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Directive #05-19
Supersedes Directive #14-04

To: Assignment Judges
Trial Court Administrators

From: Glenn A. Grant, J.A.D. 

Subject: **Drug Court — Revisions to the Adult Drug Court Transfer Policy and Vicinage Drug Court Transfer Form**

Date: May 20, 2019

This directive promulgates revisions to the current adult drug court transfer policy and the Vicinage Drug Court Transfer Form and supersedes Directive #14-04, as approved by the Judicial Council.

The attached Adult Drug Court Transfer Policy will update and replace the current standards and procedures for transferring supervision of a drug court participant between counties by creating two tracks. One track involves newly sentenced drug court participants who live in a county different from where the offense occurred. The other track addresses existing active drug court participants who move their residence to a different county. In particular, while Directive #14-04 provided that a case “may be transferred from the county where the offense was committed to the participant’s county of residence either upon conviction or when he or she moves,” this policy requires teams to begin the transfer process for a defendant residing outside of the county prior to sentencing. Reporting instructions and treatment information should be provided at the time of sentencing so that the defendant can avoid returning to the sentencing court unnecessarily. This change in protocol enables clients to commence treatment promptly and to acclimate to the drug court program in their home vicinage without delay.

This policy emphasizes that for both new and existing drug court participants, transfers require ongoing communication between the drug court coordinators in the sending and receiving counties. It defines the limited circumstances in which an intended receiving county may decline to accept a transfer and provides that in such situations the sending county must retain supervision of that case. The policy also codifies the process for transferring drug court case files between the sending and receiving counties and sets forth data entry responsibilities to ensure accurate records in both Promis/Gavel and the State Police Computerized Criminal History system. In addition to updating the policy document, changes to the attached Vicinage

Drug Court Transfer Form have also been made. Technology is also incorporated in the process with the use of eCourts.

Questions regarding this policy may be directed to Donna Westhoven, Statewide Drug Court Manager via email at Donna.Westhoven@njcourts.gov or by telephone at 609-815-2900 ext. 55316.

Attachments

Adult Drug Court Transfer Policy
Vicinage Drug Court Transfer Form (CN 12406)

cc: Chief Justice Stuart Rabner
Criminal Presiding Judges
Steven D. Bonville, Chief of Staff
AOC Directors and Assistant Directors
Special Assistants to the Administrative Director
Criminal Division Managers and Assistants
Probation Division Managers and Assistants
Donna Westhoven, Statewide Drug Court Manager
Marcia Matthews, Assistant Drug Court Manager

ADULT DRUG COURT TRANSFER POLICY (effective May 20, 2019)

The initial stages of recovery are exceptionally fragile and participants are at high risk for relapse. Therefore, transfers always must occur without a lapse in treatment, supervision, or judicial involvement.

I. NEW POLICY

a. Newly Sentenced Drug Court Participant

A newly sentenced drug court participant who resides in a county other than the one where the offense was committed may have his/her supervision transferred to their county of residence following sentencing. The case will be transferred immediately after sentencing in the county of offense if the clinical recommendation is outpatient or after the participant has successfully completed any initial residential treatment program, if required. In these instances, the criminal division staff of the sending county should communicate with the staff of the receiving county in advance of the sentencing date to ensure that outpatient treatment is secured or residential treatment is completed.

At the time of sentencing, for clients recommended to attend outpatient treatment, the judge should put on the record the name of the participant's treatment provider and the date of the first scheduled appointment in the drug court in the receiving county. The defendant should be given specific instructions to report to the receiving county as soon as they are sentenced into drug court. The drug court coordinators in both counties should communicate these reporting instructions for both court and outpatient intake appointment via email, copying all relevant managers, team leaders, probation supervisors, and vicinage chief probation officers.

Transfer requests will not be approved until the participant has successfully completed any initial residential treatment. The probation officer in the sending county will remain responsible for all aspects of supervision of any pending transfer case until the participant has successfully completed the residential treatment program and the transfer process is complete.

This step will depend on a variety of resource factors, however, whenever possible, the probation officer in the receiving county should visit the participant while he or she is in residential treatment so that a relationship between the participant and supervising probation officers can begin to be established.

The two teams must coordinate an appropriate aftercare plan with the residential treatment provider to ensure that the participant has a scheduled appearance before the drug court in the receiving county upon his/her release from residential treatment.

When a participant is in residential treatment and a transfer has been approved, the two drug court teams should coordinate closely with the residential provider. The participant should be specifically told where to go for in-court status reporting and brought to the receiving county at least once prior to discharge. It can be helpful to begin forming a relationship with the team in the county where supervision will be transferred.

After the defendant is sentenced to drug court, the case should not be considered transferred until the coordinator has confirmed with the receiving county coordinator:

- That the participant has a scheduled appearance in the drug court in the receiving county and,
- That an appropriate treatment provider agency has been identified.

For a newly sentenced participant, the transfer will not be contingent on a home visit being conducted, and will not be contingent on any additional legal or clinical review by the team.

b. Existing Drug Court Participants

Currently active participants may request a transfer if he/she seeks to move his/her residence to another county. The drug court judge, after consultation with the drug court team, may grant this transfer request. A change in location and supervision requires a level of adjustment that could endanger recovery therefore, the participant must demonstrate to the drug court team that such a change is in his/her best interest. The team will carefully review the transfer request and seek input from the treatment provider when considering any transfer request

The current level of compliance and cooperation with supervision should be considered when reviewing transfer requests, to ensure that the transfer of a case is appropriate. It is important to note that any outstanding sanctions or incentives should be rendered prior to transfer, and that a participant in danger of termination should *never* be considered for a transfer. A case should not be transferred to another county while a participant remains incarcerated, unless special arrangements are made with the team in the receiving county. A case should not be transferred to the receiving county until the team has reviewed and approved the participant's written transfer request.

Once the written request is sent to the receiving county, Probation shall verify the address within 14 days. Whenever the receiving county cannot verify a defendant's address, the case shall not be accepted for transfer. Drug Court Coordinators, Probation Supervisors, Vicinage Chief Probation Officers as well as Criminal Division Managers in both counties should always communicate with each other prior to any transfer case that is not being accepted or returned to a sending county.

After the address is verified, the teams shall work together immediately to set treatment up in the receiving counties and to get reporting instructions for court or Probation to the client.

The electronic transfer of cases in CAPS and Promis/Gavel should take place immediately and on the same day the defendant reports to the receiving county's drug court. When the electronic transfer has occurred, the sentencing county relinquishes supervision of the participant to the receiving county and the receiving county shall complete a home inspection within 30 days.

c. Newly Sentenced and Existing Participants

Although a transfer cannot occur prior to conviction, it is essential that the drug court coordinators begin communicating about a potential transfer case as soon as a request for transfer is made or when a case is identified through the screening, assessment and acceptance process. The drug court coordinators should consult frequently prior to and throughout the transfer process in order to promptly address any concerns or questions.

A case is not considered a “transfer case” if residency remains within the same vicinage. Multi-county vicinages have the flexibility to handle internal county transfer protocols in whatever manner works best for their program.

As soon as possible after transfer, the receiving county will obtain a new, signed consent for release of information form. This is a critical step, required to comply with federal confidentiality laws.

The adult drug court program is a statewide program structured to provide each participant in the state with equal treatment in every vicinage. For this reason, the receiving county must accept the decision of the sending county that the defendant is an eligible candidate for the drug court. An exception can be made only in the following situations:

- Team members in the receiving county provide the judge/team in the sending county with previously unknown information about this applicant that renders him/her ineligible for drug court, or
- There is a significant change in circumstances from the time of program acceptance to the time of the transfer request.

Although the team members in the receiving county do not have the authority to reject a case accepted by the sending county for legal/clinical reasons, other than as set forth above, they may do so for capacity reasons. If the receiving county can demonstrate that they are unable to accept the transfer due to a lack of sufficient resources, then the sending county must retain supervision of that case. If a county has admitted a number of new cases at, or in excess of its monthly allotment for the past 6 months, or if their probation officer to participant ratio is in excess of 1:50, that county has reached a capacity situation justifying the rejection of transfer cases.

The receiving county in which the defendant resides will be permitted to reject the supervision of a case whenever a field visit establishes that the address provided is invalid.

Special consideration should be given to assisting the participant with acceptance into the drug court “family” of fellow participants. It is recommended that successful Phase III participants “mentor” the newly transferred participant as a way of accomplishing this goal.

After the case is transferred to the receiving county, all case management decisions are the sole responsibility of that team. All decisions about sanctions, incentives, phase changes, incarceration, violation of probation charges and termination are to be made by the team in the receiving county.

The drug court judge in the receiving county has the same authority and responsibility for the transferred participant as they do for defendants sentenced within their county.

Any violation of probation hearing, whether it results in a sanction, continuation of probation (COP) or termination is under the jurisdiction of the judge in the receiving county.

The judge in the receiving county is required to abide by any parameters of the case indicated on the plea agreement form.

d. Transfer of the Case File

The exchange of information between the drug court coordinators will no longer be handled using hard copies; all transfer file documents should be exchanged electronically via email attachment, eCourts or Probation Case Jacket. In addition, this policy no longer requires that police reports and discovery be part of any drug court transfer file.

The team in the receiving county should be given two weeks in which to review the materials and conduct a field visit, if applicable, before the case is formally accepted for supervision.

The Transfer File shall consist of the following:

1. Drug Court Application or Mandatory Drug Court Screening form (via eCourts)
2. Judgment of Conviction (via eCourts)
3. Any VOPs (if applicable, via eCourts)
4. Signed Standard Conditions of Probation (via Probation Case Jacket)
5. Signed Participation Agreement (via Probation Case Jacket)
6. Probation Discharge Form (via Probation Case Jacket)
7. Defendant's written transfer request (if applicable, via Probation Case Jacket)
8. Treatment provider inpatient and/or outpatient discharge reports (if applicable, via Probation Case Jacket)
9. Current pre-sentence investigation reports (via CCM)
10. A summary of all jail credits, as of the date of transfer (to be included in CAPS notes)
11. Substance Abuse Assessment report prepared by the TASC evaluator in the sending county (via separate email)

Any documents not available at the time of the transfer request should be forwarded to the receiving county's drug court team as soon as they are prepared.

e. Data Entry Responsibilities

If it is known at the time of sentencing that a case will be transferred, the judge in the sending county will issue an order changing the venue of this case to the receiving county.

Note that case data must be re-entered manually in Promis/Gavel by data entry staff in the receiving county, as the system does not automatically transfer a case.

By requesting that the prosecutor's office in the county of residence enter the defendant's basic case data into their Promis/Gavel system, the supervising drug court team will be able to track the court events and provide the drug court judge and other courtroom staff with an accurate court calendar.

The last event recorded in Promis/Gavel in the sending county should reflect the transfer and advise the viewer to refer to case data in the receiving county for further court events and/or court actions. Likewise, the receiving county will need to refer a Promis/Gavel viewer to the sending county for prior court events.

Transferred cases should be considered active only in the county of supervision (generally the receiving county). Once the case is successfully transferred, the sending county should no longer have an active case. Thereafter the sending county will track the case only as a "transferred out" case.

In CAPS, the data entry process for transferred cases remains the same as that set by the Probation Division in other probation cases.

If a participant is supervised by the sending county while in residential treatment, it is the responsibility of the probation officer in the sending county to complete all case related data entries up to the point that the case is formally transferred to the receiving county.

In the State Police Computerized Criminal History (CCH), the CCH flag used to link systems will not be transferred to the county of residence. Any new sentencing event must be recorded in Promis/Gavel in the county where the original sentence occurred. When a transfer case results in a re-sentencing due to program termination, the data entered into Promis/Gavel to record that action must also be added to the case record in the county where the participant was originally sentenced. These steps will insure that a participant's CCH properly reflects the re-sentence information.



**Superior Court of New Jersey
Criminal Division
Vicinage Drug Court Transfer Form**

To: _____ Vicinage Drug Court			Date _____		
Defendant Name		Date of Birth	SBI Number		
Address (Street)		Telephone Number		Cell Phone Number	
City		County	State	Zip	
Voluntary	Mandatory <input type="checkbox"/> Yes <input type="checkbox"/> No	Application Date	Legal Acceptance	Clinical Acceptance	
Date of sentence	Track 1 <input type="checkbox"/> Yes <input type="checkbox"/> No	Track 2 <input type="checkbox"/> Yes <input type="checkbox"/> No	Alternative Sentence	Probation Length	
Defense Counsel Name		Sending county		PG case #	

All Transfer Files must consist of the following electronically exchanged documents:

- Drug Court Application or Mandatory Drug Court Screening form (via eCourts)
- Judgement of Conviction (via eCourts)
- Any VOPs (if applicable, via eCourts)
- Signed Standard Conditions of Probation (via Probation Case Jacket)
- Signed Participation Agreement (via Probation Case Jacket)
- Probation Discharge Form (via Probation Case Jacket)
- Defendant's written transfer request (if applicable, via Probation Case Jacket)
- Treatment provider inpatient and/or outpatient discharge reports (if applicable, via Probation Case Jacket)
- Current pre-sentence investigation reports (via CCM)
- A summary of all jail credits, as of the date of transfer (to be included in CAPS notes)
- Substance Abuse Assessment report prepared by the TASC evaluator in the sending county (via separate email)

Defendant Name	CAPS ID Number	PO
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Phase progression

Current Phase			
Phase 1	Phase 2	Phase 3	Phase 4

Treatment

Clean Date	Current Treatment Provider (if applicable)
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