

# La Crosse County

## OWI Treatment Court Program



# Policy and Procedures Manual

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**LA CROSSE COUNTY  
OWI TREATMENT COURT PROGRAM**

**POLICIES AND PROCEDURES MANUAL**

**INTRODUCTION**

September 2017

This manual is subject to revisions

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**MISSION STATEMENT**

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“The OWI Treatment Court reduces OWI recidivism through the use of evidenced-based practices.”

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OWI Treatment Courts are built upon a unique partnership between the criminal justice system and the treatment community, one which structures treatment intervention around the authority and personal involvement of the Judge. OWI Treatment Courts are also dependent upon the creation of a non-adversarial courtroom atmosphere where a single Judge and a dedicated team of court officers and staff work together toward a common goal of breaking the cycle of alcohol abuse and criminal behavior.

Because of the unique problems and opportunities that present themselves in working with alcohol-involved criminal offenders, treatment and rehabilitation strategies must be “reality-based.” OWI Treatment Court Programs must therefore recognize:

- Addicts are most vulnerable to successful intervention when they are in the crisis of initial arrest and incarceration, so intervention must be immediate and up-front.
- Preventing gaps in communication and ensuring offender accountability are critically important. Therefore, court supervision must be highly coordinated and very comprehensive.
- Addiction to substances is a longstanding, debilitating and insidious condition; so treatment must be long-term and comprehensive.
- Addiction to substances seldom exists in isolation from other serious problems that undermine rehabilitation, so treatment must include integration of other available services and resources such as educational assessments, vocational assessments and training and job placement.
- Relapse and intermittent advancement are part of the recovery process; so progressive sanctions and incentives must be integral to the OWI Treatment Court strategy.

The goals of the La Crosse County OWI Treatment Court Program are:

- Reduce alcohol and other substance related crimes,
- Reduce offender contacts with the criminal justice system,
- Reduce costs associated with criminal case processing and rearrest,
- Introduce offenders to an ongoing process of recovery designed to achieve total abstinence from substance-related OWIs; and
- Promote self-sufficiency and empower substance abusers to become productive and responsible members of the community.
- Holding offenders accountable
- Recognize cultural and gender diversity.

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**ELIGIBILITY STANDARDS** – Each defendant who is eligible for participation in the program shall be interviewed by staff to determine case planning. The participant must voluntarily agree to abide by program rules. Participation is voluntary therefore an agency cannot mandate participation.

## **I. RESIDENCY/CONVICTIONS**

### **OWI Program Determination**

#### **A. Resident-Out of County Conviction**

1. Resident of La Crosse County at the time of the conviction or
2. A current resident of La Crosse County.
3. Client must serve mandatory 48 hours jail time in the county of offense prior to Justice Support Services' participation.
4. Out of county sentence must follow the OWI Treatment Court guidelines.

#### **B. Non-Resident-La Crosse County Conviction**

1. A person convicted of an OWI offense in La Crosse County but resides in another county may complete the jail sentence in his or her county of residence in the work release facility (Huber).
2. The client or the client's attorney is responsible to contact the county of residence.
3. If a La Crosse County conviction/non-resident is refused permission to use Huber in county of residence, Huber is not available, or the client does not wish to serve time in Huber, proximity and feasibility of participation will be considered for acceptance into the OWI Treatment Court.
5. Any non-resident must complete the Driver Safety Plan in their county of residence.

### C. Conviction Status Requirements

1. Convicted of a second offense and assessed as suspected dependent or dependent.
2. Any OWI conviction 3<sup>rd</sup> referred by Judge to participate.
3. Convicted of a first offense felony and assessed as dependent.

### D. Substitution

1. Track II participants will be assigned to the OWI Treatment Court Judge.
2. Upon completion of the court the case will be reassigned to the sentencing Judge.
3. If a participant is expelled, the sentencing Judge would assume the case again. **(See Appendix II)**

## II. IRRESPONSIBLE USERS (2<sup>nd</sup> Offenses Only)

Irresponsible Users will be determined by the assessment.

### A. Admission process to the OWI Program

1. The admission process will follow the process previously outlined in the manual.

### B. Court appearances

1. The participant will not be required to make any court appearances.

### C. Drug and alcohol testing

1. Alcohol testing – as determined by social worker.
2. Drug testing – as determined by social worker or conditions of the court.

### D. Sentenced

1. Each person convicted of OWI 2<sup>nd</sup> offense and assessed as an Irresponsible User will be required to spend 48 hours in jail with the remainder of the jail time on electronic monitoring.
2. Good time will be determined and credited to the client.

### E. Electronic monitoring

1. Clients will be on electronic monitoring for the remainder of the sentence minus good time.
2. Eligible non-resident La Crosse convictions can complete their sentence on electronic monitoring, however prepay rules apply.

### F. Violations

1. Any missed or positive drug or alcohol tests OR late alcohol tests will result in incarceration for the remainder of the sentence.

### G. OWI 2<sup>nd</sup>'s assessed as suspected dependent or dependent:

1. Can participate in the OWI Treatment Court.

2. Chooses not to participate in the OWI Treatment Court- must serve sentence in custody without release unless special circumstances are presented to the sentencing Judge.

### III. EXPULSION

Voting members should include representation from the following: Justice Support Services, DOC, Defense Attorney, Law Enforcement, District Attorney and other member designated by the Court. Voting member must have regular attendance to participant in the voting process.

#### A. Expulsion due to re-offense

1. Any participant who has been arrested for a subsequent OWI offense while participating in the OWI Treatment Court shall be expelled upon a finding of probable cause by the Judge and the treatment court team from a criminal complaint.
2. The participant may petition for re-admission within 30 days of expulsion.
3. The petition must allege facts sufficient to establish a probability that the participant has been wrongly accused.
4. The petition shall be heard at the next OWI Treatment Court session by the judge and treatment court team.
5. The expulsion shall not disqualify a participant from being admitted to the OWI Treatment Court for the subsequent offense if the sentencing judge determines participation to be an appropriate condition of the sentence.

#### B. OWI Treatment Court Expulsion

1. A participant may be terminated from the Program for the following:
  - a. Commission of a violent crime.
  - b. Failure to attend scheduled OWI Treatment Court hearings as a result of re-incarceration.
2. Any participant who has failed to participate in OWI Treatment Court for 30 consecutive days shall be expelled without a hearing.
  - a. A commitment order shall be issued to serve the balance of the sentence without release.
  - b. The participant may petition for re-admittance by filing a petition within 10 days of commitment.
  - c. The petition shall be considered by the treatment court team at the next team meeting and decided by the OWI Treatment Court Judge during the court session following the hearing.
  - d. The team may extend the time frames in the interest of justice.
  - e. Failed participation is defined as a failure to have face-to-face contact with coordinator or agent and violation of program requirements.

3. Evidence indicating that the participant is involved with substance abuse or assaultive behavior.
4. Any other grounds that the OWI Treatment Court finds sufficient for expulsion.

C. Process for Expulsion

1. A motion for expulsion may be made by any member of the OWI Treatment Court team.
  - a. The team will discuss the benefits of the participant meeting with the team before a motion is made.
  - b. If beneficial, the meeting will be scheduled on the client's next court date.
2. There must be a second to the expulsion motion for the team to consider it.
3. The motion for expulsion will be discussed at the client's next scheduled court date.
4. The team will meet with the participant without the presence of the OWI Treatment Court Judge.
5. The participant may be represented by counsel at the meeting.
6. Upon a majority vote, a recommendation for expulsion will be made to the OWI Treatment Court Judge. If there is no majority vote for expulsion, the expulsion participant will continue in the program.
7. If the team recommends expulsion, the matter will be set for a hearing the same day.
8. The motion for expulsion hearing will be on the record in open court.
9. A representative of the team will present the team's position to the Court during open court.
10. If the OWI Treatment Court Judge agrees that there is a basis to grant the motion for expulsion, findings and conclusions will be made on the record, and the participant will be removed from the program and the remaining sentence will be imposed.
11. Expulsion from the OWI Treatment Court may result in revocation of probation.
12. If the OWI Treatment Court Judge concludes expulsion is not appropriate the participant will continue in the program.

#### **IV. VOLUNTARY / INVOLUNTARY DIS-ENROLLMENT**

A participant has the option to dis-enroll from the treatment court in one of two ways:

- A. Participant dis-enrollment during the court process.
  1. Participant attends court and dis-enroll in the presence of the Judge and on court record.
- B. Dis-enroll outside of the court process:

1. OWI Treatment Court coordinator provides the waiver form to be reviewed with the client before signature.

a. Client acknowledges he or she may not reapply for admission and must complete their sentence in the La Crosse County jail without release.

C. Dis-enrollment versus successful program status:

1. If a participant decides to leave the Court within the first 60 days program status will be considered a dis-enrollment.

2. If the participant leaves the Court AFTER 60 days, program status will be considered unsuccessful.

D. A person convicted of an OWI in La Crosse County may complete the OWI Treatment Court Program in a different county if accepted by that county. Upon proof of acceptance, the OWI Treatment Court coordinator will contact the sentencing court and request an amended judgment of conviction.

## **V. OWI TREATMENT COURT - TRACK ONE AND TRACK TWO TEAM**

A. The OWI Treatment Court team **should** consist of the following:

1. Circuit Court Judge.
2. Representative from the District Attorney's Office.
3. Representative from the Public Defender's Office.
4. Department of Corrections Agent
5. Treatment Court Coordinator or Supervisor.
6. Treatment Provider
7. Law Enforcement

B. Memorandums of Understanding (MOU's) for each agency representative will be reviewed and signed every five years except when the following changes occur:

1. New agency representative.
2. New agency official.
3. New Judge.

## **VI. REFERRAL PROCESS FROM COURT TO JUSTICE SUPPORT SERVICES**

- A. If the client referred has a felony conviction for an OWI the court will determine if the pre-sentence report will be the COMPAS Report or the Pre-sentence Investigation (PSI).
- B. Upon conviction and on the day of sentencing, the court will instruct the possible participant to immediately report to Justice Support Services.
- C. First Contact with Justice Support Services
  - 1. **EM Requirement- all OWI convictions 3<sup>rd</sup> and higher require immediate hook up on EM.**
  - 2. Potential participant will sign the “OWI Treatment Court Pre-Participation Guidelines” that outline responsibilities until a decision is made regarding participation.
  - 3. Testing begins immediately.
  - 4. If a referred person doesn’t know if he or she will be participating in the eligible track that person will be given ONE WEEK to decide.
  - 5. At the end of one week, Justice Support Services’ staff will attempt to contact those who have not yet communicated a decision.
  - 6. If no contact is made or if Justice Support Services doesn’t hear from the potential participant, a letter will be sent to the participant and the jail informing them that the person will not be participating.
  - 7. Court referrals who do not initially contact Justice Support Services will also be given one week to make contact before the non- participation letter is sent.
- D. Ignition Interlock Device Requirement
  - 1. A participant must have an IID (ignition interlock device) in their vehicle and if they have not complied, the OWI Treatment Court may impose a sanction.

## **VII. FELONY AND RECURRENT OFFENSE PROTOCOL**

- A. 1<sup>st</sup> Offense OWI with injury, hit and run, minor child
  - 1. Report to Justice Support Services to sign the pre-participation guidelines.
  - 2. Alcohol and drug testing colors are assigned.

3. Information provided explaining that a missed or positive test is considered a violation once the pre-participation guidelines are signed.
4. A missed or positive test will result in reporting to jail as court records indicated.
5. An appointment with an assessor to determine program eligibility must be completed within 30 days.
  - a. Preference for Justice Support Services' assessment prior to sentencing.
  - b. Assessed as dependent - referral to OWI Treatment Court to participate in the appropriate track.
  - c. Assessed as irresponsible use – serve sentence in the OWI Program. (Non -residents must pre-pay for the first month of electronic monitoring if eligible for the OWI Program)

**B. 2<sup>nd</sup> and higher Offense OWI**

1. Upon Plea - Court refers Client to Justice Support Services.
2. Justice Support Services staff screens for possible participation.
3. Client declines participation.
  - a. Court notification/Jail
4. OWI 2<sup>nd</sup> client is assessed as an irresponsible user.
  - a. Refer to OWI Program (GPS in lieu of incarceration)
  - b. Time served on electronic monitoring (GPS)
  - c. Testing assigned

**OR**

**C. Client agrees to participate:**

1. Assessment determines substance dependence.
  - a. Eligible for OWI Treatment Court Track One or Track Two.
2. The assessment forwarded to the treatment team for case planning.
3. Schedule first court appearance.

**D. OWI 1 Felony Offense (Probation Option)**

(Exception – 4<sup>th</sup> offense follows 2<sup>nd</sup> and higher offense OWI process)

1. The defendant or the defense attorney will make a request to the court for participation in the OWI Treatment Court Track One or Track Two.
  - a. The request can be made pre or post plea.
2. The prosecuting and defense attorney will be notified of the request.
3. The defendant will be referred to OWI Treatment Court Orientation to understand the expectations of the court.
  - a. The court may order a pre-sentence investigation or the COMPAS assessment.
6. The final report will be sent to the sentencing court, defendant or defense

attorney, and prosecuting attorney. The report will be considered by the court at sentencing.

7. OWI felony offenses prior to the start of OWI Treatment Court were given an average jail/prison sentence of 14 months (425 days). Judges agreed to use the 14 months figure to determine bed days saved.

E. OWI Treatment Court admission prior to conviction:

1. A person charged with any of the following: OWI 2, 3, or 4 and the case is a misdemeanor, there is no injury and/or there has been no prior OWI Treatment Court participation. (N/A at this point)

2. The person will be informed the plea can be heard prior to the next scheduled Court appearance.

a. If the person is not represented by an attorney contact the District Attorney's office at 785-9678 for assistance setting a date.

b. If the person is represented by an attorney, contact the attorney to ask for assistance in facilitating an earlier court date.

F. A person charged with an OWI offense may contest the offense and remain eligible for participation in the OWI Treatment Court Track One or Track Two.

## **VIII. COURT PROCEEDINGS**

The OWI Treatment Court Calendar will be a specialized, separate Court, and is dedicated to the evaluation, treatment and supervision of eligible and suitable offenders. The OWI Treatment Court shall be held as scheduled. A closed staffing will take place prior to court or as otherwise directed by the Judge. All participants must be at court when scheduled, unless otherwise excused by the Judge or Court Coordinator. Clients will stay for the entire court hearing unless given prior approval to leave early or treatment is scheduled for that time.

At the staffing, the team will advise the Judge of the progress or any violation of each participant. During the Treatment Court hearing, the Judge will discuss the case with each participant and any relevant party. Sanctions and Incentives may be addressed.

Track One is designed for participants with OWI convictions who are assessed as low risk/moderate to high need. Court appearances are not required unless a violation occurs or the participant is commencing. Tasks and activities to meet the commencement goal are outlined in an individual case plan.

Track Two is designed for participants assessed as moderate to high risk/moderate to high needs. There are three goals that require scheduled court appearances, meetings with the coordinator and probation agent to review tasks and activities to meet each goal. Individualized case plans are designed to assist each participant in meeting educational and treatment requirements to achieve the eventual goal of commencement.

Records are separate and distinct from Circuit Court files and District Attorneys Office files. All OWI Treatment Court records are confidential and are not open to the general public. All files shall be maintained in a confidential manner by partners with respect to the confidentiality practices of each discipline on the team.

**IX. OWI TREATMENT COURT TRACK ONE (Appendix VI)**

Track One is designed for people assessed as low risk/moderate to high needs. Participants referred to Track One are required to complete a minimum of 100 hours of substance abuse treatment within 9 to 12 months.

**OWI TREATMENT COURT TRACK TWO (Appendix VI)**

Track Two is a goal-oriented program using the following evidenced-based interventions.

**X. Treatment Dosage Hours Grid**

\*Treatment received in the prison setting is not transferrable to OWI Treatment Court Program.

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Phase terminology is to assist with identifying what hours of programming and other requirements are completed to assist with determining incentives to encourage further participation to commence within 9-12 months.

<b>PHASE 1</b>	<b>PHASE 2</b>	<b>PHASE 3</b>
80 hours of TX/Programming	70 hours TX/Programming	50 hours TX/Programming
Bi-weekly court	Monthly court	Every other month court
Develop DSP plan	Develop DSP plan	DSP before commencement
Minimum 30 days clean	Minimum 30 days clean	Minimum 30 days clean
<ul style="list-style-type: none"> <li>• PBT testing 2x daily or EtG if eligible</li> </ul>	Testing as determined by team	Testing as determined by team
<ul style="list-style-type: none"> <li>• DWC Level II Education</li> <li>• Begin AODA Treatment</li> <li>• T4C</li> </ul>	<ul style="list-style-type: none"> <li>• DWC Level II Therapy</li> <li>• AODA Treatment</li> <li>• T4C</li> </ul>	<ul style="list-style-type: none"> <li>• Complete any programming or treatment hours to reach 200+ hours as determined by case plan.</li> </ul>
Incentives considered upon completion: <ul style="list-style-type: none"> <li>• Reduce court appearances</li> <li>• Reduce testing</li> <li>• Move to Phase 2</li> </ul>	Incentives considered upon completion: <ul style="list-style-type: none"> <li>• Reduce court appearances</li> <li>• Reduce testing</li> <li>• Move to Phase 3</li> </ul>	Incentives considered upon completion: <ul style="list-style-type: none"> <li>• Commencement</li> </ul>

## **XI. EXPECTATIONS OF ALL TRACK ONE AND TRACK TWO PARTICIPANTS:**

Track One and Track Two participants are expected to comply with the following requirements:

- Compliance with the individualized case plan.
  - Full participation in all recommended treatment and cognitive behavioral programming to be determined in the case plan.
- Scheduled appearances before the OWI Treatment Court Judge.
- Begin treatment within 3 weeks of admission to the program.
- Office visits with the coordinator as determined by case plan.
- Home visits with the coordinator, probation agent, law enforcement or Justice Support Services' staff as needed.
- Avoidance of any premises where the major source of business is alcohol sales i.e.: Bars, Beer Tents, etc.
- No consumption of non-alcoholic beer/wine.
- Comply with alcohol and drug testing.
- Comply with jail time/electronic monitoring.
- Driving privileges are determined by the team after reviewing the participant's compliance with the rules. If you do not have a license you are NOT allowed to drive any motorized vehicle.
- Establish a payment plan for court fines and restitution. Contact 785-9573 to arrange.
- Pay for and comply with Driver's Safety Plan Assessment.

### **A. Home Visits**

Participants sign an informed consent and an OWI Treatment Court contract item 6.a "I agree, any member of the OWI Treatment Court team, treatment providers, the Court Judge, the Department of Corrections agent, and Community Corrections officers working with the OWI Treatment Court Program may request such a sample of my breath, blood, or urine from me and upon reasonable suspicion, request that I submit to a search of my person, personal property, vehicle, or home at any time."

Procedure will occur as follows:

1. The consent does allow searches where we, the treatment team, or the officer based on information developed at the scene, can point to articulable facts leading the treatment team or the officer to believe the participant may be using.

### **B. Employment – Participant Employing a Participant**

1. Participants must have pre-approval before accepting employment with another participant's business.
2. The following steps must be taken to approve employment:
  - Employment request will be reviewed on a case by case basis.

- The team will review the request.
- The business must be legitimate.
- Pay stubs must be provided.
- Employers must work with the team to maintain testing requirements.
- Income must be reported to state and federal agencies.

**XII. USE OF PRESCRIBED MEDICATIONS: (Appendix VIII)**

A. Participants will not be prohibited from utilizing prescribed medications. The following guideline will be followed by the team.

A client with a chronic or an ongoing mental health or physical health issues may get a waiver from the team.

The waiver request should include the following information.

1. Documentation of the diagnosis from the physician.
2. Documentation from the physician that other alternatives were discussed.

B. Medication Assisted Treatment (MAT)

1. MAT treatment must be by an approved provider based on license and certification and with a prescription for the necessary medication.
2. Communication must be open and frequent between the team and provider.
3. MAT must be included in the case plan.

D. Court Room Etiquette:

1. Cell phones must be turned off.
2. Participants must refrain from speaking out of turn during any proceeding.
3. Communication must be respectful in all aspects to include language, voice tone, behavior and dress.
4. Participants are expected to give full attention to the proceedings.
5. Participants are expected to participate in acknowledgement of the success of other participants.
6. Participants must refrain from wearing clothing that reflects support for alcohol or drug use.

E. Operating After Revocation (OAR) Pending – Effect on Commencement:  
If there is a pending OAR, the participant will graduate as the participant has

been sanctioned from the Court upon the OAR arrest.

## **XII. OWI TREATMENT COURT SUPERVISION / RANDOM TESTING PROTOCOL**

A critical component of successful OWI Treatment Court participation involves intense supervision and random testing to determine compliance with the rules of the OWI Treatment Court Program. Each participant is subject to random testing for the purpose of detecting the unauthorized use of alcohol or unauthorized use of controlled substance. Colors are assigned to determine frequency of testing, however, any team member may request additional testing. If a color is not assigned the team member may request the Court coordinator to contact the participant for a random drug and alcohol screen.

### **A. Requested Sample**

1. The participant shall immediately deliver the requested sample. If a sample is not produced, is not of sufficient quantity, or is adulterated in any way, it will be treated as a positive sample for the presence of alcohol. Testing may include the use of:
  - a. Preliminary Breath Tests (PBT)
  - b. Home Alcohol Testing Equipment (MEMS)
  - c. SCRAM (ankle bracelet, alcohol skin detection)
  - d. Drug testing equipment (lab)
  - e. EtG testing (UA test)
  
1. Prior to delivering the sample, the participant will be asked whether or not the test will be positive. If the participant acknowledges that the test will be positive, it will be considered a positive test, and the test will not take place.

### **B. No Color Assigned Random Drug testing**

1. OWI Treatment Court team will review the progress of the participant during team meetings.
2. The team will decide if there is a need to call the participant in for a random test.
3. The random test can include testing for a full panel and an EtG alcohol test using the same sample.
4. Coordinator will contact the participant to come in to test.
5. Participant may be instructed to test at Justice Support Services on the day of court.
6. The coordinator has the discretion to call the participant in to test if deemed necessary.

### **C. Testing Outcome Explanations:**

1. Carbohydrate Deficient Transferring testing may not be utilized by

#### Participants.

2. Missed Tests – Missed tests will be presumed to be a positive test and progressive sanctions will be imposed and may begin with a verbal warning. Subsequent missed tests will be given further sanctions.
3. A client who misses a test will be ordered to appear in front of the court prior to the next scheduled court date.
4. Positive Tests – Any positive test will result in an appearance at the next OWI Treatment Court session even if the presiding judge is different. Upon testing positive for drugs or alcohol, the Driver Safety Plan assessor will be informed of the positive test, which may result in a non-compliance determination and the loss of driving privileges.
5. Diluted Tests – Upon testing positive for diluting the urine sample by fluid consumption, the client will be given a warning for the first positive test for dilution. Any further tests will be considered positive tests.
6. participants who do NOT have a history of drug use will be tested on an individualized basis.
7. Testing protocol when approved for travel: Testing upon return from the trip only.

#### D. Colors and Testing

1. Testing Colors may be assigned for PBT and UA's.
2. Testing is available 365 days a year.

### **XIII. INCENTIVES, SANCTIONS AND INTERVENTIONS**

Incentives are awarded to participants for many reasons, but specifically for demonstrating progress towards meeting case plan goals.

Sanctions are a response to any violations of the rules of the OWI Treatment Court Program and may result in an immediate response as determined by Team.

Interventions are a response to assist a client in identifying and correcting a behavior that is preventing progress toward case plan goals.

- A. Incentives may include:
  1. Reduced jail time.
  2. Reduced fines.
  3. Reduced fees.
  4. Earlier driver's license reinstatement.
  5. Bus Tokens

6. Gift Certificates
7. Positive team interaction
8. Obtain an occupational driver's license
9. Removal of ignition interlock device.
10. Assistance with employment.
11. Removal of curfew.
12. Removal of an electronic monitoring device.

B. Sanctions may include:

1. Jail
2. Curfew
3. Electronic Monitoring
4. Increased Supervision
5. Day Reporting
6. Community Service
7. Completing an essay

C. Interventions may include:

1. Increased Alcohol Testing
2. Increased Support Groups
3. Verbal Warnings
4. Team Intervention
  - a. Request participant to come before the team to discuss participation
5. Increased treatment
6. A homework assignment to assist in changing the behavior

#### **XIV. COMMUNICATION OUTSIDE OF TEAM MEETINGS**

Situations requiring team attention outside of the scheduled team meeting, the following procedure will be followed.

1. The person receiving the request will contact the treatment court supervisor to determine if the situation is a crisis requiring immediate attention. If the supervisor is unavailable, a probation supervisor or the Justice Support Services manager may be consulted.
2. If determined the situation is a crisis, the following people will be contacted: the judge, the probation agent, the prosecutor, the defense attorney, the coordinator, and the treatment representative. Contact may be made by phone or email.
3. The supervisor will allow one hour for responses. If no response is received, the supervisor will make the decision without input from the entire team.

#### **XV. RESTITUTION**

Restitution will be ordered by the court on an individual basis.

Restitution will be collected at the Clerk of Courts, 333 Vine Street, La Crosse, WI. The traffic clerk will inform OWI Treatment Court coordinator of the amount of restitution owed.

## **XVI. COMMENCEMENT**

Upon successful completion of all three goals, including a good faith effort toward payment of all assessed fees and restitution, completion of an Exit Interview, completion of a Relapse Substance Use Plan, and upon recommendation of the team, the Judge shall declare the participant a graduate of the OWI Treatment Court Program. The commencement ceremony will recognize successful completion of all required goals.

## **XVII. AMBASSADOR PROGRAM**

The OWI Treatment Court Ambassadors are trained to provide a service to Treatment Court participants. A manual is provided with guidance on what their service entails including how to maintain appropriate boundaries while providing information and support. The Ambassador role is to review phase requirements with participants and assist in clarifying the court expectations, troubleshoot when expectations are difficult to meet, and direct to Treatment Court coordinator for questions unrelated to phase support. The Ambassadors are available to meet with current OWI Treatment Court participants every other Monday and every other Tuesday, see schedule posted in lobby for times.

New Ambassadors will be reviewed by the Treatment Court coordinator and further screened by current group facilitators to determine if the prospective Ambassador's facilitation role is appropriate.

The Ambassador Team consists of:

1. Treatment Court coordinators
2. Judge
3. Treatment Court graduates
4. DOC agent

The Ambassador Team will meet as scheduled to:

1. Review Ambassador experience working with the participants.
2. Answer questions posed to the Ambassadors to take back to the participants.
3. Provide guidance when difficult situations arise.

Upon commencement, all OWI Treatment Court Program graduates will be invited to join the Ambassadors. The rules for the Ambassadors are established by the Ambassador Team.

## **XVIII. COSTS**

- A. Participant payment responsibilities:
  1. Driver Safety Plan - \$350.00
  2. Fines
  3. Fees

4. Restitution will be determined on an individual basis and ordered by the court.

B. Equipment costs:

1. Global Positioning Units (GPS) - \$12.00/day
3. MEMS – stand alone - \$7.00/day.
4. SCRAM Units - \$17.00/day

### **XIX. FAILURE TO PAY FINES**

If a participant is delinquent in the payment of fines the information will be recorded and provided to coordinator to be shared in the weekly team meeting.

### **XX. OPERATOR'S LICENSE**

A. Participants are required ask the team for permission to obtain an operator's license.

B. Participants will:

1. Provide proof of Ignition Interlock Device installation (IID).
2. Sign a release of information allowing the Team to periodically review IID reports if not accessible without a release.
3. Notify the Court of an IID provider change.
4. Participants will be responsible for reporting any positive test on the IID.

C. Department of Corrections will provide a list of all participants to IID providers for the purposes of receiving reports on IID compliance.

## APPENDIX I

### RESIDENCY CRITERIA

There are **four criteria** in the statutory definition of “**legal residency**”:

**(1) Physical presence** within the state/county.

- Physical presence must be **(2) voluntary** on the part of the individual, or by choice of the person’s legal guardian appointed by a court under ch. 880, Wis.Stats. (Note that guardianship court orders issued in another state are honored in Wisconsin.)
- The individual has the **(3) intent to remain in (4) a place of fixed habitation** within the state/county.

All of these four criteria must occur **simultaneously**. If any one or more of the four criteria do not simultaneously apply to a person, legal residency is not established.

#### Criteria Clarification:

##### 1. Physical Presence

Physical presence in a county creates a rebuttable presumption that the individual intends to reside there. This presumption can be overcome by a preponderance of evidence to the contrary, such as the individual’s expressed intent to reside elsewhere. The intent must have existed when the individual was physically present in the other county. The physical presence presumption places the burden on the county where the individual is located. If the individual is covered by s. 51.40, the wording of some provisions in that section overcomes the physical presence presumption.

##### 2. Voluntary

The simultaneous concurrence of all four criteria must be voluntary on the part of the person or his or her legal guardian. Examples of physical presence not being voluntary include, but are not limited to, placement pursuant to a court order such as a protective placement order, or placement pursuant to the conditions of probation or parole supervision. Placement for care or treatment by a county 51.42/437 department to another jurisdiction does not change the individual’s legal residence while the individual is receive treatment. See s. 51.22(4) and s. 51.40(2) (a) 2.3

##### 3. Intent to Remain

Intent to remain has been interpreted to mean "to live in that county for the foreseeable future." A person, or his or her guardian on behalf of their ward, must have the intent to remain, for the foreseeable future, in the county where he or she is physically present. Generally, intent to remain may be expressed verbally by the individual or his or her guardian. However, a written expression of intent by a person’s legal guardian is preferable when the person has a legal guardian and the person’s county of residency is in dispute. No specific time period must have elapsed to establish the intent to remain for Wisconsin residency. Situations such as, but not limited to, seasonal employment in Wisconsin, an extended vacation, temporarily caring for a sick relative / friend, or for educational / training purposes do not alone qualify as having the intent to remain. Other facts that may be considered as indicators of intent include the location from which the individual files tax returns, or maintains financial accounts, or has a driver’s license, or votes, for example.

##### 4. Place of Fixed Habitation

Examples of a place of fixed habitation include a home, apartment, condominium, residential hotel or a mobile home (fixed on a site). It also may include a nursing home, CBRF or other supervised residential facility when the person intends to live there for the foreseeable future because he or she has long term care needs and the services of the facility are needed to meet those needs. A motel, hotel (except a residential hotel), or rooming house are generally not considered places of fixed habitation. However, in limited situations a motel, hotel or rooming house may be considered a place of fixed habitation if the person lives there voluntarily and intends to remain there for the foreseeable future.

A place of fixed habitation does not include a car or other motorized vehicle because it is not a fixed habitation. Nor does it include an emergency shelter for the homeless because it is by definition a temporary shelter, a shelter for victims of domestic abuse, or a nursing home, CBRF or other supervised residential facility where a person's stay is temporary to address acute care needs. When all four criteria are met simultaneously, the person becomes a resident of the State of Wisconsin and the respective county where there is concurrence of physical presence. There is no waiting period before a person establishes legal residency in Wisconsin. Once a person establishes legal residency in a Wisconsin county, he or she does not lose that residency until he or she establishes legal residency in another Wisconsin County or in another state. Even in extreme situations where a person has been homeless, perhaps for years, he or she retains their legal residency in the county and state where they last established legal residency before becoming homeless.

APPENDIX II

STATE OF WISCONSIN

CIRCUIT COURT

LA CROSSE COUNTY

---

State of Wisconsin

CONSENT AND ORDER RETURNING  
CASE TO SUBSTITUTED JUDGE

vs.

(Defendant/Respondent name)

Case No. (Case Number)

---

The defendant \_\_\_\_\_ hereby requests pursuant to sec. 971.20 (11) that the criminal action and all pertinent records be transferred back to the Honorable \_\_\_\_\_ (substituted judge) to allow for participation in the La Crosse County (drug) (OWI) Court. The defendant understands and agrees that the aforementioned judge has full authority to act in this case consistent with Wisconsin law and treatment court policies and procedures.

\_\_\_\_\_  
Defendant

\_\_\_\_\_  
Defendant's Attorney

---

**Consent to Return Action to Substituted Judge**

The undersigned agree that the aforementioned matter shall be transferred back to the Honorable \_\_\_\_\_ to allow for treatment court participation with the judge having full authority to act consistent with Wisconsin law and treatment court policies and procedures pursuant to sec. 972.20(11).

\_\_\_\_\_  
Prosecutor

\_\_\_\_\_  
Assigned Judge

\_\_\_\_\_  
Substituted Judge

---

**Order Returning Action to Substituted Judge**

Pursuant to sec. 972.20(11), Wis. Stats., and upon the consents set forth above, the aforementioned matter is transferred back to \_\_\_\_\_ to allow for participation in the La Crosse County (OWI) (Drug) Court.

Dated this \_\_\_\_ day of \_\_\_\_\_, 20 .

Circuit Judge, Branch  
Assigned Judge

### APPENDIX III

#### Checklist

Re: OWI Treatment Court participant moved out of county preventing full participation. There is criteria that must be met in order to commence successfully which is shared before the client's first court date. If a participant moves to a location where participation cannot continue to occur to the client is asked dis-enroll and contact the sentencing court to determine how to proceed.

Client Name:

Judge:

Case Number:

Bond

Sentenced

\_\_\_\_\_ is a former La Crosse County resident who recently moved out of county and is no longer able to successfully complete the OWI Treatment Court. \_\_\_\_\_ met with an OWI Treatment Coordinator \_\_\_\_\_ on this date \_\_\_\_\_ to discuss the concerns with successful participation in the OWI Treatment Court. Orientation information was re-reviewed to further express the importance of meeting expectations to commence. The following barriers are currently preventing \_\_\_\_\_ from successful participation. The coordinator informed the participant of the dis-enroll process and referred \_\_\_\_\_ to the sentencing Judge for direction.

- Proximity (Moved from the La Crosse area after beginning participation in the OWI Treatment Court)
- Transportation
- Program Participation
- Court Appearances
- Testing Requirements
- Scheduled Meetings with Coordinator

**APPENDIX IV**

Checklist

Re: Out of County resident arrested for an OWI in La Crosse County; referral for OWI Treatment Court participation.

Client Name:

Judge:

Case Number:

Bond

Sentenced

\_\_\_\_\_ is an out of county resident who was asked to consider participation in the OWI Treatment Court. \_\_\_\_\_ met with an OWI Treatment Coordinator on this date \_\_\_\_\_ to discuss the possibility of participation in the OWI Treatment Court. Orientation information was provided and a review of how to meet the expectations to commence were thoroughly discussed. The following barriers prevent \_\_\_\_\_ from successful participation:

Proximity

Transportation

Program Participation

Court Appearances

Testing Requirements

Scheduled Meetings with Coordinator

Cc:

**APPENDIX V**

**La Crosse County OWI Treatment Court Dis-enrollment Questionnaire**

2. Questions posed to participant:

- Why are you dis-enrolling?
- What happened between enrolling and now?
- Was your intention to complete the program?
- What would you need to have happened for you to remain in OWI Treatment Court?

3. Coordinator will complete the following information:

- What number of OWI's?
- How many days into the program prior to dis-enrollment?
- How many days have passed since ending EM and dis-enrollment?
- How much stayed time does the participant have to serve?

Staff Signature \_\_\_\_\_ Date: \_\_\_\_\_

**APPENDIX VI**

**OWI TREATMENT COURT TRACK ONE AND TRACK TWO RESPONSE GRID**

**All participants are REQUIRED to begin access to treatment immediately.**

<b>LOW RISK – MODERATE/HIGH NEED TREATMENT COURT</b>	
<b><u>TRACK ONE</u></b>	
<b>MINIMUM OF 9 MONTHS</b>	
<b>TREATMENT HOURS 100+</b>	
<b>Commence within 9-12 months or when treatment is successfully completed.</b>	
DWC II Education	18-21 hrs.
DWC II Therapy (if appropriate)	42-86 hrs.
CBT – Attic (Probation Clients Only)	20-30 hrs. (6/16)
Carey Homework Group	1 Hour Each Group
Smart Recovery Facilitated Only	1 Hour Each Group
Multiple Offender	35 hrs.
Ambassador Meetings (Maximum of 10)	Hourly
Individual with Social Worker	Hourly
<b><u>SA Treatment</u></b>	
• Day Treatment	52-78 hrs.
• IOP/SOP	36-72 hrs.
• Aftercare & Relapse Prevention	18-32 hrs.
• Other Evidence Based TX Groups	Hourly
<b>TRACK ONE RESPONSE GRID</b>	
<b>COORDINATOR RESPONSE</b>	
Response choices for 1-2 missed and/or positive tests; 1-2 GPS violations	
<ul style="list-style-type: none"><li>• Meet with coordinator to review case plan</li><li>• Carey Guide Group(s)</li><li>• Schedule treatment appointment immediately</li><li>• Essay specific to use</li><li>• Substance use prevention plan</li><li>• Community Service</li></ul>	
<b>COURT APPEARANCE REQUIRED</b>	
Response choices for 3 and subsequent missed and/or positive tests or 3 or more GPS violations	
<ul style="list-style-type: none"><li>• Anything listed above including increasing intensity</li><li>• Discussion with participant and team about moving into Track Two</li><li>• Further Programming</li></ul>	
<b>DRIVING VIOLATIONS</b> (Choose one or more as determined by the team)	
<ul style="list-style-type: none"><li>• One day jail – unless determined otherwise by the team.</li><li>• Further programming</li><li>• Discussion with participant and team about moving into Track Two</li></ul>	

**APPENDIX VI CONT.**

**MODERATE /HIGH RISK to MODERATE/HIGH NEED**

**TRACK TWO**  
**MINIMUM OF 9 MONTHS**  
**TREATMENT HOURS 200+**

**Complete within 9-12 months or when treatment hours are successfully completed.**

DWC II Education	18-21 hrs.
DWC II Therapy	42-86 hrs.
T4C (required)	33 hrs.
CBT – Attic (Probation Clients Only)	20-30 hrs. (6/16)
Moving On (Women Only)	33 hrs.
Carey Homework Group	1 Hour Each Group
Smart Recovery Facilitated Only	1 Hour Each Group
Ambassador Meetings (Maximum of 20)	Hourly
Individual with Social Worker	Hourly

**SA Treatment**

- Day Treatment 52-78 hrs.
- IOP/SOP 36-72 hrs.
- Aftercare & Relapse Prevention 18-32 hrs.
- Other Evidence Based TX Groups Hourly

**ALL RESPONSES ADMINISTERED BY THE JUDGE IN THE COURT SETTING**

Response choices for 1-2 missed and/or positive tests

- Meet with Coordinator to review case plan
- Carey Guide Group(s)
- Schedule treatment appointment immediately
- Essay specific to use
- Substance use prevention plan
- Further programming
- Community Service

Response choices for 3 and subsequent missed and/or positive tests:

- Anything listed above including increasing intensity
- Discussion with participant and team to determine participation commitment
- Further programming

**DRIVING VIOLATIONS (Choose one or more as determined by the team)**

- One day jail – unless determined otherwise by the team.
- Further programming

**\*Difficulty completing OWI Treatment Court Track Two could result in expulsion.**

**AFTERCARE – 30 days following completion – recommend attendance @ 2 Ambassador Meetings**

**APPENDIX VII**

**La Crosse County OWI Treatment Court Dis-enrollment -Notice of Participants  
Withdrawal and Waiver of Court Hearing**

Name: \_\_\_\_\_ Case Number: \_\_\_\_\_

1. I understand that participation in the OWI Treatment Court is voluntary.
2. I have decided to withdraw from participation in the OWI Treatment Court.
3. I have made this decision voluntarily and with free will understanding that:
  - a. I may consult with an attorney if I wish.
  - b. This is a final decision and I may not be re-enrolled in OWI Treatment Court as part of this sentence.
  - c. I will not be eligible for electronic monitoring or other services through Justice Support Services for this sentence.
  - d. I understand that I will serve the remaining portion of my sentence in the La Crosse County jail without release for any reason.
  - e. The amount of jail time left to serve and/or my release date will be determined by the La Crosse County Sheriff's Department.
4. I also waive my right to a hearing in front of the OWI Treatment Court Judge on the issue of my voluntary withdrawal from the OWI Treatment Court.

Dated this \_\_\_\_\_ of \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Client Signature

\_\_\_\_\_  
OWI Treatment Court Representative

CC: Client  
Jail  
Clerk of Courts  
Justice Support Services

## APPENDIX VIII

Date:

To Whom It May Concern:

The OWI Treatment Court team encourages participants to work with a therapist in conjunction with taking a medication for depression, anxiety, or other mood disorders as research indicates the medication is more effective. The following letter is provided for clients receiving prescribed medications

To: Medical Providers  
From: La Crosse County OWI Treatment Court

Your patient is providing you with this letter because he or she is an OWI Treatment Court Participant.

The La Crosse County OWI Treatment Court provides integrated court supervision and substance abuse services to a diverse population in La Crosse County to reduce OWI related crimes, better utilize jail resources, and improve the quality of life of substance abuse offenders resulting in increased community safety and improvement of the quality of life in the whole community.

The OWI Treatment Court Team requests that physicians prescribing medication(s) to a Participant attempt to prescribe medication that will not pose a risk to the Participant's recovery from addiction. The Team is aware that this is not always possible, but asks that alternatives be explored prior to prescribing a habit-forming medication.

Thank you for your time and consideration. If you have further questions please feel free to contact Tammy Simmons or Zachery Trebelhorn, the OWI Treatment Court Coordinators, at 789-4895.

Respectfully,

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OWI Treatment Court Coordinator