

MISSION STATEMENT

The Drug Court Program for the Northern District of West Virginia is a cooperative effort by the United States District Court, the United States Probation Office, the United States Attorney's Office, along with various community stakeholders and service providers, to break the cycle of substance abuse by providing a rehabilitative program for individuals involved in the federal criminal justice system who are afflicted with substance abuse problems.

It is founded on the premise that many substance abusers are arrested for behavior related to their drug or alcohol addictions, and that but for those addictions, they may be able to live law-abiding, productive lives. Substance abusers also tend to recommit the same or similar offenses, thereby increasing recidivism rates.

This program is created in recognition of the particular benefits which are possible to the participants and to the community at large if a drug court is available.

The goals of the program are to promote community safety, reduce recidivism and substance abuse among offenders, break the cycle of drug-addicted crime, and increase the likelihood of successful rehabilitation by employing the most effective use of existing resources for substance abuse treatment and implementing a blend of treatment, supervision, appropriate sanctions and incentives. Abstinence and public safety are the ultimate goals of the Drug Court Program.

Successful implementation of the Drug Court Program requires incremental steps and periodic modifications as specific needs are recognized and addressed. The Program was initially established in January of 2015 at the Wheeling point of holding court, with the goal of expanding it to eventually include other points of holding court within the district.

I. INTRODUCTION

The Drug Court Program is the Northern District of West Virginia's federal drug court. It is a voluntary *post-plea, pre-adjudication* program, of at least one year, designed for individuals who suffer from substance abuse or addiction. Post-conviction defendants/participants may be admitted to the program during the period of their supervised release or probation; or, after they have been charged with a violation of their supervised release/probation and have admitted to the details of the violation(s), but have not yet been sentenced on that violation.

Participants will engage in varying levels of treatment in order to address issues of substance abuse.

The Drug Court Program is strictly voluntary, however participants must agree to abide by all the rules and phases of the program, including its termination procedures, as well as any additional instructions or Orders issued by the presiding judge or by the Supervising Probation Officer. Regularly scheduled Court hearings, which the participant must attend, will be held twice a month to assess participant progress.

Each participant's involvement in the program will be confirmed in a written agreement, which outlines the expectations and obligations of all participants. This agreement is signed by the participant, his or her defense counsel, and the Drug Court Program's Supervising U.S. Probation Officer before it is approved and signed by the presiding judge.

Although no outcome is guaranteed, upon successful completion of the program, a pre-adjudication participant may receive a motion for downward departure, reduction of the charges to a lesser offense, recommendation for a non-guideline sentence, referral to pre-trial diversion, or the entry of an Order setting aside the previously tendered plea of guilty, dismissing the charges and directing that the Indictment and arrest records be sealed or expunged.

Post-conviction defendants who successfully complete the Drug Court Program may have their term of supervision reduced by one year and/or receive other benefits as the Court may deem appropriate.

Failure to abide by the mandates of the program may result in the participant being terminated from the program and returned to the traditional Court process for sentencing. Violation proceedings may be initiated for those participants on supervised release or probation. (See **Section XI**)

Because this program is strictly voluntary, a participant is free to withdraw at any time. Participants who withdraw will be transferred to the original presiding judge and return to the traditional Court process and proceedings. Neither the United States Attorney's Office, nor the United States Probation Office, will move to revoke the "acceptance of responsibility" provision of the plea agreement for participants who voluntarily withdraw from the program. This course of action on the part of the United States Attorney and the United States Probation Office, however, is not binding upon the Court with respect to assessing the level of the defendant's acceptance of responsibility for purposes of sentencing.

The National Association of Drug Court Professionals has identified ten key components for successful Drug Courts. These elements, as set forth below, are considered essential to a Drug Court's success, and the Drug Court Program for the Northern District of West Virginia strives to incorporate all of them:

- 1) Drug Courts integrate alcohol and other drug treatment services with justice system case processing.
- 2) Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.

- 3) Eligible participants are identified early and promptly placed in the Program.
- 4) Drug Courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
- 5) Abstinence is monitored by frequent alcohol and other drug testing.
- 6) A coordinated strategy governs Drug Court responses to participants' compliance.
- 7) Ongoing judicial interaction with each Program participant is essential.
- 8) Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
- 9) Continuing interdisciplinary education promotes effective Program planning, implementation, and operations.
- 10) Forging partnerships among Drug Courts, public agencies, and community-based organizations generates local support and enhances Drug Court program effectiveness.

II. LEGAL AUTHORITY

Pursuant to Section 3154 of Title 18, United States Code, pretrial services officers are authorized to provide for the custody, care, counseling, treatment or other necessary social services to defendants released under pretrial supervision. Pursuant to Section 3603 of Title 18, United States Code, probation officers are authorized to use all suitable methods to aid probationers and persons on supervised release in order to bring about improvements in their conduct and conditions.

The objective of providing support services for defendants on pretrial release, probationers, and persons on supervised release is to ensure the safety of the community and to provide these individuals with the structure and stability necessary to reasonably assure their appearance in court and also their reintegration into society as productive members of our communities.

Treatment and other support services provide the judge with alternatives to pre-sentence detention and post-conviction revocation for those defendants who require close supervision and behavior monitoring.

III. TEAM MEMBERS & THEIR ROLES

The Drug Court Program Team consists of the presiding judge, along with one or more representatives from the U.S. Attorney's Office, the defense bar, law enforcement, the U.S. Probation Office, contracted Drug Court Treatment Providers within the Northern District of West Virginia, and various community stakeholders. Other individuals or entities may be asked to join the Team from time to time, as deemed necessary for assisting with fulfilling program goals. The basic role of each Team member is outlined below.

The Court: The presiding judge leads the Drug Court Program Team and works with other team members to achieve the program's goals. The presiding judge considers the views and opinions of other Drug Court Team members with respect to individuals seeking admission to the program, but it is the Judge who makes all final decisions regarding approval or denial of Drug Court applications. His or her active involvement with program participants is essential to the Drug Court Program's success. The Judge provides encouragement and rewards participants when they are performing well in the program. When participants are in non-compliance with program rules, engage in other misconduct, or are in violation of supervision, the presiding judge, with input from the Drug Court Program Team, will impose appropriate sanctions based on the nature of the participant's non-compliance. When possible, sanctions should be progressive in terms of severity. While other members of the Drug Court Program Team provide input regarding the need for sanctions, including whether a participant has exhausted his or her opportunities to continue in the program, the presiding judge makes all final decisions regarding sanctions and terminations from the program. He or she presides over all team meetings and court hearings, including status conferences held for individual participants.

Supervising Probation Officer: The Supervising Probation Officer assigned to the Drug Court Program supervises all Drug Court Program participants and works with other Drug Court Program team members to achieve program goals. He or she is charged with making appropriate treatment referrals with contract and non-contract agencies based on the needs of the individual participant. The Supervising Probation Officer works with the treatment agencies to ensure effective communication between the treatment providers and the Drug Court Program Team. The Supervising Probation Officer regularly reports on the progress of Drug Court Program participants. He or she attends all team meetings and court hearings, including all status conferences held for individual participants. In preparation for court sessions, the Supervising Probation Officer gathers information in order to inform the Drug Court Program Team of the participant's status.

When problems arise with individual participants, the Supervising Probation Officer works with other members of the Drug Court Program Team to intervene as needed. He or she reports to the Drug Court Program Team regarding all such interventions.

The Supervising Probation Officer maintains each participant's file, which contains a clearly identified separate section where all Drug Court Program documents will be retained, including a fully executed copy of the participation agreement, progress reports, treatment records, and results of drug testing.

The Assistant United States Attorney: The United States Attorney's Office, through the attorney, or attorneys, assigned to the Drug Court Program, works with other Drug Court Program Team members to achieve program goals. The United States Attorney representative reports to the Program Team with respect to any law enforcement input which may have been received by the United States Attorney's Office regarding specific applicants. He or she may also offer observations regarding the eligibility of candidates as part of the Program Team, but will not recommend for or against admission. The United States Attorney representative may offer comments, on the progress of participants and advocates on behalf of the government. He or she attends all team meetings and court hearings, including all status conferences held to address issues with individual participants. He or she makes recommendations regarding sanctions, including termination, and participates in all program planning decisions.

Defense Counsel: Defense Counsel serving the Drug Court Program works with other Drug Court Program Team members to achieve program goals and represents participants for purposes of drug court proceedings only. To the extent it may be necessary to advise counsel who represented Drug Court participants in their underlying criminal proceedings, he or she will communicate with them regarding issues and concerns which may arise in the program, for the purpose of soliciting their input or inviting their participation. He or she reports, or comments, on the progress of participants and advocates on behalf of drug court participants. He or she attends all team meetings and court hearings, including all status conferences held to address issues with individual participants. He or she may make recommendations regarding sanctions, including termination, and participates in all program planning decisions.

Defense Counsel is available to assist the probation officer in encouraging program participants to succeed in treatment, discourage poor decisions and disinterest in the program at their first sign, and to participate in discussions about program planning. Defense Counsel may also report on the progress of participants during the Court session.

Law Enforcement Component: Representatives from law enforcement work with other Drug Court Program Team members to achieve program goals. Law enforcement representatives attend all team meetings and may offer their observations and opinions regarding the suitability of applicants for the Program. They may also make recommendations regarding sanctions, including termination. As part of the Program Team, law enforcement representatives attend court hearings and may participate in program planning discussions.

The Treatment Provider(s): The treatment provider(s) work with other Drug Court Program Team members to achieve program goals. The Drug Court Treatment Provider(s) for the Northern District of West Virginia provide treatment services pursuant to a contract with the U. S. Probation Office.

The primary treatment provider evaluates each applicant referred by the Court for assessment. When deemed necessary by the primary treatment provider, applicants may be referred to other treatment providers for additional assessment and evaluation. (For additional guidance, see **Section V, The Referral Process** below.) The results of applicant assessments are reported to the Court, and for those applicants accepted by the Court into the program, the primary treatment provider determines the appropriate level of substance abuse treatment, and provides said treatment.

Treatment provider(s) deliver regular bi-monthly progress reports to the Drug Court Program Team. Treatment provider representatives attend all team meetings and all Drug Court hearings. The treatment provider makes recommendations regarding sanctions, including termination, and participates in all program planning decisions.

Community Stakeholders: Representatives from the Wheeling area Residential Reentry Center (RRC); the Wheeling YWCA, and Lazarus & Mary Martha Houses work with other Drug Court Program Team members to achieve program goals. Community stakeholder representatives attend all team meetings and may offer their observations and opinions regarding the suitability of applicants for the Program. They may also make recommendations regarding sanctions, including termination. As part of the Program Team, community stakeholder representatives attend court hearings and may participate in program planning discussions.

IV. PROGRAM ELIGIBILITY

The Drug Court Program is designed for non-violent federal defendants, with a history of drug or alcohol addiction. It is a *post-plea, pre-adjudication* program, whereby a defendant pleads guilty, and acceptance of the plea is delayed until final disposition. Final disposition takes place after a defendant has completed — or been terminated from — the Drug Court Program.

Post-conviction defendants/participants may be admitted to the program during the period of their supervised release or probation; or, after they have been charged with a violation of their supervised release/probation and have admitted to the details of the violation(s), but have not yet been sentenced on that violation.

Individuals who are registered as sex offenders, **or who have a prior felony conviction for a crime of violence**, or a history of violent crime, sex offenses or a severe mental condition are not eligible for the Drug Court Program. A participant must not pose a danger to the community and must exhibit a willingness to participate in treatment and to comply with the stringent conditions of the program.

An applicant's eligibility is fact-specific, and applicants will be considered and admitted on a case-by-case basis at the discretion of the Court. When considering individuals for admission to the Drug Court Program, the following eligibility criteria are considered, although they are not the sole deciding factors and are not weighted in any particular significant order:

- Verified evidence of current, or past, substance abuse and/or addiction
- Nature of pending charge, criminal history, and danger posed to the community
- Unrelated pending criminal cases, active warrants, or active capias
- Prior drug- or alcohol-related arrests/convictions

- Prior on-going participation in drug treatment
- Mental health history with manageability of conditions
- History of sex offense convictions or charges;
- Reliable transportation for all required program events; and
- Demonstrated desire to enter the program and ability to comply with the requirements in order to become clean from the influence of controlled substances.

Offenders must clearly understand that the purpose of the Drug Court Program is to help them stop their dependency on drugs and thus improve their lives, and further, that completing this Program will require hard work and sacrifice.

Offenders must be willing to participate for the duration of the Program and must remain in the designated geographical area for that period of time.

Offenders must voluntarily enter the program, agree to all requirements and stipulations of the program, and sign the Participant Agreement.

For additional guidance, see **Appendix 1, Expanded Eligibility Criteria**.

V. THE REFERRAL PROCESS

Judges, defense attorneys, probation officers, Drug Court Treatment Team members, and/or family members may refer criminal defendants to the Drug Court Program by completing an Initial Referral Form, found on the U.S. Probation Office website, and submitting it to the U.S. Probation Office. See **Appendix 2, Initial Referral Form**. Written supplemental information in the form of letters or relevant documentation may be provided in support of a referral by any interested party.

A pre-adjudication defendant who is requesting admission into the Drug Court Program will enter into a plea agreement with the United States Attorney's Office and will enter a guilty plea before the judge presiding over his or her criminal case.

After an Initial Referral Form is received on behalf of a defendant, the United States Probation Officer then screens the candidate's criminal record, the available substance abuse and/or mental health history, as well as other relevant factors, for the purpose of making an initial report to the Drug Court Team regarding the referral and application. As part of this screening process, the probation officer usually interviews the criminal defendant and discusses the program's requirements in order to make a preliminary assessment of the defendant's willingness and ability to participate in the program.

After the probation officer completes this preliminary assessment, the Drug Court Program Team members charged with assessing eligibility review the referrals and the results of the preliminary assessment at periodic meetings, scheduled at the discretion of the presiding judge.

All Referrals, along with information obtained and provided by the probation officer, supplemental materials, and relevant law enforcement input, will initially be reviewed by the Drug Court Team for a preliminary assessment as to whether a criminal defendant may be an appropriate candidate for the Drug Court Program. When considering candidates for the Drug Court Program, the Drug Court Team reviews the eligibility criteria described above, and in the expanded eligibility criteria. The Drug Court Team may, at the discretion of the Court, interview any applicant. If the presiding judge determines that the defendant may be a suitable candidate, he or she, refers the defendant for a thorough substance abuse evaluation by the treatment providers.

Assessment tools may include:

- Adult placement screening
- Level of Service Inventory- Revised (LSI-R) (LSI-CMI) Assessment
- Substance Abuse Subtle Screening Inventory SASSI-3
- Urinalysis (UA) testing for all mood-altering chemicals for which local field testing is available
- Psychological Diagnostic Screen Questionnaire (PDSQ) (Added: meeting with F & S)
- Documentation of the applicant's medications/prescriptions
- Other medical/psychological evaluations as deemed necessary or appropriate

The treatment providers report the results and findings of their evaluation to the Drug Court Team at the next meeting following completion of the assessment. If assessed as a substance abuser/addict, and viewed by the treatment provider as an appropriate candidate, the Court will determine whether to accept the applicant into Drug Court Program, and if the Court so Orders, the applicant will be immediately accepted into the program. The Supervising Probation Officer will notify each applicant, and also his or her attorney, as to whether the application has been accepted or rejected. Applicants who are not accepted into the program will be advised, to the extent possible, of the basis for their rejection, including whether a subsequent application will be considered.

If the capacity of the Drug Court Program reaches a point where there are insufficient staff members, resources, or support services for additional participants, a waiting list for entry into the program may be established. Accepted applicants will be placed on the list in chronological order, based on the date the applicant was accepted.

For defendants who are accepted into the program, a Motion will be filed requesting "Transfer of Supervision to the Drug Court Program" and a continuance of further proceedings until such time as the defendant completes the Drug Court Program. If a defendant is not accepted into the Drug Court Program, final disposition of his or her criminal case will proceed on schedule.

VI. PROGRAM ENROLLMENT

A participant must execute the **Participant Agreement** before beginning to participate in the program. The **Participant Agreement** outlines the Drug Court Program's rules and sets forth what is expected of the participant. The Agreement must be signed by the participant and his or her attorney, the Supervising U.S. Probation Officer, and the presiding judge. When completing the Participant Agreement, the defendant also acknowledges whether he or she consents to the appointment of defense counsel serving the Drug Court Program as his or her attorney solely for the purpose of the Drug Court Program. (See **Section III** above, **Team Members & Their Roles**, and also **Appendix 3, Drug Court Program Participant Agreement**).

Participants are generally expected to complete the Drug Court Program in twelve (12) to eighteen (18) months. The length of the program depends, in large part, on the individual participant's ability to succeed in the program. Individuals who struggle in treatment, but remain dedicated to recovery, may be given an extension of time to complete the program. Individuals who successfully complete the program may receive after-care services to support their recovery. The burden is on the participant to succeed in the Drug Court Program. Treatment includes extensive supervision, frequent drug testing, individual and group counseling, relapse prevention, learning to set and achieve personal goals, demonstrating responsibility, and realizing a clean and sober lifestyle as a productive and contributing community member.

VII. PROGRAM PHASES

The Drug Court Program uses evidence-based approaches in the delivery of services and treatment.

The program lasts anywhere from a year to eighteen months, or sometimes longer, and is divided into three major phases. Movement through the phases is based upon the accomplishment of goals and requirements. Components of the program include: substance dependency assessment and treatment, mental health interventions, random drug testing, regular court appearances, case management meetings and referrals, home visits, attendance at community support groups, employment or education, community service and/or other requirements as directed by the Court and/or the Drug Court Treatment Provider staff.

The Drug Court Program consists of three phases, which are designed to provide each participant with the opportunity to establish a sober and crime-free lifestyle. The phases encourage participants to develop an understanding of their substance abuse/dependence by recognizing

patterns of use, factors that influence use, and the impact of use on themselves, their families and their communities. Each phase has a specific purpose with distinct and achievable goals, and participants must successfully complete all phases in order to graduate from the Drug Court Program. The various phases are meant to be a continuum of treatment and rehabilitation, and participants may be moved forward or backward on this continuum based on successes or needs identified by the Drug Court Treatment Team in order to insure each participant has received the maximum benefit from each phase of development. It is recognized that relapses are likely and the program is designed to address them. As offenders progress through these phases, it is expected that they will accept more responsibility for themselves as well as reach out to their peers in the Drug Court Program to help them through the difficult stages.

The presiding judge and the Drug Court Program Team will determine if and when a participant has successfully completed the Drug Court Program.

Phase One: Early Recovery

Phase Length: Approximately four (4) months

Goal: Participants abstain from drug and alcohol use, engage in treatment and stabilize in the appropriate level of treatment services. During this phase, participants develop an understanding of addiction, patterns of use, and factors that influence use. Participants establish early recovery tools and a foundation of support for recovery.

Expectations for Participants:

- Abstain from use of all mood & mind altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Attend (at a minimum) weekly meetings with probation officer;
- Attend all Drug Court Program court hearings, which occur twice a month;
- Participate in substance abuse treatment as directed; to include daily reporting to the designated Drug Court Treatment Provider;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the Supervising Probation Officer;

- Submit to community and/or home visits as deemed appropriate by the Supervising Probation Officer;
- Begin journal workbook;
- Begin writing life story;
- Identify relapse triggers and establish a relapse prevention plan;
- Identify sober support network;
- Comply with 10:00 p.m. curfew (unless excused by probation officer);
- Perform community service, or engage in another productive activity approved by the designated Drug Court Treatment Provider staff, for a minimum of eight hours per week;
- Develop a plan, approved by the Supervising Probation Officer, to comply with any court-ordered restitution, and, if possible, begin making payments;
- Complete and submit for approval by the Court a Phase Report that reflects on progress in the program and sets goals for the next phase; and which will be read to the Court, or by the Court, at phase completion;
- Maintain sobriety **for at least two consecutive months** prior to moving into Phase Two; and
- **Complete** other requirements as determined by the designated Drug Court Treatment Provider staff, the Court or Supervising Probation Officer.

Phase Two: Primary Treatment & Continued Care

Phase Length: Approximately five (5) months

Goal: Participants will begin to identify and understand adverse consequences of drug/alcohol use and take responsibility for the same. Participants will continue abstinence and continue to build a sober support network in the community.

Expectations for Participants:

- Abstain from use of all mood- & mind-altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Attend meetings with probation officer as directed;
- Attend all Drug Court Program court hearings, which occur twice a month;
- Participate in substance abuse treatment as directed; to include daily reporting to the designated Drug Court Treatment Provider;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the Supervising Probation Officer;
- Submit to community and/or home visits as deemed appropriate by the Supervising Probation Officer;
- Comply with 10:00 p.m. curfew (unless excused by probation officer);
- Perform community service, or engage in another productive activity approved by the designated Drug Court Treatment Provider staff, for a minimum of eight hours per week;
- Seek and secure employment/community service or enroll/attend an educational/vocational program, or a combination of both, or an acceptable alternative, as deemed appropriate by the designated Drug Court Treatment Provider personnel and the Supervising Probation Officer, or as directed by the Court, on a case-by-case basis;
- Identify personal wellness activity and begin weekly participation;
- Identify healthy leisure activities with sober support group;
- Begin or continue making payments toward any court-ordered restitution;
- Complete and submit for approval by the Court a Phase Report that reflects on progress in the program and sets goals for the next phase; and which will be read to the Court, or by the Court, at phase completion;

- Maintain sobriety for **at least three consecutive months** prior to moving to Phase Three;
- Maintain stable housing, as directed and approved by the probation officer; and
- Complete other requirements as determined by the Drug Court Treatment Provider staff, the Court or the Supervising Probation Officer.

Phase Three: Relapse Prevention Planning

Phase Length: Approximately three (3) months

Goal: Participants secure long-range recovery needs and develop and finalize a relapse prevention plan.

Expectations for Participants:

- Abstain from use of all mood- & mind-altering drugs or alcohol, even if those substances are legally available;
- Remain crime free;
- Comply with all bond or supervised release conditions;
- Meet with probation officer as directed;
- Attend all Drug Court Program court hearings which occur twice a month;
- Participate in substance abuse treatment as directed; to include reporting to the designated Drug Court Treatment Provider as directed;
- Attend **at least three (3)** self-help meetings weekly and submit verification;
- Submit to drug and alcohol testing as ordered by the presiding judge, or as deemed appropriate by the Supervising Probation Officer;
- Submit to community and/or home visits as deemed appropriate by the Supervising Probation Officer;

- Maintain employment, participate in a vocational training program, community service commitments, or student status, or a combination of the above, or an acceptable alternative, as deemed appropriate by the Drug Court Treatment Provider staff, the Supervising Probation Officer or as directed by the Court, on a case-by-case basis;
- Continue weekly personal wellness activity;
- Continue any court-ordered restitution;
- Complete and submit for approval by the Court a relapse-prevention plan which includes continued recovery goals; and which will be read to the Court, or by the Court at phase completion;
- Maintain sobriety for **at least twelve consecutive months** prior to moving out of and graduating from the Drug Court Program. If a participant in the program tests positive for drugs or alcohol, or fails to report for a scheduled drug test without a viable excuse, the twelve-month period will begin again;
- Maintain stable housing; and
- Participate in alumni group, as directed by the Court, the Drug Court Treatment Provider staff, or the probation officer for the last thirty (30) days.

Graduation and Alumni Group: Achievement and Giving Back

Participants who successfully complete all phases of the Drug Court Program, and also demonstrate sustained recovery, personal responsibility, and reduced public risk will be recognized at a formal graduation ceremony. Post-conviction participants are eligible for a reduction in the length of their supervision term for up to one year and/or receive other benefits as the Court may deem appropriate.

Graduates will have the opportunity to support their sustained recovery, act as mentors for other Drug Court Program participants, and/or contribute to the ongoing success of the Program through their involvement as alumni in the alumni group.

VIII. DRUG COURT HEARINGS

Before each drug court hearing, the Drug Court Program Team will meet to review and discuss each participant's progress. The Supervising Probation Officer, treatment providers, and community stakeholders who are providing services to drug court participants will deliver progress reports to the other members of the Drug Court Program Team, describing both successes and problems, which may be treatment related, or otherwise. The entire Team may provide recommendations and suggestions to the presiding judge as to how the participants' problems and successes should be addressed.

Participants and the Drug Court Program Team assemble at the regularly-scheduled drug court hearings following the Team meeting. Attendance at all scheduled court sessions is mandatory. The hearings are recorded, and participants ordinarily appear before the same judge throughout their enrollment in the Drug Court Program.

If a participant has elected to retain drug court counsel other than the Drug Court Program defense counsel, that counsel may also attend the drug court hearing. Participants report on their progress and team members may comment on the participants' successes or failures. Any Drug Court Program, bond, or supervised release violations are addressed by the presiding judge. Participants are expected to freely discuss their treatment and all other circumstances related to rehabilitation, including factors affecting their ability to accomplish treatment objectives and personal goals, with the presiding judge. The presiding judge rewards or sanctions participants as he or she deems appropriate.

IX. SUPERVISION & CASE MANAGEMENT

The supervision of participants in the Drug Court Program is multi-dimensional. It is more intense and requires the collaboration and flexibility of the Court, the Supervising Probation Officer, the treatment provider, and the participant.

In addition to the regularly scheduled Court hearings, the participant is required to report to the Supervising Probation Officer and treatment provider as directed.

The Supervising Probation Officer maintains frequent contact with the participant, his or her family members or significant others, as deemed necessary, and also with treatment providers, and provides the presiding judge with status reports documenting the participant's attendance and progress in treatment.

The Supervising Probation Officer also verifies on a regular basis, the participant's residence and employment, if applicable, as well as his or her means of financial support.

Criminal record checks are also conducted regularly, and participants are tested for illicit drug and alcohol use as directed by the Supervising Probation Officer or treatment provider.

The Supervising Probation Officer reports on the progress of Drug Court Program participants at each regular Team meeting. He or she will describe both the successes and the problems experienced on supervision, which may be treatment related, or otherwise. The Supervising Probation Officer is also available to discuss a participant's adjustment to supervision as a member of the Drug Court Program at the request of the Judge, the government or defense counsel.

Because of the voluntary nature of the program, the participant has the right to withdraw from the program at any time. A participant who voluntarily withdraws from the Drug Court Program is returned to the traditional Court process under the original presiding judge and/or to traditional supervision.

X. INCENTIVES AND REWARDS

There are many incentives and rewards for participants who demonstrate positive progress in the Drug Court Program. Most importantly, participants receive substance abuse treatment and regain hope for sober and crime free lives. They develop self-respect, increased self-control, and positive self-esteem to aid them in dealing with challenges in their lives and reestablishing positive relationships with family and friends. They gain knowledge, skills, and abilities to obtain and maintain meaningful employment to support interests and self-sufficiency. *Although no outcome is guaranteed, upon a participant's successful completion of the program, pre-adjudication defendants who successfully complete the Drug Court Program can expect the United States Attorney's Office, in its own discretion, to move for a downward departure, reduce the charges to a lesser offense, recommend a non-guideline sentence, refer the defendant to pre-trial diversion, or dismiss the charges entirely. Post-conviction defendants who successfully complete the Drug Court Program can expect to have their supervised release or probation terms reduced by one year, and/or receive other rewards as the Court may deem appropriate.*

As participants advance through the phases of the Drug Court Program and meet their established goals, they may receive additional rewards during drug court hearings. These rewards may include, but are not limited to the following:

- Applause, verbal praise, and special recognition of achievements;
- Certificates of achievement for program progress;
- Decreased frequency of drug testing;
- Elimination of curfew, home detention, or location monitoring;
- Reduction of travel limitations, increased driving privileges, or permission for a move to less restrictive housing options
- Permission to participate in sober leisure activities and social events;

- Promotion to the next phase;
- Recovery materials;
- A graduation certificate and ceremony upon program completion; and
- Other incentives and rewards as determined by the Court.

XI. VIOLATIONS AND SANCTIONS

Sanctions are imposed on participants who engage in misconduct, or who do not comply with drug court protocols, as a way of deterring future misconduct. Violations of any type will be reported to the presiding judge. Sanctions are imposed with progressive severity and are designed to encourage consequential thinking, to prompt the participant to reflect on his or her behavior and to stay away from people and places that constitute negative influences, and to motivate the participant to become more involved in the community. Sanctions may be addressed in the regularly-scheduled drug court hearings or at separate status conferences held by the presiding judge. In cases where a significant liberty interest is at stake, the Drug Court Judge will not sanction a defendant in the absence of counsel, whether it be the Drug Court defense counsel, or the counsel who represented the participant in his or her criminal proceedings, who will, along with the participant, have an opportunity to be heard.

A participant may request that relatives or friends be present at any conference, and the Court will consider all such requests on a case-by-case basis.

When necessary, Program Team representatives may agree to a particular sanction or treatment intervention prior to the participant's next scheduled court session, pending a final determination by the Court as to the appropriate course of action.

The following is a non-exhaustive list of behavior that the Drug Court Program Team considers to be sanctionable misconduct:

- Dishonesty with members of the Drug Court Program Team, including the presiding judge, Supervising Probation Officer, and/or treatment providers;
- Unexcused absence from court hearings, meetings with the Supervising Probation Officer, or sessions with the treatment provider;
- Positive alcohol or drug test results;
- Missed alcohol or drug tests, or refusal to submit to urinalysis testing;
- Submission, or attempted submission, of adulterated urine sample;

- Failure to maintain and/or seek employment, community service, or student status as directed;
- New arrest;
- Failure to comply with court-ordered restitution and/or financial obligations; and
- Unacceptable behavior as reported to the Drug Court Team and considered by the Court.

The following is a non-exhaustive list of sanctions that the presiding judge may impose in response to sanctionable misconduct:

- Verbal or written reprimands, warnings, and/or admonishments from the bench in open court;
- Writing assignment to describe and understand the events leading to the violation or misconduct;
- Formal presentation of writing assignment to the Drug Court Team and to other program participants in Court;
- Maintaining a written calendar of all daily activities;
- Reading assignments;
- Demotion to earlier program phase;
- Revocation of driving privileges, increased travel/geographical restrictions;
- Limitation or suspension of privileges;
- Increased telephone reporting to the Supervising Probation Officer;
- Increased meetings with the Supervising Probation Officer and/or and any treatment provider designated by the Drug Court Team, the Court, or the Supervising Probation Officer;
- Increased drug and alcohol testing;
- Increased length of phase;
- Mandated community service or work program;

- Curfew or home confinement with, or without, location monitoring;
- Placement in a residential reentry center or halfway house;
- Placement in an in-patient or out-patient addiction treatment program;
- Days spent in custody of the U.S. Marshal's Service;
- Incarceration of varying length, generally no more than seven (7) days;
- Revocation of bond;
- Termination from the Program with or without the filing of a formal violation. (See Termination, **Section XII.**); and
- Other sanctions as determined by the Court.

Any participant who consistently fails to comply with program requirements will be terminated from the program.

Any participant who is proved to have sold or supplied drugs to any other client, or who sustains a subsequent conviction for sales, or who possesses a controlled substance in court or at the counselling sessions, will be removed from the program and face additional charges.

XII. TERMINATION FROM PROGRAM

Participants may be terminated from the Drug Court Program in four different ways: Successful Termination; Unsuccessful Termination with Return to Regular Supervision; Termination with a Formal Violation; or Administrative Discharge.

1. Successful Termination: Successful termination occurs when a participant completes the program successfully. Successful termination is recognized with a graduation ceremony and participants are awarded a Certificate of Completion. Pre-adjudication participants may proceed to disposition of their cases as the Court deems appropriate.

Post-conviction participants who successfully complete the program may have their term of supervision reduced by one year and/or receive other benefits as the Court may deem appropriate. Following successful completion of the Drug Court Program, if a previously sentenced participant is revoked from supervision for other reasons, he/she will be subject to revocation and incarceration, but any term of supervision imposed following the term of incarceration will be reduced by one year.

2. Unsuccessful Termination with Return to the Original Presiding Judge for Sentencing: This type of unsuccessful termination occurs when various circumstances make it appropriate to terminate a participant. Termination may occur at the participant's request, or upon the joint recommendation of the Drug Court Program Team that although the participant has not committed a serious violation of the program rules, he or she is not succeeding in the program.

A participant who has become a threat to public safety or to program integrity will be terminated immediately.

The Drug Court Judge has the sole authority to terminate an unsuccessful participant's involvement in the program. When the Court and the Treatment Team believe that the circumstances of a participant's conduct warrant his or her termination, the Court will conduct a hearing which will be attended by the AUSA, the defendant and defense counsel. A determination by the Court to terminate a participant is not subject to appellate review. If a participant is terminated for failure to successfully complete the program, an Order will be entered transferring his or her case back to the original Judge for disposition. Neither the United States Attorney's Office, nor the United States Probation Office, will move to revoke the "acceptance of responsibility" provision of the plea agreement for participants who are terminated from the program under this section. This course of action on the part of the United States Attorney and the United States Probation Office, however, is not binding upon the Court with respect to assessing the level of the defendant's acceptance of responsibility for purposes of sentencing. Post-conviction participants terminated under this section are transferred back to traditional supervision without a violation charge.

3. Termination With a Formal Violation: This type of unsuccessful termination occurs when the participant has committed a serious violation of the program rules and the presiding judge determines that participation in the Drug Court Program is no longer possible. When the Court and the Treatment Team believe that a participant's conduct is the basis for a sustainable violation of the conditions of his or her bond or supervised release, thereby warranting termination from the Drug Court Program, the Court will conduct a hearing which will be attended by the AUSA, the defendant and defense counsel. A determination by the Court to terminate a participant is not subject to appellate review. The participant is returned to traditional supervision and/or the traditional court process, and generally faces a violation hearing before a non-program magistrate judge or a district judge. **A participant terminated under this section should realize that, depending upon the nature and severity of the conduct leading to termination from the Drug Court Program, either United States Attorney's Office or the Probation Office may recommend that the sentencing Court disregard the "acceptance of responsibility" provision of the previously negotiated plea agreement and decline to decrease the defendant's offense level.** This potential course of action on the part of the United States Attorney and the United States Probation Office, however, is not binding upon the Court with respect to assessing the level of the defendant's acceptance of responsibility for purposes of sentencing.

The following is a non-exhaustive list of the types of misconduct that may result in unsuccessful termination with a formal violation:

- Criminal conduct;
- Repeated drug use;
- Repeated failure to cooperate with the Supervising Probation Officer;
- Repeated failure to cooperate with a treatment provider;
- Failure to comply with sanctions ordered by the presiding judge; and
- Repeated failure to comply with the program's rules, orders from the presiding judge, and/or direction given by the Supervising Probation Officer.

It is the policy of the U.S. Probation Office not to allege a formal violation for conduct that has previously been addressed within the Drug Court Program. After the criminal defendant has been terminated from the program with a formal violation, however, the U.S. Probation Office will advise the judicial officer presiding over the violation hearing of all conduct that has taken place during the period of supervision, including successes, failures, and sanctions that occurred while the defendant participated in the Drug Court Program.

The presiding Drug Court Judge has the sole authority to terminate an unsuccessful participant's involvement in the program. These determinations are not subject to appellate review.

4. Administrative Discharge: Administrative discharge occurs when participation in in the Drug Court Program is no longer practical for reasons such as long-term illness or the need for a participant to re-locate. This type of termination is considered neither successful nor unsuccessful. Participants who are administratively discharged are returned to their traditional supervision, but may be permitted to return to the program at a later date in the event their circumstances change.

XIII. DATA COLLECTION AND ASSESSMENT

The Supervising Probation Officer maintains records for each participant in the Program, which include the case specifics, demographic data and case outcomes. Reports are provided to the Chief Judge and the Chief Probation Officer detailing the progress and accomplishments of the Drug Court Program and of its participants. Research and data on participants, their progress, incidents of recidivism and program structure will be gathered and evaluated to determine the viability of the program, as well as for facilitating program modifications and stewardship of resources.

The Drug Court Program Team, at the discretion of the presiding judge, also periodically assesses the need for revision or modification of the Drug Court Program. When deemed necessary, after consultation with the program team, the presiding Judge, by directive, or by the entry of a standing Order, decrees that the Drug Court Program standards be appropriately amended, modified, or revised.

The Drug Court Team will work to establish a complete set of data necessary to accomplish assessment. Data collection will be accomplished, in part, by the use of standardized forms to be completed by each participant upon admission to the program, and at periodic intervals thereafter, to collect basic biographical information and measure program progress.

Program goals will be objectively measured by the ongoing monitoring of arrest and recidivism rates among offenders who graduate from the program, compared with those who do not participate. The data base kept for each participating defendant will contain: basic biographical information; employment, educational and vocational training information; treatment plan information, successes; testing results and relapse occurrences.

Further monitoring will be achieved by an active after-care and alumni program, with the goal of involving graduates in continued counseling to maintain a clean and sober life-style, provide them with a safe place to socialize and recreate, and involve them in reaching back to mentor and encourage program participants.

Appendix 1

Expanded Eligibility Criteria

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Drug Court Program

Expanded Eligibility Criteria

This document provides expanded guidance regarding the eligibility criteria included in the Drug Court Program's *Mission Statement & Policies*. The following criteria are considered by the Drug Court Program Team when determining whether to admit an individual to the program. **No single consideration is necessarily dispositive. No combination or quantity of favorable and unfavorable factors will be determinative.**

Criminal defendants with a history of violent crime, sex offenses, or severe mental health conditions are not eligible for the program. Juveniles are not eligible for the program.

PROGRAM ELIGIBILITY CRITERIA

History of current substance abuse and/or addiction: The team may consider whether or not the pending federal offense was motivated by the defendant's substance abuse and/or addiction.

Unrelated pending criminal cases, active warrants, or active capias: The presence of such other pending federal, state, or local cases or warrants may disqualify a candidate from participation in the program.

Mental health comorbidities and their severity: The team may consider the severity of condition or disorder as well as any relevant treatment and medicinal demands.

Desire to enter the program as well as willingness and ability to comply with requirements: The team may consider:

- Whether or not the defendant is a citizen of the United States or is otherwise lawfully present here;
- Whether the defendant is an adult or a juvenile;
- Any prior substance abuse treatment failures; and
- Whether the defendant can otherwise fully participate in and comply with the requirements of the program.

Nature of pending charge, criminal history, and danger posed to the community: The team may consider:

- The drug quantity involved in the offense that is the subject of the pending federal charge;
- Whether the pending federal charge involved death or bodily injury to another person;
- Whether the defendant used violence or credible threats of violence or possessed a firearm, dangerous weapon, or body armor (or induced another to do so) in connection with the offense that is the subject of the pending federal charge;
- Whether the defendant engaged in obstruction of justice, intimidation or retaliation against a potential witness in the context of the pending federal offense;
- The nature and kind of the defendant's involvement in any alleged conspiracy;
- Whether or not the defendant was an organizer, leader, manager, or supervisor of others in the offense that is the subject of the pending federal charge;
- The degree of sentencing exposure;
- The presence of prior convictions for a serious violent offense, including but not limited to, any offense that has as an element the use, attempted use, or threatened use of physical force against another person;
- Whether the defendant is a member of a criminal street gang; and
- Whether the defendant is a member of any group espousing violence against the United States.

History of sex offense convictions or charges: The team may consider relevant pending or prior convictions, including but not limited to convictions for:

- Stalking;
- Child pornography; and
- Any offense involving any conduct codified in 18 U.S.C. §§ 109A, 109B, 110, and 110A.

Reliable transportation: The team may consider whether the defendant has the ability to attend the program's many required events, including court hearings, self-help meetings, appointments with treatment providers, and drug testing.

Appendix 2

Initial Referral Form

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Drug Court Program
Initial Referral Form

Date:

To: Terry L. Huffman, Chief U. S. Probation Officer
U.S. Probation Office
P.O. Box 248
Wheeling, WV 26003
Terry_Huffman@wvnp.uscourts.gov
Office: (304) 232-8474
Fax: (304) 232-1341

From:

Email:

Phone:

Fax:

Subject: Drug Court Program Referral

I hereby refer the following defendant to the Drug Court Program:

Name: _____ Phone: _____

Defendant's Address
Or Location: _____

Case Number: _____

Defense Attorney: _____ Phone: _____

AUSA: _____ Phone: _____

BASIS FOR REFERRAL: *Please include any pertinent information that will assist in determining if this individual is a suitable Drug Court Program referral, including: (1) whether he or she has reliable transportation for regular treatment appointments, court hearings, and self-help meetings; (2) any prior or current treatment for substance abuse; and (3) his or her commitment to drug treatment and the program's strict demands.*

Appendix 3

Participant Agreement & Waiver of Confidentiality

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

**Drug Court Program
Participant Agreement &
Waiver of Confidentiality**

I, _____, wish to participate in the Northern District of West Virginia's Drug Court Program, a federal drug court. I understand that if I am accepted into the Drug Court Program, I agree to fully comply with all program requirements, all other court orders, and any orders that govern the conditions of my bond or supervised release. I understand that failure to comply with the terms of this agreement, other Drug Court Program requirements, or court orders may result in the imposition of sanctions or, ultimately, in my termination from the Drug Court Program. I also understand that any misconduct I may commit while I am a Drug Court Program participant could result in the revocation of my bond, probation, or supervised release.

_____ I agree that I will not violate any federal, state, or local laws, and I acknowledge that I may be immediately terminated from the Drug Court Program if I am charged with any such violations.

_____ I agree that I will not use any mood- or mind-altering drugs or alcohol, even if those substances are legally available.

_____ If I am placed on bond before or during my participation in the Drug Court Program, I agree that participation in the Drug Court Program is a condition of my bond.

_____ If I am placed on supervised release before or during my participation in the Drug Court Program, I agree that participation in the Drug Court Program is a condition of my supervision.

_____ I agree that I will be honest and candid with the Drug Court presiding judge, my Supervising U.S. Probation Officer(s), and other members of the Drug Court Program Team, and I understand that my failure in this regard will be grounds for termination from the Drug Court Program.

_____ I understand that I have the right to be represented by an attorney and that as a participant in the Drug Court Program, an attorney will be assigned to represent me for drug court proceedings. Because success in the Program is entirely dependent upon my honesty and forthrightness with the Court, with treatment providers, with probation officers, and with counsel, I am presumed to be acting in good faith. That presumption gives rise to a duty of candor to the Court by both myself and my counsel. To that end, **I give permission for my attorney to freely discuss the details of my case with therapists, case workers, probation**

officers and the Court, up to and including notifying the Court if my attorney becomes aware that I am failing or refusing to fully comply with any Court Order, or violating any of the duties and/or obligations I have agreed to execute and abide by as a participant in the Drug Court Program. I understand that by doing so, I am, in effect, waiving the attorney/client privilege as it pertains to my participation in the Drug Court Program.

_____ I also understand that I may, at any point, rescind this waiver and invoke my attorney/client privilege, but that in doing so, I must opt out of participation in the Drug Court Program. My attorney's representation from that point forward will be subject to the traditional attorney/client privilege, and that anything I say to my attorney after I elect to opt out of the Program will be privileged, protected, and completely confidential.

_____ Further, I understand that if I decide to opt out of the Program, that decision may be taken into account by the Court and could be a factor that may affect the sentence subsequently imposed by the Court.

_____ While I am represented by the Drug Court appointed counsel, I would like said counsel to communicate with my retained/appointed counsel _____, in the event that issues or concerns arise regarding my participation in the Program.

IF YOU INITIALED AND COMPLETED THIS PARAGRAPH, IT MUST ALSO BE INTIALED BY THE ATTORNEY WHO HAS AGREED TO REPRESENT YOU DURING YOUR PARTICIPATION IN THE DRUG COURT PROGRAM.

_____ I understand that the foregoing conditions and obligations of candor and forthrightness, including rescinding of the waiver and the resulting consequences, likewise apply to my relationship with said retained/appointed counsel for purposes of the Drug Court Program.

_____ I agree to obey all instructions and orders given to me by the Drug Court Program's presiding judge and by my Supervising U.S. Probation Officer(s).

_____ I agree to report to my Supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, every contact I have with law enforcement personnel, including arrests, questioning, or traffic stops.

_____ I agree to notify my Supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, of changes in any of the following: my home address; my phone number(s); my employment; and my educational pursuits.

_____ I agree to notify my Supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, if I lose my mobile telephone.

_____ I understand that in order to qualify for the Drug Court Program I must meet certain legal and clinical criteria, and that there is no right to acceptance, or guarantee that I will be accepted.

_____ I understand that, while I am being considered for the Drug Court Program, my criminal case will continue, I must continue to make all scheduled criminal or other court appearances, and that a warrant for my arrest will be issued if I fail to attend court hearings.

_____ I agree to participate in the evaluation process to determine if I qualify for the Drug Court Program and to help me decide if I want to enter the program if I qualify.

_____ I agree to cooperate in the intake process, including filling out forms and providing information, consents, and releases so that the Drug Court Program can obtain relevant information about me, including medical, mental health, and substance abuse treatment information.

_____ I agree to participate in psychological, substance abuse, and risk evaluations that may include completing written forms and tests and interviews with mental health and/or substance abuse professionals.

_____ I agree to permit the members of the Drug Court Program Team to share the information they obtain about me among themselves and with the mental health professionals who evaluate me to determine whether I qualify for the Drug Court Program.

_____ I hereby waive all federal and state requirements of confidentiality between treatment staff, courts, and other probation agencies from whom I receive treatment and/or services. **Confidentiality between therapists, case workers, probation officers, and the Court will be waived for the duration of my participation in the Drug Court Program.**

_____ **I hereby waive all federal and state requirements of confidentiality regarding obtaining prescription drugs.**

_____ I agree to submit to drug testing as directed by the Drug Court Program presiding judge or my Supervising U.S. Probation Officer(s).

_____ I agree to immediately enroll in a substance abuse treatment program as directed by the Drug Court Program's presiding judge or my Supervising U.S. Probation Officer(s). I further agree to abide by the rules and regulations of that program until I am discharged from that program.

_____ I agree that I will participate in Alcoholics Anonymous, Narcotics Anonymous, or another court-approved self-help program as directed by the Drug Court Program's presiding judge or my Supervising U.S. Probation Officer(s).

_____ I agree to execute release forms that allow my Supervising U.S. Probation Officer(s) to access any and all of my financial records, including but not limited to records maintained by banks, credit unions, credit reporting services, and the Social Security Administration.

_____ I agree to execute release forms that allow my Supervising U.S. Probation Officer(s) to access any and all of my health records, including but not limited to records held by hospitals, health care providers, and pharmacies.

_____ I agree to allow my Supervising U.S. Probation Officer(s) to access and monitor any and all of my social networking accounts, including **but not limited to** Facebook, Twitter, and Instagram.

_____ I agree to allow my Supervising U.S. Probation Officer(s) to access and monitor my educational records, including any online accounts that allow me to check my interim and final grades.

_____ I understand that members of the Drug Court Program Team may gather relevant information from members of my family, which may include family, social and clinical history.

_____ I agree to notify all health care providers of the specifics of my substance abuse addiction, particularly before those health care providers prescribe any medication to me.

_____ I agree to report to my Supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, every contact I have with health care personnel, including but not limited to physician and emergency room visits.

_____ I agree to report to my Supervising U.S. Probation Officer(s), as soon as possible but in no event later than 24 hours, any and all medication that has been prescribed to me. I further agree that I will notify my Supervising U.S. Probation Officer(s) that I have received a prescription before I begin taking that medication.

_____ I agree that I will use prescription medication only in the manner in which it has been prescribed to me. I agree that I will use over-the-counter medication only in keeping with that medication's directions or as recommended by my health care provider.

_____ I agree to undergo record checks for up to three (3) years following the termination of my term of supervision only for purposes of the Drug Court Program evaluation.

_____ I will not disclose confidential information discussed in Drug Court Program hearings to anyone not in attendance at those hearings.

_____ I understand that Drug Court proceedings are open to the public, but that every effort will be made to protect the confidential nature of treatment issues during open court proceedings.

_____ I understand that the identity of all Drug Court Program participants must be kept confidential and I agree that I will not disclose the identity of the Drug Court Program participants to non-participants.

_____ I will not associate with any persons engaged in criminal activity and shall not associate with any person convicted of a felony, unless my Supervising U.S. Probation Officer(s) expressly permits me to do so.

_____ If accepted into the Drug Court Program, I agree that, if applicable, my right to a speedy trial will be tolled while I continue in the Drug Court Program, and I otherwise waive having my case heard within applicable time limits.

_____ I understand that information provided during Drug Court Program hearings may not be protected by any privilege, and could be used against me in future court proceedings.

_____ I understand that should I fail to appear for any of the Drug Court Program's status hearings, a warrant may be issued for my arrest only for purposes of the Drug Court Program evaluation.

_____ I understand that the United States Attorney's Office may move the Court, or petition – at any time – for my termination from the Drug Court Program, and further that the Supervising Probation Officer and/or members of the Drug Court Team may request or recommend that the United States Attorney's Office so petition. I understand that the decision regarding termination rests in the sole discretion of the Drug Court Program's presiding judge.

_____ I have not been promised any particular outcome with regards to the resolution of the federal charges or supervised release violation that I am currently facing. I understand that if I successfully complete the Drug Court Program, the United States Attorney's Office – in its sole discretion – may move for downward departure regarding my sentence, reduce or dismiss my charges, recommend a non-guideline sentence, refer me to Pretrial Diversion, or move for reduction in the term of my supervised release or probation.

_____ I understand that, upon my successful completion of the Drug Court Program, the Drug Court Program's presiding judge may recommend that I attend up to twelve bi-monthly counseling sessions as part of an after-care program for graduates. I agree that the district judge presiding over my sentencing, bond hearing, or supervision hearing may, in his or her sole discretion, order me to attend these counseling sessions. These counseling sessions, if required, will be provided at no or low cost to me.

_____ I understand that information about my case may be used for statistical purposes to evaluate the Drug Court Program.

_____ I understand that acceptance into the Drug Court Program is within the sole discretion of the presiding judge and is not subject to appellate review of any type.

I have read the *Participant Overview* and this *Participant Agreement*, or they have been read to me, and I understand the terms and conditions of my participation in the Drug Court Program. I agree to fully comply with these terms and conditions. By agreeing to participate in the Drug Court Program, I consent to the disclosure of my confidential information to Drug Court team members; I also consent to the disclosure of confidential information during Drug Court Program hearings as appropriate. I understand that this is a voluntary program. By agreeing to participate in the Drug Court Program, I agree that I will abide by all of the program's rules.

Participant

Date

I have advised my client of all of the Drug Court Program's terms and conditions. I believe that my client fully understands those terms and conditions, and that he or she knowingly and voluntarily seeks permission to participate in the Drug Court Program.

Attorney for Participant

Date

I recommend the above-named individual for participation in the Drug Court Program.

U. S. Probation Officer
Northern District of West Virginia

Date

I approve the above-named individual for participation in the Drug Court Program.

UNITED STATES DISTRICT JUDGE

Date