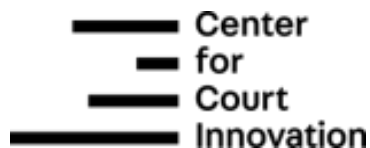
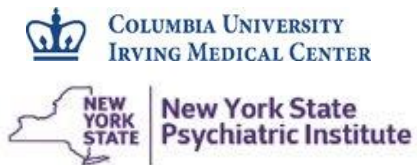


Project Court REACH

Rigorous Evidence-based Approaches to Court-based
Health Promotion

Montgomery County Opiate Treatment Court Stabilization Part

Needs Assessment Report



Executive Summary

In response to the opioid crisis in New York State (NYS), the Unified Court System (UCS) developed a new treatment court model—the Opioid Intervention Court—designed around ten practice guidelines to address the gaps in existing drug treatment courts as they pertain to the management of those with opioid use problems, and who are at risk for overdose. Opioid courts aim to lower the risk of overdose, treat opioid use disorder (OUD), and reduce recidivism via rapid identification, screening, and linkage to treatment, including medications for OUD (MOUD). Project Court REACH (Rigorous Evidence-Based Approaches to Court-based Health Promotion), an implementation intervention, will use evidence-based implementation strategies to refine and evaluate the opioid intervention court in ten participating counties, as framed by the *Ten Essential Elements of Opioid Intervention Courts*, in order to inform and guide the scale-up of the opioid intervention court across NYS.

As part of the technical assistance (TA) activities offered through Project Court REACH, a needs assessment has been conducted with participating counties. This report details the results of a needs assessment conducted by the Center for Court Innovation (the Center), the New York State Psychiatric Institute (NYSPI), Columbia University in partnership with the New York State Unified Court System (UCS) between September 2020 and January 2021. The needs assessment was designed to assist the Montgomery County Opiate Treatment Courts Stabilization Part in identifying its current strengths, resources, and challenges to support future planning for their opioid court. This report describes the needs assessment process, summarizes the information obtained during the needs assessment, outlines significant findings, and offers a summary of recommendations that will be addressed and refined during upcoming strategic planning meetings.

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I. BACKGROUND

This report was conducted by the Center for Court Innovation (the Center), in collaboration with researchers at Columbia University/New York State Psychiatric Institute, and is a result of the first phase of the technical assistance activities of Project Court REACH (Rigorous, Evidence-based Approaches to Court-based Health Promotion).

Center for Court Innovation

The Center promotes new thinking about how the justice system can respond more effectively to issues like substance use, intimate partner violence, mental illness, and juvenile delinquency. The Center achieves its mission through a combination of operating programs, original research, and expert assistance. For over two decades, the organization has been intensively engaged in designing and implementing problem-solving courts, and each year, it responds to hundreds of requests for training and technical assistance and hosts hundreds more visitors at its operating programs in New York and New Jersey. Its staff includes former prosecutors, defense counsel, probation officials, senior administrators of major criminal justice agencies, social workers, technology experts, researchers, victim advocates, and mediators. The National Training and Technical Assistance team at the Center provides training and technical assistance to statewide treatment court systems, helping state-level treatment court coordinators and other officials enhance the operation of drug courts and other treatment courts throughout their state.

Columbia University/New York State Psychiatric Institute

Columbia University and the New York State Psychiatric Institute have conducted cutting-edge research into clinical practice for over 50 years, with an eye toward developing evidence-based treatments and improving access to mental health and substance use services for vulnerable populations. A multidisciplinary team of researchers lending their expertise to Project Court REACH includes staff from the Division of Substance Use Disorders, Division of Translational Epidemiology, Mailman School of Public Health, the Center for the Promotion of Mental health in Juvenile Justice, and the Implementation Science and Outcomes Core, HIV Center for Clinical and Behavioral studies.

Project Court REACH, HEAL and JCOIN

Project Court REACH is a National Institute of Drug Abuse funded project (NIDA; U01 DA050071) designed to enhance the operations of 10 opioid courts in NYS by improving participants' access to evidence-based treatment and recovery supports, providing ongoing technical assistance and research evaluation to bring about the successful sustainment of the opioid intervention court. Project Opioid Court REACH is part of the national **HEAL** initiative, which stands for **Helping to End Addiction Long-term**, led by the National Institutes of Health (NIH). This initiative broadly aims to speed scientific solutions to stem the national opioid public health crisis.

JCOIN, which stands for the **Justice Community Innovation Network**, is the part of the HEAL initiative that focuses on all aspects of the criminal justice system—community supervision, jail, prison, and the courts. The overall goal of JCOIN is to improve access to high-quality care for people with opioid misuse and opioid use disorder in justice settings, whether detained or residing in the community. The centerpiece of the JCOIN approach is establishing

partnerships with local and state justice systems and community-based treatment providers to achieve this aim. Project Opioid Court REACH is one of 12 projects (and growing) across 16 states/territories in the JCOIN network, that aims to enhance opioid court operations and improve participants' access to recovery supports and treatment.

The Opioid Epidemic and the Opioid Intervention Court

In the context of a nationwide opioid epidemic, rates of opioid use, opioid use disorder (OUD), and overdose disproportionately affect those in the criminal justice system. In a nationally representative sample taken in 2016, 19.5% of individuals with an opioid use disorder who misused prescription pain relievers, and 42.5% of individuals who used heroin, reported recent contact with the criminal justice system¹. Yet despite such high rates of opioid use and OUD, screening for and use of evidence-based treatments for opioid use and OUD, including MOUD, is substantially underused in justice populations.

In New York state alone, approximately 3,224 opioid-related overdose deaths occurred in the general population in 2017, marking a tenfold increase in the state from 2010 to 2017. In Montgomery county, the opioid overdose mortality rate tripled from 2009-2013 to 2014-2018, increasing from <5.6 to 17.9 per 100,000 members of the population aged 15-64. Though the opioid overdose mortality rate is increasing more rapidly in Montgomery County than it is across NYS, it is still slightly lower than the NYS opioid overdose mortality rate (19.3 per 100,000 members of the population aged 15-64).

Courts are a critical point of intervention for justice system practitioners to identify opioid use, OUD, and overdose risk, and link defendants to treatment/MOUD in the community. Nationally, justice system practitioners are handling a spike in opioid-related arrests—police, probation officers, and court staff are being trained to administer overdose reversal medication, and jail staff are overseeing the involuntary opioid withdrawal of incarcerated people. Jurisdictions across the country have begun to create opioid intervention courts to address these acute challenges.

In 2016, UCS started the nation's first opioid court in Buffalo, New York, in response to the high rate of opioid-related deaths in Erie County. In 2019, Judge Janet DiFiore set a goal that New York would have an opioid court in every jurisdiction in order to provide the court system with another method for combatting the opioid epidemic. That same year, the Center for Court Innovation convened a national panel of treatment court experts to review New York state's opioid court guidelines and develop the *Ten Essential Elements of Opioid Intervention Courts* to assist jurisdictions nationwide in implementing the court. This guiding framework combines evidence-based practices from the treatment field with best practices from drug courts, resulting in a new court model that prioritizes linking court-involved adults who use opioids with life-saving treatment, including MOUD. The Ten Essential Elements include: 1) broad legal eligibility, 2) immediate screening for risk of overdose, 3) informed consent after consultation with defense counsel, 4) suspension of prosecution or expedited plea, 5) rapid clinical assessment and treatment engagement, 6) recovery support services, 7) frequent judicial supervision and compliance monitoring, 8) intensive case management, 9) program completion and continuing care, and 10) performance evaluation and program improvement.

¹ Winkelman, T. N., Chang, V. W., & Binswanger, I. A. (2018). Health, Polysubstance Use, and Criminal Justice Involvement Among Adults With Varying Levels of Opioid Use. *JAMA Network Open*, 1(3). doi:10.1001/jamanetworkopen.2018.0558

II. METHODOLOGY

This needs assessment was informed by technical assistance (TA) activities conducted by Center for Court Innovation staff with the Montgomery county opioid court, formally named Montgomery County Opiate Treatment Court Stabilization Part (Stabilization Part) during the Needs Assessment phase of Project Opioid Court REACH. During the Needs Assessment phase, all technical assistance activities were conducted virtually due to the Covid-19 pandemic. Each Needs Assessment activity is outlined below following the list of committee members.

Stakeholder Group

Members of the Stabilization Part stakeholder group who have participated in technical assistance activities include:

- Hon. Felix Catena, Presiding Judge, Montgomery County Opiate Treatment Court Stabilization Part
- Michael Dayian, Court Attorney, Montgomery County Opiate Treatment Court Stabilization Part
- Laura Smith, Court Coordinator, Montgomery County Opiate Treatment Court Stabilization Part
- William Martuscello, Montgomery County Public Defender
- Lorraine Diamond, Montgomery County District Attorney
- Colleen Gallagher-Kirkland, Regional Director, Conifer Park
- Nydia Hill, Peer Specialist, Conifer Park
- Jeffrey Smith, Montgomery County Sherriff's Department

Additional Interviewees

- Kelli McCoski, former Montgomery County District Attorney
- Michael Viscosi, Montgomery County Public Defender's Office
- Chief John Thomas, Amsterdam Police Department

Needs Assessment Activities

1. Administrative surveys

These surveys were completed by the Stabilization Part court coordinator, and the partner treatment provider, Conifer Park. The surveys included questions about opioid court operations, such as eligibility criteria, screening and assessment processes, stakeholder engagement, and treatment planning. The results of this survey informed the follow-up in-depth interviews.

2. In-depth interviews with court staff

After having reviewed data collected from the administration surveys, Center staff conducted ten in-depth follow-up interviews with key court stakeholders (e.g. judge, court administrator, defense, prosecution), to gather more information about areas for enhancement.

3. Follow-up interviews with treatment staff

Research staff conducted three rounds of interviews with county treatment staff to better understand the service gaps and capacity building opportunities within the community. Interviews were conducted with leadership and front-line staff from Conifer Park (the court's current treatment partner) and leadership from another county treatment provider who is not yet affiliated with the opioid court. Interviews largely centered on understanding how the court and treatment systems collaborate, exploring challenges and facilitators to interagency collaboration.

4. MOUD systems mapping exercise

Research staff at Columbia University created a reference map of MOUD service providers within jurisdiction that may be leveraged to compensate for service gaps that exist in Montgomery County's treatment network. The map consists of data sourced from:

- SAMHSA Behavioral Health Provider Locator
- SAMHSA Buprenorphine Practitioner Locator
- Federally Qualified Health Center (FQHC) Registry
- OASAS Centers of Treatment Innovation (COTI) Registry
- OASAS Accredited Provider Directory
- OASAS Accredited MAT Provider Directory

5. UCMS data review

III. FINDINGS AND RECOMMENDATIONS

The findings below are organized according to the themes laid out in the *Ten Essential Elements of Opioid Intervention Courts*. In setting forth these findings, the confidentiality of participants from whom the data was collected has been preserved to the greatest extent possible.

The mission of the Stabilization Part is to identify newly arrested defendants that are at risk of overdose and transfer them to the care of a treatment provider monitored by the court. The court launched in August 2019 and began taking participants in the fall of 2020. The court receives referrals from assistant district attorneys, defense counsel, and law enforcement. The court has served five participants, all of whom have been referred to inpatient treatment at Conifer Park. The participants spend 28-35 days at Conifer Park, and then return to the court to officially complete the opioid court program.

1. Broad Legal Eligibility

According to the *Ten Essential Elements*, opioid courts should accept the broadest range of charges possible, and eligibility criteria should be based on the client's clinical needs and risk of

overdose. As the goal of the program is to reduce the risk of overdose, opioid courts should strive to accept every clinically appropriate defendant.²

The Stabilization Part currently accepts all misdemeanors, violation-level, and felony level offenses that are Article 216 eligible. Other cases are potentially eligible if all stakeholders (i.e. the judge, DA, and defense counsel) consent. Stakeholders agree that individuals who are in crisis due to opioid use are appropriate for the program, but there was not an agreement on what ‘in crisis’ means clinically. Moreover, stakeholders were generally unclear about eligibility criteria and the process for identifying opioid court participants. Several stakeholders expressed interest in clarifying both the eligibility criteria and the referral process.

A new District Attorney started in January 2021; she is supportive of the court and prepared to work with existing stakeholders. The original stakeholders created and signed a memorandum of understanding in April 2019 that details the court’s mission statement, and outlines procedures and processes from arrest through treatment stabilization (see appendix). This MOU has not yet been reviewed with the new District Attorney.

Recommendations:

- Review and revise legal eligibility requirements;
- Come to an agreement on the range of clinical need that is appropriate for opioid court;
- Create a new MOU with the new District Attorney.

2. Immediate Screening for Risk of Overdose

Opioid courts should use a specialized screening tool to identify individuals at risk of overdose. This screening should be universally applied and take place as soon as possible after arrest. Information obtained from the screening should be shared only with defense counsel until defense consents to the release of the information as a condition of entering the opioid court program.³

The Stabilization Part developed a specialized screening tool to help identify potential participants. This tool, the “Opiate Treatment Court Brief Assessment” is used by the court coordinator with potential participants that have been referred to the court, and includes items such as substances of choice, whether the participant is currently or has ever been in treatment, number of emergency room visits in a certain timeframe, if the individual has ever overdosed, and if they have received Narcan, among other items (see appendix). This tool is brief and is helpful in determining if the participant is suitable for the Stabilization Part. Center staff did not discern the manner in which the tool’s results are shared with defense counsel.

The Stabilization Part is currently serving only five participants, despite stakeholders reporting a great need in their criminal justice population. Referrals to the Stabilization Part are currently inconsistent and are not necessarily representative of the breadth of opioid use disorder and

² Center for Court Innovation (2019) *The Essential Elements of Opioid Intervention Courts*.
https://www.courtinnovation.org/sites/default/files/media/documents/2019-07/report_the10essentialelements_07092019.pdf

³ Id

individuals at risk of overdose who are arrested or ticketed in the county. Interviews with law enforcement revealed that they have not yet been provided guidance on referring potential opioid court participants directly to the court. OCA has worked with the Stabilization Part to create a referral procedures document (see appendix); this has not been shared with law enforcement partners as of the writing of this report.

Recommendations:

- Integrate the protocols outlined in “Referral Procedures” by conducting outreach to law enforcement and defense counsel in order to facilitate more and quicker referrals;
- Increase buy-in and support from law enforcement and defense counsel through marketing/education efforts;
- Review and revise process by which participants are identified and informed about opioid court;
- Consider how to integrate the peer navigator into the identification and screening process at the court.

3. Informed Consent after Consultation with Defense Counsel

Potential opioid court participants should meet with their defense counsel prior to program entry. Defense counsel should be available for consultation as soon as possible after the screening is completed and inform the defendant of all possible options.⁴

The Montgomery County Public Defender’s Office has offered broad support for the Stabilization Part and defenders interviewed expressed their awareness of the community need for an opioid court part. Defense counsel clearly stated their desire to participate in the process; however, many of Montgomery County’s public defenders work part-time in this role and are not aware of Stabilization Part procedures. Interviews with county public defenders revealed that they are not wholly clear about the eligibility and screening process by which their clients may be able to participate in the Stabilization Part, nor are they familiar with the *Ten Essential Elements of Opioid Intervention Courts*.

Defense counsel who have had clients participate in the Stabilization Part report limited to no contact with their clients to provide ongoing legal counsel after their clients entered the program and were placed in inpatient treatment facilities. Public defenders shared that they are not amenable to daily appearances in court for outpatient participants, as the case is on pause during that time. The MOU should be reviewed with all stakeholders and a consensus should be reached on the procedure for court appearances (i.e. who should be present).

Recommendations:

- Integrate the public defender in stakeholder meetings to develop processes that work from a defense counsel perspective;
- Ensure public defenders are aware of and know the process for making referrals;
- Public defenders should be available to meet with all potential participants after screening is completed by coordinator.

⁴ Id.

4. Suspension of Prosecution or Expedited Plea

Opioid courts suspend the prosecution of the legal case while the participant is connected to treatment supports and on the path toward clinical stability. The prosecution should agree to pause the prosecution of the case for the duration of the participant's time in opioid court, allowing the participant, the court, and the treatment providers the ability to prioritize clinical stabilization for the participant.⁵

For the Stabilization Part, prosecution is stayed for the duration of program participation while the participant focuses on clinical stabilization. After a participant finishes inpatient treatment and therefore completes the opioid court, the case is returned to the traditional court process. Depending on the circumstances of the case—and negotiations between prosecution and defense—this may mean a plea, entry into drug court, or a return to traditional prosecution. Case dispositions are not affected by participation in opioid court, either positively or negatively. Some interviewees in the defense bar indicated that they were unfamiliar with the procedures of opioid court and were unaware that prosecution would be stayed, and discovery still provided.

Recommendations:

- Consider favorable case disposition on case-by-case basis;
- Ensure defense attorneys understand the suspension of prosecution procedure, including access to discovery during the program duration, through participation in stakeholder meetings.

5. Rapid Clinical Assessment and Treatment Engagement

Opioid court clients should receive a comprehensive clinical assessment administered by a qualified treatment professional, and should rapidly engage in individualized, evidence-based treatment services, ideally within 24 hours of arrest. Treatment providers should develop treatment plans collaboratively with the client.⁶

In the Stabilization Part, after receiving the brief screen by the court coordinator (the Opiate Treatment Court Brief Assessment, see appendix), participants are quickly referred to inpatient treatment at Conifer Park. Participants are not currently being screened using the New York State Treatment Court Screener that is embedded within UCMS, but they receive a comprehensive clinical assessment by the treatment provider at Conifer Park. During stakeholder interviews, it was indicated that referral information to Conifer Park for inpatient beds could contain more clinical information, and that the referrals could be communicated earlier in order to prepare for intake. Conifer Park also receives referrals from opioid courts in Buffalo and Rochester, and facilitates those referrals through a mobile van, which could be leveraged for Montgomery County as well.

To date, all opioid court participants have been referred to inpatient treatment at Conifer Park. Currently, potential participants have only been offered inpatient treatment, and the potential

⁵ Id.

⁶ Id.

participants' clinical preferences (i.e. outpatient treatment), are not taken into consideration in the treatment plan. The court could expand its clinical options to include outpatient treatment and lower levels of care, by potentially making referrals to St. Mary's Hospital or other outpatient providers in the county. The lower level of clinical care may be appropriate for some participants. This could afford the court the ability to have frequent check-ins with the client and lower the barrier to participation in treatment and the court. The NYS Treatment Screener within the UCMS may assist in this determination.

Recommendations:

- Broaden treatment options by building relationships with outpatient treatment providers, including MOUD providers, in Montgomery County;
- Administer NYS Treatment Screening Form to collect more clinical information from participants;
- Encourage more in-depth information-sharing with treatment providers;
- Consider clients' social circumstances and clinical preferences when making treatment decisions;
- Stakeholders can benefit from more education around clinical options for opioid use disorder and overdose risk.

6. Recovery Support Services

Opioid courts should offer participants a broad range of evidence-based recovery support services. This includes using peer recovery advocates to help participants engage in the program and offer them additional guidance and encouragement. In addition, courts should leverage partner agencies and volunteers to assist participants with social stability, such as general medical needs, trauma-related care, housing, transportation, and other supports. Where available, opioid intervention courts should partner with family support navigators, who can help address the impact of opioids on the entire family.⁷

The Stabilization Part currently benefits from the support of a peer navigator, who is a drug treatment court graduate, and is bilingual (English and Spanish). The peer navigator currently supports opioid court participants through phone check-ins while they are at the treatment facility to check on progress and offer encouragement. Currently, participants in opioid court are not receiving court-based case management services for needs such as medical care and housing support. As of writing, all current participants are in inpatient treatment, and receive all treatment from Conifer Park. They are not engaged in other methods of recovery support through the court.

Recommendations:

- Use peer at the point of referral to the court through treatment;
- Assess participants' case management needs and assist in coordinating social supports;
- Identify and partner with local recovery support service agencies to provide additional support to participants, including exploring family support navigation and services.

7. Frequent Judicial Supervision and Compliance Monitoring

⁷ Id.

Opioid court participants should have frequent interactions with the judge during the duration of their participation in the program. The judge should use motivational interviewing to engage participants in strengths-based conversations about their progress. Participants should undergo frequent, random drug testing using evidence-based drug testing protocols. During the 90-day stabilization period, however, the court should avoid imposing punitive sanctions for positive drug tests. Rather, in response to positive drug tests, the court should work with treatment partners to adjust the participant's treatment plan to achieve clinical stabilization.⁸

Stabilization Part participants appear in front of the judge once when they begin the program and then again when they end the program. After the first appearance, participants are placed in residential treatment at Conifer Park where they remain for the entirety of the opioid court program. All stakeholders were interested in having interim judicial appearances using teleservices. Stakeholders report that appropriate technology is available.

All drug testing is conducted at the treatment facility. Communications between the court-based stakeholders and Conifer Park occur via email.

Recommendations:

- Provide judicial interaction with participants on a regular basis, either through teleservices or in-person appearances;
- Schedule stakeholder meetings to occur throughout the year to review procedures and program operations;
- Formalize plan between court-based stakeholders and treatment providers to ensure ongoing communication about participant progress.

8. Intensive Case Management

Opioid court case managers should help to coordinate services and ensure that participants have the necessary support in place during the stabilization period. Case managers act as liaisons between the court, supervision agencies, and service providers.⁹

To date, all Stabilization Part participants are admitted to inpatient treatment; the court does not engage in case management during that time. Stabilization Part stakeholders agreed that there was little communication between parties while opioid court participants were engaged in inpatient treatment. Providing court-based case management services, such as facilitating communication between stakeholders, and offering referrals to social services where indicated, will also help address the participants' social needs in order to further secure their stabilization.

Recommendations:

- Develop an active case management program beginning when the participant enters Stabilization Part, for all participants (including inpatient through teleservices);
- Increase communication among team members and clearly define roles.

⁸ Id.

⁹ Id.

9. Program Completion and Continuing Care

Each opioid court should have clear completion criteria. Criteria should include a requirement that participants to complete a minimum of 90 days of treatment and supervision. After this period, eligible participants should be assessed for possible enrollment in longer-term programs, like a treatment court, where they can continue to receive evidence-based treatment and achieve long-term recovery. In situations where the participant’s legal case will be resolved at the conclusion of the 90-day stabilization period—for example, through dismissal of charges or a plea agreement with no ongoing court involvement—participants should be offered continuing care planning before they leave the program.¹⁰

The MOU for the Stabilization Part indicates that at a minimum, participants are required to attend all evaluations, treatment sessions, court appearances, remain medication-compliant, and avoid “injurious habits.” The Stabilization Part benefits from having these criteria formally written for all stakeholders to refer to for program completion. Currently, participants remain in the program for the duration of their inpatient treatment, which is around 28-35 days, depending on whether detox occurs at Conifer Park or beforehand. The participants are deemed to have completed the opioid court after achieving clinical stabilization, however, it was not clear what aftercare plans are made by the court.

Recommendations:

- Stakeholders should consider creating a formal completion criteria checklist that could include elements of social stabilization to be addressed through case management;
- Continuing care plans should be developed with clients and the court, to support participants with recovery after they complete their 28-35 days of inpatient treatment, or if they are in outpatient services, whether they continue in the opioid court program, or after they complete.

10. Performance Evaluation and Program Improvement

Opioid courts should collect data around clearly defined, participant-level performance measures. Courts should collect this data continuously and meet at least annually as a team to analyze this data, ideally with the help of a qualified research partner. This will allow the court to identify service gaps and make program improvements.¹¹

Opioid courts collect data around clearly defined, participant-level performance measures, which should be entered into the UCMS dashboard. The UCMS dashboard is a platform for inputting, storing and updating information about participants’ progress through the opioid court, including information about case status, screening results, court attendance, treatment activities, and drug testing results. Information entered into the UCMS dashboard is then used to monitor and track the Stabilization Part progress at a state level. This data will also be utilized to track the Stabilization Part’s progress during your participation in Project Opioid Court REACH.

¹⁰ Id.

¹¹ Id.

Because this data is being utilized to track court progress, it is important that it is collected and recorded on a continuous basis to ensure its quality, completeness, and accuracy. This will allow the court to track its performance in relationship to its identified goals and benchmarks, helping to identify areas for improvement and guiding the court's progress towards achieving its goals. It will also ensure that, when this court's UCMS data is reviewed by the project team and the state, Stabilization Part's performance is accurately measured.

The Stabilization Part's data includes one participant, as of the most recent data pull on 10/23/2020. After the next data pull in February 2021, Project REACH research staff will put together an overview of the court's UCMS data completeness and results to-date, for all to review together during the next project phase.

Recommendations:

- Work with Project REACH staff to identify areas and strategies for data entry improvement;
- Implement recommendations from this report.

IV. CONCLUSION

The Montgomery county Stabilization Part has numerous assets that can be leveraged to enhance the practices of their court. All stakeholders are generally willing to share information and devote time to ensure that the opioid court achieves its goals of preventing overdose and stabilizing participants. The court can implement the recommendations made by Center staff in this report, specifically to ensure consistent stakeholder communication, strengthen relationships with law enforcement to enhance the referral process, expand clinical eligibility to participants suitable for outpatient treatment, integrate the peer specialist into the court process, and provide court-based case management services. It is hoped that this report will offer the stakeholders useful information and concrete suggestions for the long-term enhancement of the opioid court.

References

Center for Court Innovation (2019) *The Essential Elements of Opioid Intervention Courts*. https://www.courtinnovation.org/sites/default/files/media/documents/2019-07/report_the10essentialelements_07092019.pdf

Winkelman, T. N., Chang, V. W., & Binswanger, I. A. (2018). Health, Polysubstance Use, and Criminal Justice Involvement Among Adults With Varying Levels of Opioid Use. *JAMA Network Open*, 1(3). doi:10.1001/jamanetworkopen.2018.0558

Appendix:

1. Stabilization Part MOU
2. Opiate Treatment Court Brief Assessment
3. Referral Procedures
4. MOUD Map
5. Sequential Intercept Model Map (Draft)

**MEMORANDUM OF UNDERSTANDING
MONTGOMERY COUNTY SUPREME COURT
MONTGOMERY COUNTY OPIATE TREATMENT COURTS
STABILIZATION PART**

Mission Statement: In recognition of the opiate crisis affecting the County of Montgomery, this Part seeks to preserve human life. The mission of the Stabilization Part is to identify newly arrested defendants who are in an acute opiate addicted state and are at high risk for overdose. This Part will expedite the transfer of an arraigned defendant into the care and supervision of a treatment provider which will be monitored by the Court. The aim of this Part is not to confer a dispositional benefit upon a defendant but rather to preserve his or her existence and provide an opportunity to seek recovery.

Overview: This Memorandum of Understanding shall generally outline the process, procedures and policy of the Court and its stakeholders: Montgomery County Supreme Court, Montgomery County District Attorney's Office (MCDA), Montgomery County Public Defender (MCPD), Montgomery County Probation Department (Probation), private defense bar, and law enforcement agencies in Montgomery County.

Process: **Arrest.** Following the arrest of a defendant who is being held in the custody of the Montgomery County Sheriff (MCSO) or the City of Amsterdam Police Department and awaiting a morning arraignment:

○ Between the hours of 8:00 a.m. and 8:30 a.m. the Montgomery County Drug Court Coordinator who is employed by the NYS Unified Court System shall confer with both the MCSO Deputies assigned to jail booking and with the Amsterdam Police Department and review their processing and medical records in order to assess those defendants appearing clinically acute (criteria to be established by recognized clinical measurements) for opiate overdose risk. Those defendants will be personally interviewed by the Drug Court Coordinator to assess their high risk/high need acute state ("clinically eligibility").

○ Once said defendants are identified as clinically eligible, that information will be indicated to the Montgomery County Court Clerk who will arrange for the transport of those defendants to the Montgomery County Opiate Treatment Court Stabilization Part (MCOTC-SP) for arraignment. The Montgomery County Court Clerk shall also obtain copies of the said defendants' accusatory instruments.

○ **Arraignment.** The defendant shall undergo a conventional arraignment before the MCOTC-SP judge. For misdemeanor and violation level offenders, an order of removal to Supreme Court shall be executed. Bail shall be considered in conformance with Criminal Procedure Law §510.30 and the spirit of this Part. The Montgomery County Drug Court Coordinator's assessment of the defendant's clinical eligibility shall be confirmed by the MCOTC-SP judge at arraignment. Present at arraignment shall be a member from the MCDA's office and either a member from the MCPD's office or an attorney assigned pursuant to Article 18-b of the County Law. Effort shall also be made to identify and contact a defendant's retained counsel, if any.

○ **Legal Eligibility for Stay of Prosecution.** Montgomery County District Attorney Kelli P. McCoski has consented to stay the prosecution of all misdemeanor and violation-level offenses and all felony offenses currently enumerated in Criminal Procedure Law Article 216 for clinically eligible defendants. Following arraignment the parties shall indicate on the record stay of prosecution and speedy trial waiver.

○ **Stay of Prosecution.** For an initial period of 45 calendar days the prosecution shall be stayed pending defendant's daily compliance with the clinical directives of the MCOTC-SP court via the treatment provider and case manager. In the case of a defendant who is not transferred bed-to-bed to an inpatient facility said defendant shall be required to report to the Coordinator daily, Monday through Friday, and in the MCOTC-SP as directed. Said stay may be extended as required by the MCOTC-SP. Additionally, said stay shall only be applicable to the matter before MCOTC-SP and not any other pending matter, unless upon consent of the parties said other matter was removed to MCOTC-SP. In other words, MCOTC-SP shall not issue stays for matters not before it. All rights pertaining to the People and defendant are stayed until a party unilaterally withdraws from the stay of prosecution agreement. Said withdrawal must occur on the record.

○ **Legal Eligibility for all Other Offenses.** All defendants who meet the clinical criteria shall be transferred to MCOTC-SP with the exception of Class A-I, A-II offenses and Class B Violent Felony Offenses. Felonies that are not enumerated in CPL Article 216 shall not be eligible for this part except upon the written consent of the District Attorney, defense counsel and the court.

○ **Assignment of Counsel.** Upon the assignment of an assistant public defender or an attorney pursuant to article 18-b of the County Law, the MCDA shall provide a written stay of prosecution for a 45-day period which

will stay the prosecution and preserve all of the defendant's rights. In the event a defendant has or desires to retain private counsel who is not present at arraignment, the matter will be adjourned for the appearance of counsel and consideration of the stay application.

○ **Initial clinical process.** Following the arraignment the defendant will be immediately linked with a treatment provider who shall meet with defendant and commence a regimented inpatient/outpatient program for which defendant's attendance and participation shall be reported daily to the MCOTC-SP Coordinator. In the event a defendant were to abscond, the treatment provider shall notify the MCOTC-SP Coordinator and the MCDA will forward a proposed warrant to the court.

The MCOTC-SP Coordinator shall communicate defendant's progress in treatment to the MCOTC-SP in person or in writing. In the event stabilization has not been reached within 45 calendar days, the MCOTC-SP, within its sole discretion may, after reviewing the clinical and participation/attendance records of defendant, extend the stabilization period up to an additional 45 calendar days. Should defendant not reach stabilization within the extended period, the matter shall be transferred consistent with this memorandum.

○ **Daily reporting.** All defendants that are in outpatient treatment shall report to the Coordinator every day. In the event a defendant is taken into custody for a violation of the MCOTC-SP requirements the assigned attorney shall be notified forthwith and defendant shall be placed on the following day's docket for further proceedings. Those taken into custody on a Friday shall appear on the following Monday's calendar.

○ **Failure to Appear.** The MCOTC-SP retains the authority to issue a bench warrant upon a defendant's failure to appear.

○ **Failure to adequately participate.** Recognizing the challenges associated with recovery, which include but are not limited to relapse, untruthfulness and reoffending, the MCOTC-SP Judge will have sole discretion as to whether and to what extent an eligible defendant has failed to meet the requirements and expectations consistent with the spirit of this Part. At a minimum defendants are required to attend their evaluations, individual and group treatment sessions, daily court appearances, comply with medication-assisted treatment (MAT) and shall avoid injurious or vicious habits. In this regard the Court may consider all relevant evidence and/or treatment-court-styled-sanctions in the event of a curable violation when considering defendant's compliance and continuation in this Part.

○ **Contesting MCOTC-SP Compliance.** Defendant shall be entitled to proffer, on the record, his or her explanation as to the Court's determination relative to lack of compliance. The Court shall have the discretion to remand a defendant into custody pending completion of the proffer process. If the Court finds defendant committed a non-curable violation, then the stay of prosecution shall terminate and the matter shall be transferred for disposition in accordance with this memorandum.

○ **Achieving stabilization.** Upon a clinical determination of stabilization or upon other termination from the MCOTC-SP, a defendant shall proceed within one of the following options:

○ *Misdemeanor and Violation Level Offenses.* Such a defendant, following consultation with counsel, prosecution and the court shall have the option of: (1) entering a plea to the charge or a plea to a lesser offense or other dispositive application which can be presided over and disposed of by the MCOTC-SP judge but only in the event the proposed disposition is an ACD. (2) Upon consent of the necessary parties the matter may be transferred to the Montgomery County Adult Drug Treatment Court or other eligible treatment court; (3) In the event a defendant pursues motion practice and trial the matter shall be transferred to the local criminal court having jurisdiction over the case.

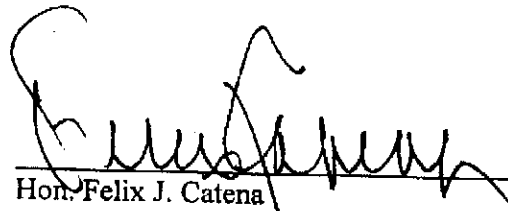
○ *Felony offenses.* The following options are available to a defendant initially charged with a felony: (1) in the event a felony complaint is negotiated for a plea down to a misdemeanor offense the MCOTC-SP judge may take the necessary procedural steps to dispose of the matter consistent with the preceding paragraph for misdemeanor and violation-level offenses. (2) The case may be transferred to the Montgomery County Adult Drug Treatment Court, Judicial Diversion Program or other eligible treatment court. (3) The parties may negotiate a disposition which necessitates a superior court information. (4) In the event a defendant pursues motion practice and trial the matter shall be transferred to the local criminal court having jurisdiction over the case.

○ **Violation of Probation.** In the event a defendant who is in custody is a probation violator said defendant shall be evaluated by the Coordinator who shall transmit her assessment to the Judge assigned to the probation violation. Only at the sole direction of the assigned judge shall the violator be transferred to MCOTC-SP.

○ **Out-of-Custody Defendants.** The MCOTC-SP Coordinator will attempt to identify those out-of-custody defendants appearing at arraignment in the local criminal courts who may be clinically eligible for participation in the MCOTC-SP. The local criminal court will endeavor to make an announcement to the general audience near the commencement of court as to the availability of this Part and then communicate with the Coordinator so that those defendants who might meet the clinically eligible requirements are assessed. If those defendants are assessed as clinically eligible then they shall be referred to appear before the MCOTC-SP. In such a case the foregoing procedures shall be applicable once appearing before the MCOTC-SP.

○ **Post Arraignment Transfer.** Upon the sole discretion of MCOTC-SP the Court may accept transfers of defendants whose matters are pending in any City, Town, or Village Court who meet the clinical criteria, on an interim basis, until such time as they are stabilized and can return to the transferring court.

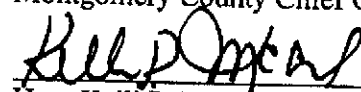
Dated: April 19, 2019


Hon. Felix J. Catena
Acting Justice Supreme Court and MCOTC-SP Judge

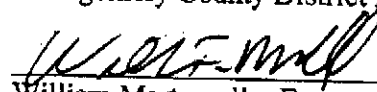
Dated: April 17, 2019


Timothy J. Riley
Montgomery County Chief Court Clerk,

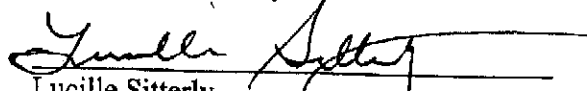
Dated: April 15, 2019


Hon. Kelli P. McCoski
Montgomery County District Attorney

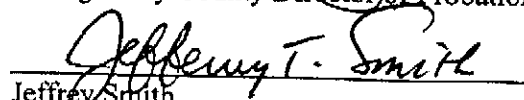
Dated: April 18, 2019


William Martuscello, Esq.
Montgomery County Public Defender

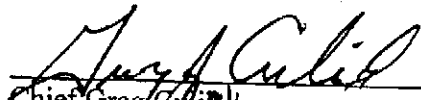
Dated: April 18, 2019


Lucille Sitterly
Montgomery County Director of Probation

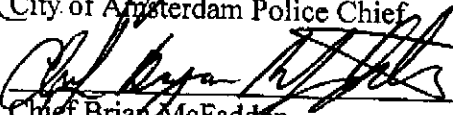
Dated: April 18, 2019


Jeffrey Smith
Montgomery County Sheriff

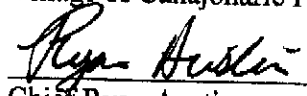
Dated: 4/15/19


Chief Greg C. ...
City of Amsterdam Police Chief

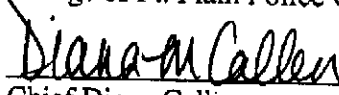
Dated: 4-15-19


Chief Brian McFadden
Village of Canajoharie Police Chief

Dated: 4-15-19


Chief Ryan Austin
Village of Ft. Plain Police Chief

Dated: 4-16-19


Chief Diana Callen
Village of St. Johnsville Police Chief

OPIATE TREATMENT COURT BRIEF ASSESSMENT

DATE OF ASSESSMENT _____ TIME _____ LOCATION _____

NAME: _____ DOB: ____/____/____

MALE/FEMALE SS# _____ ATTY: _____

ADDRESS: _____

EMERGENCY CONTACT PERSON: _____

RELATIONSHIP TO YOU _____ PHONE # _____

WHAT ARE YOUR CHARGES? _____

	PRIMARY	SECONDARY	TERTIARY
DRUG			
FREQUENCY			
AMOUNT			
LAST USE			

ARE YOU CURRENTLY IN TREATMENT? Y/N INSURANCE: _____

WHEN WAS THE MOST RECENT TIME THAT YOU WERE IN TREATMENT? _____

LAST PROVIDER: _____

HOW MANY TIMES HAVE YOU BEEN TO THE ER IN THE LAST 6 MO. ? WHY? _____

HAVE YOU EVER OVERDOSED? Y/N WHAT DRUG? _____ HOW MANY TIMES? _____

HAVE YOU EVER RECEIVED NARCAN? Y/N HOW MANY TIMES? _____

DO YOU HAVE ANY MAJOR MEDICAL ISSUES? _____

DO YOU HAVE A MENTAL HEALTH DIAGNOSIS? _____

CURRENT MEDICATIONS: _____

REFERRED BY: _____ PREPARED BY: _____

MONTGOMERY COUNTY OPIOID COURT LAW ENFORCEMENT REFERRAL PROCEDURE

The primary focus of the Montgomery County Opioid Court is to connect chemically dependent individuals who are arrested with misdemeanor and nonviolent felonies to treatment. The goal of the Montgomery County Opioid Court is to connect potential participants with treatment interventions as immediately as possible.

If someone is arrested for a drug offense, appears to be under the influence of alcohol or other drugs and/or admits to being under the influence or having a substance use issue please make a referral to the Montgomery County Opioid Court.

Please note- referrals are not limited to only those found to be in possession of opioids and/or using opioids. All arrestees with a substance use issue are eligible to be assessed for opioid court.

Please provide all arrestees with Montgomery County Opioid Court resource card

To make a referral:

Laura Smith – Opioid Court Coordinator

Cell Phone: 518-424-2500 (call or text) Please leave a message

Email: lasmith@nycourts.gov

Office Phone: 518 853-8267

During Court business hours Monday through Friday 8am-4pm:

If possible, please hold the individual for Opioid Court staff to complete an assessment and contact Laura Smith

If you are issuing an appearance ticket- please email or text the name of the defendant and date of next appearance to Laura Smith

OPIOID COURT REACH: POTENTIAL MOUD PROVIDERS FOR MONTGOMERY COUNTY

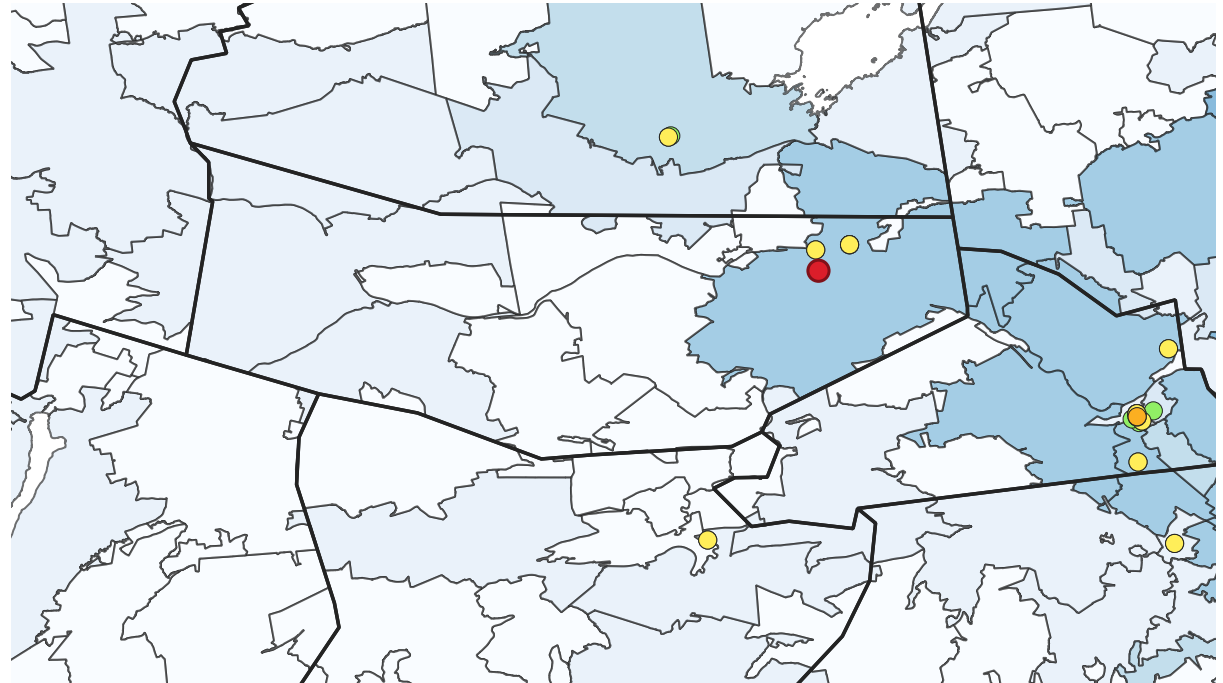
Treatment Provider	Treatment Type(s)	Medication/ Services Offered	Telehealth Capacity	Insurance Information	Address	Telephone #	Website
Conifer Park (Opioid court partner, OASAS accredited)	Inpatient Rehab/Detox	Methadone, Buprenorphine, Vivitrol, detox	?	?	79 Glenridge Rd. Glenville, NY 12302	(800) 989-6446	https://www.coniferpark.com/
St. Mary's Healthcare (OASAS accredited)	Inpatient, Outpatient Methadone Maintenance, Outpatient DRP, Detoxification Services	Methadone, Suboxone, Naltrexone, Detox	Yes	Most forms of private insurance, Medicaid, Medicare	427 Guy Park Ave., Amsterdam, NY 12010 (Inpatient)	(518) 841-7325 (Inpatient)	https://www.smha.org/patient-care/addiction-services
					4988 State Highway Amsterdam, NY 12010 (Outpatient)	(518) 843-4410 (Outpatient)	
New Choices Recovery Center, LLC (COTI, OASAS accredited)	Residential, Outpatient, Mobile Clinic, telehealth	Buprenorphine, Naltrexone, Vivitrol	Yes	?	728 State St. Schenectady, NY 12307 (Administrative office)	(518) 346-4436	http://www.newchoicesrecovery.org/site/
Hometown Health (OASAS accredited)	Outpatient, substance abuse counselling, primary care	Buprenorphine	Yes	?	67 Division Street, Amsterdam, NY 12010	(518) 627-2110	https://www.hometownhealthcenters.org/

Montgomery County

- County Court
- COTI
- MOUD Providers
- Non-MOUD Substance Abuse Providers

Population

- 0 - 3547
- 3547 - 9235
- 9235 - 16630
- 16630 - 25225
- 25225 - 35885
- 35885 - 50397
- 50397 - 67950
- 67950 - 87767
- 87767 - 114647

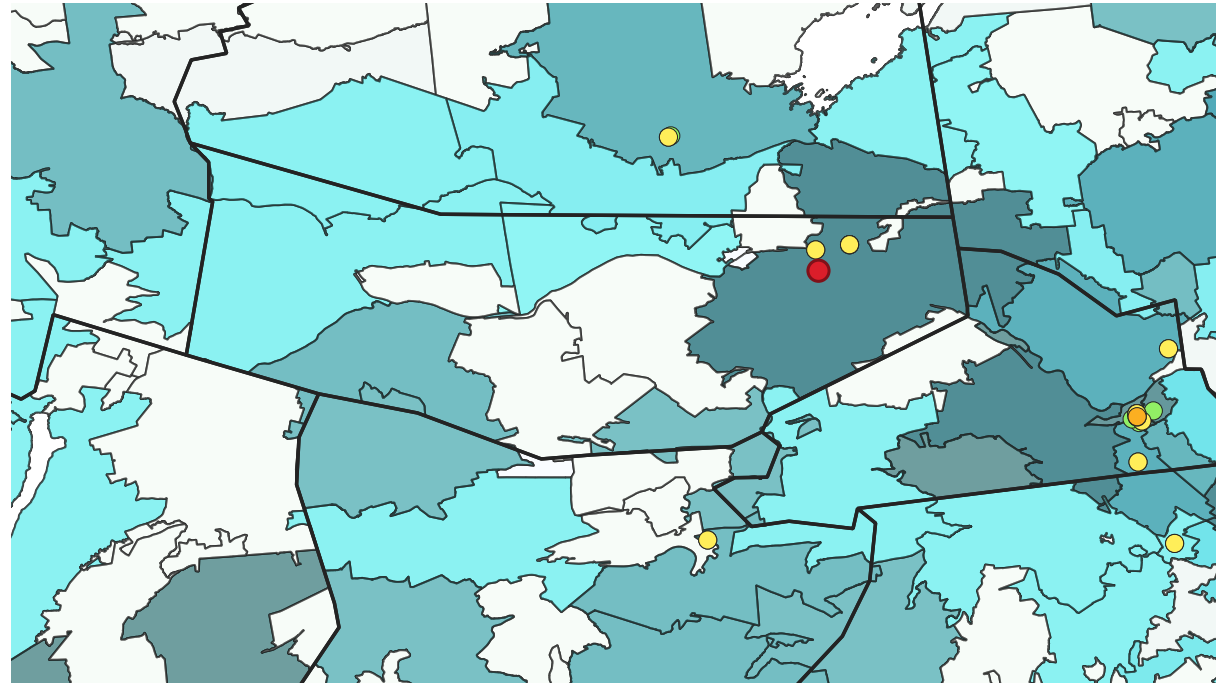


Montgomery County

- County Court
- COTI
- MOUD Providers
- Non-MOUD Substance Abuse Providers

Opioid Burden per 100,000

- Not Available
- 0 - 242
- 242 - 388
- 388 - 2721



Intercept 0
Hospital, Crisis, Respite, Peer, & Community Services

Intercept 1
Law Enforcement & Emergency Services

Intercept 2
Initial Detention & Initial Court Hearings

Intercept 3
Jails & Courts

COMMUNITY

Crisis Phone Lines

911 Dispatch

Emergency Departments/Walk-In Urgent Care
St. Mary's Hospital
[DETAILS ON BEDS]

Emergency Response
[FIRE DEPT EMS]

MOUD Provider
Conifer Park

Peer Support Services
New Choices
Conifer Park

Respite Services

Residential Services
Conifer Park

Detox Services
Conifer Park
New Choices

Housing Services

Veterans' Services

Law Enforcement
Montgomery County Sherriff's Department
Amsterdam City Police Department
Fonda Police Department
Fultonville Police Department
Village of Canajoharie Police Department
Village of Fort Plain Police Department
[Crisis Intervention Training?]
[Received information about Opioid Court Referrals?]

Non-Arrest Intervention
St. Mary's Hospital
(DETAILS)

Citations

Arrest

Initial Detention
Montgomery County Jail
(DETAILS ON SCREENS)

Arraignment
Montgomery County Court
Amsterdam City Court

Pre-Prosecution Diversion
District Attorney's (DA) Office

Courts
Montgomery County Court
Amsterdam City Court

Specialty Courts
Integrated Domestic Violence Part
Montgomery County Superior Court for Drug Treatment
Montgomery County Superior Court for Mental Health Treatment
Montgomery County Opioid Stabilization Part

Jail
Montgomery County Jail

Behavioral Health
Conifer Park, New Choices, St. Mary's, Fulton County Addiction Services

Recovery Supports

Housing/Shelter