonishes the youth for violations.

Characteristics #3- Age-appropriate Screening and Assessment for Trauma, Substance Use, and Mental Health.

Early screening drives case-specific decision making, program suitability, and flexibility in referrals. Mental Health and SUD Assessments inform treatment and Risk Assessments inform supervision.

Characteristic #4- Team Management of JMHC participants treatment and supervision

The typical team is comprised of the judge, probation officer, court coordinator, clinical liaison, defense and prosecution attorneys. A Clinical Liaison and Probation Officer work together to provide care coordination of treatment and provide intensive supervision.

Characteristic #5 System-wide accountability enforced by the juvenile court

The primary focus is on the accountability of the participant to voluntarily comply with court conditions and to hold them accountable for his/her behavior. With the Juvenile Mental Health Court model accountability is spread across many people and systems that touch the lives of youth. The team not only holds the youth accountable but in some cases, they may also need to hold the family, school, child welfare, community treatment providers, social service agencies, etc. accountable to the court for the youth's successful completion.

Characteristic #6- Use of Graduated Incentives and Sanctions

Graduated incentives and sanctions are utilized to reshape the youth's behavior. In addition, therapeutic responses are employed to expand personal insight and understand underlying needs. Incentives, Sanctions, and Therapeutic Responses are highly individualized and tied to the overall therapeutic approach for each youth.

Characteristic #7- Defined Criteria for Program Success

The JMHC has phases with defined requirements, personal goals, and competencies to be gained that provide structure for moving through the phases.



17TH CIRCUIT JUVENILE TREATMENT AND SUPPORT COURT (JTASC) MEMORANDUM OF UNDERSTANDING

This is an understanding between the Kent County Prosecuting Attorney, Circuit Court-Family Division and their probation department; Katie Oland (defense representation), Mary Golden (defense representation), Charley Clapp (defense representation), Network180 and their contracted network of mental health and substance abuse disorder service providers, Judge McNabb, and Teri Clark (court coordinator).

PURPOSE

The purpose of this memorandum of Understanding (MOU) is to describe duties and allocate responsibilities for members of the Juvenile Treatment and Support Court (JTASC) team. The MOU also establishes team member responsibilities and requirements for maintaining compliance with the federal law of confidentiality (42 CFP, Part 2), the Health Insurance Portability and Accountability Act (HIPAA, 45 CFP, Parts 160 and subparts A and E of Part 164), and the Michigan Juvenile Health Court Statute (MCL 600.1099b-600.1099m).

TERMS AND CONDITIONS

1. **Participant:** Any person referred to the Juvenile Treatment and Support Court (JTASC), currently being screened as a candidate for JTASC (including those that are ultimately denied entry into the program), currently participating in JTASC, or someone who has been discharged from JTASC.
2. **Policies and Procedure Manual:** A policy and procedure manual documents program policies and procedures designed to influence and determine all major decisions and actions, and all activities that take place within the boundaries set by them. Procedures are the specific methods employed to express policies in action in day-to-day operations of the organization.
3. **Redisclosure:** The act of sharing or releasing health information that was received from another source (e.g. external facility or provider) and made part of a patient's health record or the organizations designated record set.
4. **Stakeholders:** A person, group or organization that has interest of concern in an organization.
5. **Treatment Services:** Any services provided by a licensed clinician or by an employee of an agency providing therapeutic services for substance use disorder, mental health, or developmental disabilities.

6. Waiver: The "voluntary relinquishment of a known right" (Kelly v Allegan Circuit Judge, 1969).

GOALS AND MISSION OF THE JUVENILE TREATMENT AND SUPPORT COURT (JTASC)

1. The above parties agree to share the following **VISION** for the JTASC.
 - a. Enhance the quality of life throughout Kent County.
 - b. Provide leadership through innovative services.
 - c. Continuous improvement of services.
 - d. Achieve program goals through a team approach.
 - e. Reduce criminal behavior and decrease the incarceration of youth who have a severe emotional disturbance (SED) or developmental disorder (DD).
 - f. Ensure that each component of JTASC is aware and in compliance with federal confidentiality law requirements.
2. We agree that the **MISSION** of the JTASC shall be to successfully link youth with a severe emotional disturbance or a developmental disorder to the appropriate treatment services while maintaining public safety and reducing recidivism.
3. We endorse the goals and mission of the JTASC for participants to eliminate future criminal behavior and to improve their quality of life. For problem solving courts such as JTASC, to be successful, cooperation must occur within the network of systems to facilitate and achieve the mission and vision of Juvenile Mental Health Court Program.
4. We agree to the following challenge of the JTASC: Engage youth with SED or DD involved in the juvenile justice system in a continuum of treatment services and provide them with appropriate intervention through treatment, rehabilitative programming, reinforcement and monitoring.

GUIDING PRINCIPLES OF THE JUVENILE TREATMENT AND SUPPORT COURT (JTASC)

1. The program shall adhere to the 10 essential elements of a mental health court:
 - a. Develop a broad-based group of stakeholders to guide the administration of the program.
 - b. Develop eligibility criteria that addresses public safety and the community's treatment capacity, and target individuals whose mental illness is related to their crime and meet both clinical and legal criteria for admission.
 - c. Identify and link participants in a timely manner to the appropriate treatment services.
 - d. Promote positive legal outcomes by well-defined terms of participation that facilitate engagement in treatment that corresponds to the level of risk to the community.

- e. Address competency issues in a timely fashion when they arise and provide legal counsel to assist with admission and program requirements.
- f. Provide comprehensive and individualized treatment while striving to utilize evidence-based services.
- g. Protect participants' health and legal information in compliance with the Health Insurance Portability Act (HIPPA) and Part 2 of 42 CFR while making information available to the court team.
- h. Maintain a court team that is comprised of court, criminal justice, and mental health staff, along with treatment and service providers who maintain ongoing specialized training. The team is responsible for assisting a participant to achieve their goals.
- i. Collaboratively monitor program requirements while offering graduated incentives and sanctions to modify behavior.
- j. Periodically evaluate the program's functioning and effectiveness to ascertain local support by reviewing data that is collected.

2. The program shall comply with the 7 common characteristics of a juvenile mental health court published by Policy Research Associates, including all the following:

- a. Regularly scheduled special docket.
- b. Less formal style of interacting among court officials and participants.
- c. Age appropriate screening and assessment for trauma, substance use and mental illness.
- d. Team management of a participant's treatment and supervision.
- e. System-wide accountability enforced by the juvenile mental health court.
- f. Use of graduated incentives, sanctions, (and therapeutic responses).
- g. Defined criteria for program success.

ROLES OF THE PARTIES OF THE JUVENILE TREATMENT AND SUPPORT COURT (JTASC)

All Members:

- On an annual basis will attend current training on events on legal and constitutional issues in mental health courts, evidence-based SUD and MH treatment, behavior modification and/or community supervision.
- Will share information as necessary, and in compliance with 42 CFR and HIPPA, to appraise participant's progress in, and compliance with, the conditions of the JTASC.
- Will provide feedback, suggestions, and ideas on the operation of the juvenile mental health court.

The Roles of the Parties are as follows:

1. JTASC Judge

The presiding judge heads the collaborative treatment team. In this capacity, the judge regularly reviews case status reports detailing each participant's compliance with the treatment plan. During regular court appearances, the judge administers graduated sanctions and incentives, as well as therapeutic responses, to increase each participant's accountability and to enhance the likelihood of long-term treatment compliance.

2. JMHC Coordinator:

The Coordinator is responsible for the administration, management, and coordination of services and operations, including overseeing court staff activities, ensuring the court's compliance with statutes and court rules, developing court policies and procedures, managing service provider contracts and team member memoranda of understanding, managing program grants, facilitating team meetings, and serving as a liaison to local service providers and community groups. The Coordinator recruits and solicits referrals and manages the referral and intake processes.

3. Prosecution:

The role of the prosecutor in problem solving courts differ from the traditional adjudication process. In a PSC, all parties and counsel share the common goal of helping participants successfully comply with treatment in a community setting with the primary goal of community safety. The prosecutor reviews new cases concerning eligibility pursuant to the guidelines herein. The eligibility assessment includes a review of the juvenile's criminal history, consultation with victims, legal eligibility, and appropriate dispositions upon the juvenile's entry into a PBC. As part of a collaborative team with the judge, defense attorney, and PSC staff, the prosecutor monitors participant progress and compliance and can make recommendations regarding sanctions. If a participant is re-arrested, the prosecutor investigates the new case and assesses the appropriateness of continued participation.

4. Defense Counsel:

The Defense Counsel represents and advises the juvenile in all court proceedings and is mindful of the juvenile's constitutional rights as a juvenile charged with a crime and the juvenile's civil rights as a behavioral health consumer. The Defense Counsel uses a non-adversarial approach with a focus on protecting the juvenile's constitutional rights and their success in treatment to promote health and well-being. The Defense Counsel seeks to find treatment solutions for the juvenile that minimize the juvenile's

exposure to detainment, reduces the risk of re-arrest or new charges, and mitigates the consequence of adjudication.

5. Probation Officer:

The JTASC Probation Officer will provide all probation oversight for participants in JTASC who been referred to the program through probation or a sentence modification. The Probation Officer will work with the JTASC Coordinator and Clinical Liaison in supervising and monitoring individuals in the program. The Probation Officer attends case review, staffing, and court hearings and makes recommendations for incentives and sanctions for participants. The Probation Officer will schedule probation violations and show cause hearings for participants when the sanction results in the limitation of their physical liberties. The Probation Officer will enter drug testing and monitoring notes into DCCMIS.

6. Clinical Liaison:

The JTASC Clinical Liaison (CL) will provide clinical oversight and management for participants in the JTASC and will serve as the primary case manager related to the juvenile's compliance to program requirements. The CL will screen and assess to determine program eligibility, appropriate treatment services, and ongoing progress in treatment. In addition, they will authorize for intensive services through Network180's provider network. The CL will represent the clinical needs of the juvenile at the case review and staffing meetings and provide weekly reports on the juvenile's attendance to treatment and their progress toward clinical goals. The CL will be the primary manager of client data entered IN DCCMIS.

7. Network of MH and SUD Service Providers:

Provide psychosocial assessment, create Individual Plan of Care, ongoing assessments to determine change in functioning (CAFAS). Provide direct treatment and crisis intervention and safety planning. Provide JMHC with regular updates to verify the juvenile and family attendance/participation, and if progress is being made. Provide JMHC with copies of IPOC and evaluations. Attend staffing meetings when invited to collaboratively problem solve and attend court hearings to support the juvenile and family as able.

DEFERRALS, DELAYS, AND DEVIATION FROM SENTENCING GUIDELINES

The prosecutor must approve an individual's admission into the JTASC if the individual will be eligible for discharge and dismissal of an offense, and must agree to each discharge and dismissal.

CONFIDENTIALITY

1. A juvenile mental health court's performance of, or request for, an assessment of chemical dependency of a JTASC participant, or a referral to treatment, places the JTASC within the parameters of 42 CFP, Part 2. Additionally, treatment agencies partnering with JTASC must comply with the Health Insurance Portability and Accountability Act (HIPPA) that protects confidentiality and the security of protected health information. Therefore, all parties agree to abide by the following:
 - a. Confidential treatment court information and records, including information obtained as a result of participating in a preadmission screening and evaluation assessment, is confidential and is exempt from disclosure under the Freedom of Information Act (FOIA), and may not be used to initiate or substantiate any criminal charges against a participant or to conduct any investigation of a participant, unless it reveals criminal acts other than, or inconsistent with, personal drug use. (42 CFR, Part 2)
 - b. State law may neither authorize nor compel any disclosure prohibited by the federal regulations, but where state law prohibits disclosure that would be permissible under federal regulations, the stricter standard applies.
 - c. Treatment courts may receive or release information or records of participants only with the specific knowing, voluntary, and written consent of the participant, or under certain very limited exceptions. (42 CFR, Sections 2.14-2.35)
 - d. The participant must be advised, orally and in writing, that federal law protects the confidentiality of treatment records. The notice must cite Section 290dd-2 and the implementing regulations (Sections 2.1 through 24 of Title 42 of the CFR).
 - e. Any documented treatment information distributed on the basis of the treatment participant's consent must be accompanied by a Notice of Prohibition Against Rediscovery. The prohibition on rediscovery only applies to information that would identify, directly or indirectly, an individual as having been diagnosed, treated, or referred for treatment for a substance use disorder, such as indicated through standard medical codes, descriptive language, or both, and allows other health-related information shared by the part 2 program to be rediscovered, if permissible under other applicable laws. (42 CFP, section 2.32)

- f. Confidential records must be kept in a secure room and locked container. Access to confidential records must be limited to authorized individuals (42 CFR, Section 2.16)
2. Juvenile mental health court team members shall be familiar with relevant federal and state laws and regulations in order to develop or modify appropriate policies and procedures regarding confidentiality.
3. All file storage systems shall include procedures for limiting access to records after the participant's consent expires or is revoked. Thus, paper records that can be accessed by all juvenile mental health court personnel during the duration of the participants consent are transferred to a more restricted storage facility as soon as the consent is terminated. Records on computers are sealed by changing the password or other access.
4. All team members shall abide by the policies and procedures written in the JTASC Policy and Procedure Manual regarding the sharing or distribution of confidential information which regulates and controls access to and use of written and electronic confidential records. Written procedures include requests or access to confidential information by the public, attorneys, or any interested party outside the treatment court team, and formal policies and procedures addressing security, including sanitation of associated media, for both paper and electronic records.
5. Electronic data that is subject to confidentiality standards shall be protected by security walls and is password-protected. Access shall be limited, and disclosure/redisclosure is subject to approval by the treatment court judge and team.
6. The JTASC team shall decide if pre-court staffing meetings will be closed to participants and the public and describe its policy in the participation agreement. If the staffing is open to visitors the participant must be provided the name of the visitor(s) and must consent in writing to have his or her confidential information released to the visitor. All visitors shall be required to sign an agreement that they adhere to the confidentiality provisions of the law (and particularly as to the rule against redisclosure) and the other requirements of the TJASC MOU.
7. The parties, including each party's employees and other agents, shall maintain the confidentiality of all records generated during the term of this MOU in accordance with all applicable state and federal laws and regulations, including, but not limited to, 42 CFR Part 2.

TERMS OF AGREEMENT

This agreement is effective for one year upon the date of the final signature and shall renew automatically for subsequent one-year terms unless otherwise modified. Any party to this agreement may terminate participation upon thirty days' notice to all other signatories.

AGENCY REPRESENTATIVES

This MOU will be administered by the JTASC local team, which consists of the following stakeholder agency representation: Kent County Prosecuting Attorney, Circuit Court-Family Division and their probation department; Katie Oland (defense representation), Mary Golden (defense representation), Charles Clapp (defense representation), Network180 and their contracted network of mental health and substance abuse disorder service providers, Judge McNabb, and Teri Clark (court coordinator).

MODIFICATION OF AGREEMENT

Modification of this agreement shall be made by formal consent of all parties, pursuant to the issuance of a written amendment, signed and dated by the parties, prior to any changes.

OTHER INTERAGENCY AGREEMENTS

This agreement does not preclude or preempt each of the agencies individually entering into an agreement with one or more parties to this agreement, nor does it supplant any existing agreement between such parties.

SIGNATURES OF PARTIES TO THIS AGREEMENT

The parties have entered into this agreement as evidenced by their signatures below. A certified copy of the agreement shall be provided to each signatory to the agreement. The original agreement shall be filed with the clerk of 17th Circuit Court.

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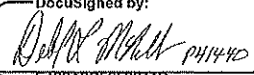
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Honorable Mark A. Trusock, Chief Judge, 17th Circuit Court

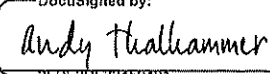
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Honorable Deborah McNabb, JTASC Judge, 17th Circuit Court

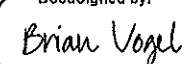
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Andrew Thalhammer, Court Administrator, 17th Circuit Court

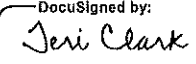
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Brian Vogel, Deputy Court Administrator, 17th Circuit Court

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Teri L. Clark, JTAS Coordinator, 17th Circuit Court

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Christopher Becker, Chief Prosecuting Attorney, Kent County

Date

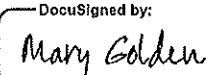
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Katie Oland, Defense Attorney, Law Office of Katie Oland

Date

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Mary Golden, Defense Attorney, Mary Golden Law Office

Date