

**Designing Policies and Procedures for
Program Participation**

Activities Guide



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Designing Policies and Procedures for
Program Participation

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Designing Policies and Procedures for Program Participation

These activities are designed to help you develop policies and procedures for your mental health court program. They will help your team anticipate some of the common challenges identified by other mental health courts that have already gone through this process.

The activities, which include questions and worksheets, should be completed by the people who will serve on your mental health court team, including its primary champion(s) who will be involved in planning. You will complete some activities on your own and others as a group. The first activity builds upon an activity you started in *Module 4: Target Population*. In the second activity, you will watch a short video segment of a mental health court team discussing a participant's upcoming graduation. At the end of the activities, you will be asked to list three issues these activities have raised regarding your own program planning.

Each activity is explained in the sidebar on the right-hand side of the page. The sidebar can also be used for notes as you complete the guide. If you are reading this document online, you can link to the resources for each activity below the activity description.



Activity 1: Screening, Assessment, and Referral Resources

As you'll recall from the online Presentation, mental health court teams will need to make decisions to identify appropriate candidates for the program, define the terms of participation, and explain these terms to prospective participants. This activity focuses on delineating screening and assessment processes to determine whether potential participants meet the eligibility criteria. As you move through this activity, you will consider how to develop screening/assessment processes to identify potential participants who are in your program's target population. First, you will discuss the questions below that relate to developing referral processes and identifying information that will inform them. Second, you will return to the worksheet you completed for the first activity in *Module 4: Target Population* and add information that aligns screening criteria with your target population and screening considerations. Finally, you will discuss questions related to evaluating the effectiveness of a program's referral process and monitoring client information and general screening procedures. The chart on the next page outlines steps to complete the activity, actions required, and how long each step will take.

Note: One part of this activity refers to and expands on the worksheet, "Eligibility Criteria/Target Population," completed in Activity 1 of Module 4. You will need to refer to that completed worksheet to complete this activity, so make sure that you and your colleagues have a copy on hand. If you have not completed that activity as part of this curriculum, please print out the above Module 4 worksheet and enter the necessary information from your program's target population.







Activity 1 is designed to help plan referral processes, including screening and assessment protocols, to identify potential program participants based on your mental health court's target population.

Outputs

- Proposals for screening processes, including determining who will be responsible for different aspects of the process, what instruments will be used, and how the effectiveness of the process will be measured and evaluated
- A deeper understanding of the challenges involved in identifying appropriate program participants and addressing concerns related to sensitive information

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Notes:

Steps	Action	Complete as	Completion Time (in minutes)
a. Questions: Referral and information sources	Discuss		5
b. Worksheet: Screening Potential Participants	Respond		10
c. Questions: Measuring recruitment and referring non-accepted individuals	Discuss		20
d. Questions: Resources for ineligible referrals	Discuss		10
			45
 Complete as a team  Complete on your own			

a. As a group, discuss the following questions.

1. Which agencies and/or individuals do you anticipate will be the primary source(s) of referrals?
2. Which other agencies/individuals do you think will provide referrals to the program?
3. Do any of the potential referral sources you have listed conduct screening and assessments to collect information that could help you determine program eligibility?
 - If no, what information is missing? Who will be responsible for collecting this information?
 - If yes, what information is being collected? Who collects it and where does s/he store this information? Is it accessible?

Notes:

4. Will you create a document or form for program partners to use when making a referral? If so, how will it be disseminated?

b. As a group, use your responses to the above questions to complete the following worksheet, “Screening Potential Participants.”

Refer to the worksheet that you completed in Activity 1 of *Module 4: Target Population*. You may find it useful to print out the new worksheet so that you can complete it as you go through the questions below. You will notice that the new worksheet includes the same assessment factors (left-hand column) but has two new columns:

What screening or assessment tools will be used? What questions or screening/assessment instruments are routinely used with individuals involved with the criminal justice system? What domains or factors do these tools measure? If screening or assessment is not already being done for some factors, are there tools that you think should be used?

Who is responsible for collecting this information? Which agencies or individuals in each part of the system are collecting relevant information? Is there a mechanism in place to share this information among appropriate members of your team? If new screening or assessment instruments must be administered, which partner may be best placed and skilled to administer them?

Module 5

Worksheet: Screening Potential Participants

Factors	Your Program's Target Population	Considerations for Screening Potential Participants	
		What tool(s) or questionnaire(s) will be used?	Who will be responsible for administering these tools?
Example: Criminogenic Risk Level	High-medium risk	Ohio Risk Assessment System (ORAS)	Probation officer
Criminogenic Risk Level			
Criminal History			
Type of Current Charges			
Case Status: Pre- or Post-Adjudication			
Mental Illness			
Traumatic Brain Injury			
Developmental Disability			
Substance Use			
Residency			

c. As a group, discuss the following questions.

As with other design decisions you have made for your program, your mental health court team will want to start planning early for measuring and evaluating whether these screening and assessment processes are working to identify appropriate participants. By thinking about data collection at the beginning and setting an early plan for analyzing and reviewing program processes, you will set yourself up to understand whom your program is serving and make changes as needed based on your program's goals.

1. What data will you collect to determine whether you are receiving appropriate referrals?
2. When and how will you evaluate your program's referral procedures to make sure that referrals meet the target population?
3. What data will you collect to determine the percentage of eligible candidates you actually enroll in your program?
4. When and how often will you review your target population criteria and referral procedures to determine whether to revise them?

d. As a group, discuss the following questions.

Your new screening and assessment processes will identify many individuals in your community's criminal justice system who need behavioral health treatment and supports but who will not be eligible, for one reason or another, for your mental health court program. Part of connecting your mental health court to your community will be identifying strategies, such as referral processes, for individuals who do not enter the mental health court.

1. What resources are available in your community for people who have been referred but do not fit within your program's target population?
2. Who will ensure that these individuals are connected with these resources?

Notes:



Activity 2: Facilitating Informed Consent

As discussed in the online Presentation, participation in a mental health court may involve waiving rights guaranteed to criminal defendants, as well as rights to privacy with regard to behavioral health information. Additionally, agreeing to participate in a mental health court program might involve judicial and/or legal sanctions that could affect the person's current case and legal standing, future criminal record, access to voting rights, and a variety of other areas.

For these reasons, mental health court teams must ensure that potential participants enter the program voluntarily. To do so, the mental health court team must determine whether the participant has the capacity to make this decision (i.e., competency) and make sure that s/he is provided enough information to make a thoughtful and informed choice. This involves ensuring that the participant has enough concrete information about the program to be able to weigh the pros and cons of participating, including:

- Rights s/he may be waiving
- Rules and program requirements
- Potential outcomes of failure to comply with these requirements, including potential sanctions
- Potential program duration
- Outcomes of both successful and unsuccessful program completion

All of this information should be memorialized in program policies and other materials that a potential participant reviews with his/her attorney before deciding to join the program. Often, potential participants are in an emotional state, physical setting, or even crisis that makes this process extremely difficult for the team member who is responsible for reviewing the program requirements with the participant. Consider the variety and diversity of these situations in the following activity.

Additionally, the mental health court team must consider the type of information about the participant that is necessary to share among team members and must try to balance the information the team members need to do their jobs with the individual's right to privacy. The participant's consent to provide this information introduces an obligation on the part of the mental health court team to support the functioning of the court while simultaneously protecting privacy and other rights of the participants.

Activity 2 is designed to examine the informed consent process and related issues concerning the circulation of information among mental health court team members. It considers the foundational concepts of privacy and due process in relation to operational needs and responsibilities.








Outputs

- A deeper understanding of the importance of privacy and due process in court policies and procedures
- Strategies to manage the functioning of the court while protecting privacy

Module 5

This activity begins with an exploration of the process for helping potential participants make an informed choice to participate in the mental health court. First, role-play discussing the program's services and expectations as well as benefits and risks with a potential participant. Then, as a team, discuss how privacy and due process considerations will impact aspects of your program's design and operation. The chart below outlines steps to complete the activity, actions required, and how long each step will take.

Notes:

Steps	Action	Complete as	Completion Time (in minutes)
a. Review: Prep work	Discuss		10
b. Role-play: Consent forms	Role-play		30
c. Questions: Informed consent	Discuss		10
d. Review: Privacy and due process	Read		5
e. Questions: Privacy and due process	Discuss		10
			65
 Complete on your own  Complete as a team			

a. As a group, review the Prep Work you did on the Bonneville County Mental Health Court’s “Problem Solving Court Application Packet.”

In particular, review:

1. Multi-Party/Agency Authorization For Release of Information For 7th Judicial District Problem Solving Courts [pg 17]
2. Multi-Party/Agency Authorization For Release of Information For 7th Judicial District Problem Solving Courts – Compliance and Assurance Questionnaire [pg 18]

Also review the Behavioral Health Court Consent to Participate from the San Francisco (CA) Behavioral Health Court (available in the Additional Resources section of this module).

b. As a group, discuss the following questions.

1. Which rights are addressed by the Bonneville County and San Francisco forms, respectively?
2. Who are the audiences for these forms? How effectively are these forms written for their intended audiences?
3. Which aspects of these forms do you see integrating into your own program’s materials?
4. What additional materials do you think are important to develop in order to help potential participants make an informed choice to participate in your program? What materials might program staff need as well?

c. As a group, engage in a brief role-playing exercise to explore the process of obtaining informed consent.

1. Using the materials you have reviewed from the application packet for the Bonneville County Mental Health Court, have one member of the group play the role of a potential participant and the other the role of a mental health court team member who is trying to explain the mental health court program and help the potential participant decide whether or not to apply to the program. The exercises should begin with the mental health

Notes:

court team member reviewing the forms with the potential participant, with the two asking each other questions as they go through the packet together. The other members of the group should observe their interaction and write down what they like about the team member's approach and suggestions for what they might do differently.

Notes:

Mental health court team member

Among the issues to keep in mind as you engage in this exercise:

- What does the potential participant already know about the program?
- Why is it important that the potential participant provide consent?
- What is the potential participant consenting to and how will the mental health court team member confirm that these points are clearly understood and accepted?
- How will the mental health court team member accurately and clearly describe the risks and benefits associated with participation in the program?

Potential participant

As a starting-off point, you can refer to this list of questions that a potential participant may ask. This is by no means an exhaustive list. Remember that you are portraying someone who is likely still in custody talking to someone (an attorney or a program coordinator) who is mostly a stranger. Ask all the hard questions that you think someone in this situation might have.

- What's in it for me?
- What do I have to do?
- How long is this program?
- Does this get me out of jail?
- Can I go back to school?
- Are you going to help me find a job?
- Can you help me find somewhere to live?
- What does "treatment" mean?
- What do you mean by "sanctions?"
- What happens if I complete the program?
- What if I decide I don't want to be in the program anymore?

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3. After the first role-play, the observers should share their observations and suggestions for how to approach the interaction differently. As you go through this process, note any questions you may have about the overall issue of informed consent or specific elements of applying this concept to mental health court referrals.
4. Next, two other people from the group should assume the roles of the mental health court team member and potential participant. Repeat the role-play that the first pair engaged in, but this time, be sure to incorporate any additional strategies discussed by the team. As before, the group should discuss their observations and share any suggestions on how to approach the interaction differently.
5. Repeat the role-play one more time with two other members of the team.
6. Based on the role-plays and group discussions, outline five key areas to cover/address when reviewing this information with potential participants in your own mental health court program. This may include policies that need to be clarified in the materials you develop.

1. _____

2. _____

3. _____

4. _____

5. _____

Notes:

d. On your own, review the following foundational concepts from the online presentation.

Privacy: *Information about an individual's health, including mental health and treatment for controlled substances, is the subject of federal and state law that limits how this information can be shared. This information is also often protected by professional guidelines on confidential communications between a clinician and patient or an attorney and client. Remember that even if shared with the best of intentions, this is information most individuals want to keep private.*

Due process: *Problem-solving courts are still courts. They are therefore subject to constitutional protections to ensure that all individuals are treated fairly when accused of a crime. This means that criminal defendants have the right to trial and to a hearing at important points in their cases.*

e. With these concepts in mind, discuss the following questions as a group.

Where do you anticipate needing policies and processes to protect participant privacy? For example, what processes do you anticipate developing (and what consents or waivers may be necessary) for the following:

- Collecting behavioral health information to determine whether an individual is an appropriate candidate for the program
- Sharing information among team members about adherence to medications or abstinence from controlled substances
- Sharing information among team members about compliance with conditions of supervision
- Discussing participant performance during court hearings. For example, how do you see balancing an “open courthouse” with discussion with participants about mental illness or substance use?
- Determining which information about participants goes into public court records and which information is maintained separately

Which aspects of mental health court operations raise potential due process concerns? For example, how do you anticipate addressing the following in your mental health court:








- Ensuring defense attorney participation at crucial junctures
- Returning unsuccessful participants to criminal court, including whether the mental health court judge should preside over sentencing or imposition of sentence for these individuals

Module 5



Activity 3: Defining Participant “Success”

This activity focuses on what a mental health court team ought to consider in determining whether or not a participant has addressed the program’s requirements. First, you will read a scenario of a fictitious participant, Leah Bain. Second, you will view a video segment of the Bonneville County Mental Health Court team discussing Ms. Bain’s upcoming graduation from the program during a staffing meeting. Third, you will discuss questions about the Bonneville Mental Health Court’s criteria for participant graduation. Fourth, you will start to determine the criteria of success and program completion for your own mental health court program. Last, you will draft preliminary graduation criteria for your program. The chart below outlines steps to complete the activity, actions required, and how long each step will take.

Steps	Action	Complete as	Completion Time (in minutes)
a. Scenario: Leah Bain	Read		5
b. Video Clip: Leah Bain	View		10
c. Questions: Perspectives on success	Discuss		10
d. Questions: Graduation criteria	Discuss		15
e. Worksheet: Graduation criteria	Read		20
			60
 Complete on your own  Complete as a team			

Activity 3 addresses the criteria for successful program completion and the process of leaving or graduating from the program.

Outputs

- An understanding that leaving the program involves a process that begins before and extends beyond graduation
- Precise criteria to use when drafting guidelines for successful program completion

a. On your own, read the scenario about Leah Bain, a hypothetical mental health court participant.

Seventeen months ago, Leah Bain was charged with two counts of theft and one count of assault and sentenced to eighteen months of mental health court. She has several prior convictions for theft and one for assault of a foster parent when she was a juvenile. Although she is only 22, Ms. Bain has served jail time twice and was in a diversion program before. A mental health assessment conducted after her arrest revealed that she had symptoms consistent with a schizoaffective disorder, and she was diagnosed as having this disorder, making her eligible for the mental health court program. She has a history of shoplifting. When she was first screened into mental health court, she was dangerously thin and suffering from insomnia. The incident that precipitated her arrest was an attack on her primary care doctor. She said that she was convinced he was trying to kill her. She stole her file and medication from him and stole a patient's purse as she stormed out of the waiting room. Initially her doctor had not wanted to press charges; however, he agreed to do so when he thought that she might actually get help. Ms. Bain has taken Aripiprazole for sixteen months to treat her symptoms. She has been living in a permanent supportive housing unit that the mental health court housing specialist assisted her to obtain and she attends group therapy sessions bi-weekly. Her Assertive Community Treatment (ACT) team case manager has been generally pleased with her progress and efforts; however, she is increasingly concerned about Ms. Bain's weight, which is dangerously low again. The case manager is also concerned about the return of her insomnia. Her probation officer is concerned that she may be having delusions that make her a risk to herself and others.

b. As a group, view the following segment of the Bonneville County Mental Health Court mock staffing meeting, which shows the team discussing whether or not Ms. Bain has met the graduation criteria and is ready to leave the program. To access the video, follow the link below to the course site.

Video Link:

Video 1: Leah Bain Case Staffing Meeting

Notes:

c. As a group, review the Bonneville County Mental Health Court graduation criteria and process described in the “Bonneville County Mental Health Court Handbook” and discuss the following questions (available in the Prep Work section of this module).

1. What is the relationship between the graduation criteria and the graduation process in the case of Ms. Bain?
2. Would you say that the mental health court team members share a common understanding of what success means in the program? What is the relationship between success in the program, this particular participant’s needs, and graduation from the program?
3. Does responsibility to, concern for, or contact with this participant end with her graduation from the program?
4. What are some of the accomplishments noted by the team members, and what are some of the concerns they express?

d. Drawing on your discussion of the Bonneville County Mental Health Court graduation criteria and process, begin as a group to articulate what the conditions and processes may be for participants to leave your program by discussing the following questions.

1. What will constitute “success” in your mental health court? List the general goals or criteria that guide your understanding of success.

2. What criminal justice and behavioral health goals will set the parameters for your program? Here are some concerns and criteria you may wish to consider:

Criminal justice requirements (e.g., no new charges):

- i. We know that supervision officers who monitor individuals closely, such as officers for mental health courts, will notice more technical violations.

Notes:

Which of these violations are worth “terminating” someone from the program over?

Behavioral health requirements (e.g., adherence to individualized treatment plans):

- i. Mental health courts should never require specific treatment in court documents, such as the program participation contract. It would be inappropriate, for example, for a program participation contract to state that “Participant A must take 50 ml of XYZ antipsychotic.”
- ii. We know that mental illnesses can persist over a person’s lifetime. Given that many people have the potential to recover, what realistically constitutes success for a mental health court participant from a treatment standpoint?
- iii. Given that over three-quarters of criminal justice-involved individuals with serious mental illnesses have co-occurring substance use disorders, what are realistic goals for reducing or eliminating substance use?

e. As a group, you are now ready to draft the graduation criteria for your program.

Use the following worksheet, “Graduation Criteria,” to draft these criteria if it is helpful.

Notes:

Worksheet: Graduation Criteria and Conditions

Notes:

A. Principles or General Conditions of Program Success

Consider how these principles or conditions might relate to your overall program goals and objectives.

1. _____
2. _____
3. _____

B. Specific Criteria

Consider how these criteria relate to your target population. Also think about which criteria require the stipulation of a precise timeframe (e.g., clean drug tests for at least six months).

Criminal Justice

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

Behavioral Health

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

C. Other Criteria (e.g., treatment transition plan)

1. _____
2. _____
3. _____

Summary

Notes:

List three issues these activities have raised for your own program planning.

- 1. _____

- 2. _____

- 3. _____

