



SUPERIOR COURT OF THE
DISTRICT OF COLUMBIA

**DC MISDEMEANOR AND TRAFFIC
COMMUNITY COURT**

PROGRAM MANUAL OF
POLICIES AND PROCEDURES

APRIL 2007

Prepared by
DC Misdemeanor and Traffic Community Court Policies and Procedures
Work Group

ACKNOWLEDGEMENTS

This manual was prepared by the DC Misdemeanor and Traffic Community Court Policies and Procedures Work Group, which included the following members:

Bryan Brown

Duty Day Attorney and Defense Attorney
District of Columbia Superior Court Trial Lawyers Association

Mannone Butler

Legal Advisor and Program Analyst
Criminal Justice Coordinating Council for the District of Columbia

Michael Francis

Community Courts Coordinator
Superior Court of the District of Columbia

Duane Kokesch

Chief, Criminal Section
Office of the Attorney General for the District of Columbia

Whitney Lunsford

Community Court Prosecutor
Office of the Attorney General for the District of Columbia.

Zol Rainey

Assistant Chief, Criminal Section
Office of the Attorney General for the District of Columbia

In addition, the Superior Court of the District of Columbia's DC Misdemeanor and Traffic Community Court wishes especially to thank the following individuals for their dedication and contributions to this project:

Bonnie Andrews

Victim Services Program Manager
Court Services and Offender Supervision Agency for the District of Columbia

Tyriek Austin

Former, Court Liaison
D.C. Department of Mental Health

Michael Brown

Community Court Case Manager
Superior Court of the District of Columbia

Lois Calhoun

Forensic Services Coordinator
D.C. Department of Mental Health

Anthony Chelsey

Supervisory Community Supervision Officer, Traffic Alcohol Program
Court Services and Offender Supervision Agency for the District of Columbia

Dan Cipullo

Director, Criminal Division
Superior Court of the District of Columbia

Lt. Jacqueline Hamm

Court Liaison Division
D.C. Metropolitan Police Department

Keelon Hawkins

Supervisor General Supervision Unit
D.C. Pretrial Services Agency

Claire Johnson

Director of Justice and Community Relations
D.C. Pretrial Services Agency

Judge Ann O'Regan Keary

Presiding Judge of the Criminal Division and Presiding Judge of the East of the River
Community Court
Superior Court of the District of Columbia

Magistrate Judge Michael McCarthy

Presiding Judge of the DC Misdemeanor and Traffic Community Court
Superior Court of the District of Columbia

Commander Evelyn L. Primas

Director Court Liaison Division
D.C. Metropolitan Police Department

Magistrate Judge Richard Ringell

Former Presiding Judge of the DC Misdemeanor and Traffic Community Court (2002-2005)
DC Misdemeanor and Traffic Court
Superior Court of the District of Columbia

Annesley K. Schmidt

Consultant

Nancy Ware

Executive Director
Criminal Justice Coordinating Council for the District of Columbia

Michael Williams

Operations Deputy Director
D.C. Pretrial Services Agency

Tom Williams

Associate Director of Community Supervision Services
Court Services and Offender Supervision Agency for the District of Columbia

Wanda Williams

Duty Day Attorney and Defense Attorney
District of Columbia Superior Court Trial Lawyers Association

Anne Witt

Former, Director
D.C. Department of Motor Vehicles

FOREWORD

This manual of the DC Misdemeanor and Traffic Community Court's (DCMTCC) policies and procedures seeks to introduce the overall philosophy, direction and operations of the DCMTCC. This is not intended to be an exhaustive, step-by-step, how-to, instruction manuscript. Rather, it generally describes, through its various sections, the alliances and collaboration between stakeholder agencies that are vital to realizing the mission of the DCMTCC. It is our hope that this manual will serve as a tool to assist the reader in understanding the basic operations of the DCMTCC. More detailed information regarding the operations and systems of the partnering agencies may be obtained by contacting the individual agencies enumerated in the narrative that follows.

TABLE OF CONTENTS

ACKNOWLEDGEMENTS	i
FOREWARD	iv
I. INTRODUCTION	2
II. MISSION STATEMENT AND GOALS	3
III. PARTICIPATING AGENCY ROLES AND RESPONSIBILITIES	3
Superior Court of the District of Columbia	3
DCMTCC Community Court Defense Attorneys	4
The Office of the Attorney General for the District of Columbia	6
The D.C. Pretrial Services Agency	6
Court Services and Offender Supervision Agency	7
Metropolitan Police Department	8
District of Columbia Department of Motor Vehicles	9
District of Columbia Department of Mental Health Services	9
IV. CASE PROCESSING COMPONENTS	10
Eligibility Criteria/Entry of Cases into DCMTCC	10
Arrest and Citation Release Cases	10
Arrest and Bond Release Cases	11
Arrest and Lock-up Cases	11
Papering Cases	11
Arraignment	12
Release Non-Compliance	12
Status Hearing	12
Disposition	13
V. DIVERSION OPTIONS	13
Substance Abuse Driving Diversion	13
Community Service Diversion	14
Remedying	15
Post and Forfeit	15
Social Services Referrals	15
Deferred Sentencing Agreement	15
Diversion Non-Compliance	16
VI. STATISTICAL REPORTING	16
VII. CONCLUSION	16
GLOSSARY OF ACRONYMS	16

DC MISDEMEANOR AND TRAFFIC COMMUNITY COURT PROGRAM MANUAL OF POLICIES AND PROCEDURES

I. INTRODUCTION

Traditional courts find it difficult to address the underlying problems that may lead individuals to commit crimes, due, in many cases, to larger case loads and an emphasis on processing cases. Furthermore, in traditional courts, the handling of cases involving offenses such as panhandling or disorderly conduct has done little to change the behavior of offenders, make streets safer, or enhance the quality of life in communities. This leads communities to conclude that the courts do little to reduce recidivism and that the criminal justice system is little more than a revolving door for offenders.

Community courts seek to build stronger and safer neighborhoods, reduce recidivism and improve defendants' lives by addressing the underlying problems that may lead them to commit crimes, and increase the public's trust and confidence in the criminal justice system. Community courts strive to achieve these goals by utilizing a problem solving approach with a strong emphasis on building partnerships among government agencies, social service providers, and community groups. In addition, community courts recognize that quality of life crime impacts the whole community as well as individuals. If not addressed, quality of life crimes can erode community order, lead to neighborhood decay and create an atmosphere where more serious crime can flourish.

The Superior Court of the District of Columbia (Superior Court) established the DC Misdemeanor and Traffic Community Court (DCMTCC) in January 2002.¹ This problem-solving court was a response to the challenges presented by many individuals who commit lower level criminal offenses (DC misdemeanor offenses such as possession of an open container of alcohol, panhandling, urinating in public and disorderly conduct) and/or criminal traffic violations (such as no permit, unregistered auto, operating after suspension, and driving while intoxicated) in Washington, DC. (A significant percent of the court's business is handling criminal traffic violations.) In addition, the Superior Court sought to achieve time-efficient and time-effective misdemeanor case processing and reduce police overtime. The DCMTCC tries to be holistic and creative in its approach to "quality of life" and criminal traffic offenses while maintaining sanctions and punishment when appropriate.

Currently, one judge presides over the DCMTCC, arraigns all cases and keeps the case as long as an outcome involving diversion is possible. Such continuity allows for more uniform judicial decision-making. If a case is too serious for diversion to be a consideration, it is referred to the DC Misdemeanor and Traffic Trial Court Calendar. The case is also sent to this calendar when the defendant wishes to go to trial or if the defendant is not successful in diversion.

¹ DCMTCC has been designated Misdemeanor Calendar 8 within the Superior Court's Criminal Division.

The DCMTCC involves the partnership and collaboration of a number of agencies and organizations. It works to hold defendants accountable but also give defendants the opportunity and time to correct problems that could result in prosecutors entering a *nolle prosequi* (dismissal). It also works to identify and address the social services needs of defendants that may underlie defendants' criminal behaviors, through social service referrals. After assessing defendants, including their strengths and needs, the DCMTCC explores diversion or plea alternatives. Another important aspect of the DCMTCC is the use of community service as an essential component of diversion. The DCMTCC holds firmly to the notion that defendants who are adversely affecting the quality of life of a community should give back to the community by providing community service.

II. MISSION STATEMENT AND GOALS

The DCMTCC seeks to reduce DC misdemeanor and criminal traffic offenses by utilizing a collaborative, problem-solving approach to crime. Partnering with government agencies, non-profit organizations, and social services providers, the DCMTCC endeavors to hold defendants accountable, address the factors that often underlie defendants' criminal behavior, improve the quality of life in Washington, DC, and increase the public's confidence in the court system.

The goals of the DCMTCC are to:

- Improve public safety and improve the quality of life in Washington, DC, through recidivism reduction and the performance of community service by defendants;
- Improve defendants' lives and accountability by linking defendants with social services to change antisocial and/or personally debilitating behavior and requiring community service;
- Increase public awareness of the DCMTCC and increase public trust and confidence in the court system.

III. PARTICIPATING AGENCY ROLES AND RESPONSIBILITIES

The Superior Court of the District of Columbia

The Superior Court is the court of general jurisdiction over virtually all local legal matters in Washington, DC. The Court consists of divisions that provide for all local litigation functions including criminal, civil, probate, tax, landlord and tenant, and traffic. Since 2002, a separate Family Court has also been instituted to handle neglect, juvenile and domestic relations matters.

The Superior Court's Criminal Division hears all local criminal matters including felony, misdemeanor, and criminal traffic cases. The Criminal Division also provides

administrative, clerical, and support services necessary to process the cases of defendants who are charged with criminal offenses in the District of Columbia.

The Superior Court's Criminal Division directs the operations of the DCMTCC. The Presiding Judge of the DCMTCC arraigns all DC misdemeanor and criminal traffic cases, not involving domestic violence, in the District of Columbia.

The DCMTCC Judge establishes the tone for this interactive problem-solving court and conveys the seriousness of the proceeding along with the parameters for ultimate resolution of the cases. The Judge sets the conditions under which all defendants are released prior to disposition of their case, reviews the progress of the defendants who are in diversion programs, and sentences those defendants that plead guilty.

The Office of the Community Court Coordinator is located within the Superior Court's Criminal Division. The office staff includes the Community Court Coordinator, the DCMTCC Community Court Case Manager, the Community Court Assistant as well as a part-time Community Court Researcher and part-time graduate social work student interns during the academic year.

The Community Court Coordinator is responsible for supervising the office staff and for coordinating the activities of the DCMTCC as well the East of the River Community Court (ERCC).

The DCMTCC Case Manager and social work interns perform four important activities:

- (1) Conduct voluntary interviews/social services needs assessments utilizing a comprehensive interview/ assessment form of DC misdemeanor defendants who are awaiting arraignment detained in the Central Cell Block in the Superior Court Courthouse.
- (2) Identify possible social services and treatment programs for defendants.
- (3) Provide oral and written findings and recommendations to the Court.
- (4) Provide defendants with information about social services programs.

DCMTCC Community Court Defense Attorneys

On any given day, the DCMTCC processes over 100 defendants. In order to safeguard the integrity of the justice system, as well as improve its efficiency, a court appointed Duty Attorney Program was established. Court appointed duty attorneys assist unrepresented defendants facing criminal charges and potential jail sentences in DCMTCC. Because DCMTCC deals with criminal matters, the defendant's Constitutional rights, including the right to trial, must be recognized and protected. No defendant should appear before the Court without the assistance of counsel. Duty attorneys fulfill this role of Constitutional guardian by acting as a buffer between the defendant and both the Court and the Prosecutor. When represented defendants appear before the Court, duty attorneys will occasionally act as stand-in counsel if a defendant's attorney cannot be present.

Duty attorneys begin by conducting an initial screening of all unrepresented defendants. This screening process involves interviewing the defendant, reviewing the defendant's charges and discovery packet, and discussing potential courses of actions with the defendant. During the screening process, duty attorneys draw on their knowledge of the law, familiarity with the Court's procedures, and understanding of the Prosecutor's policies. Defendants are fully advised of the Court's procedures, their legal rights, and their potential options. An individual's unique circumstances are also explored. By the end of the screening process, defendants have a firm understanding of their rights and the court process. With this understanding, they begin developing reasonable expectations regarding their matters. Informed defendants are more comfortable with the DCMTCC and more open to the curative approaches offered.

Duty attorneys then act as communication conduits between the defendant, the Court and the prosecution. A defendant's diversion options are explored, unique circumstances conveyed, and position voiced to both the Court and the prosecution. If diversion options are available and acceptable to the defendant, duty attorneys inform the defendant of exactly what is expected of them. The defendant leaves court fully informed, and knowing exactly what is required of them. They are told exactly what documents and proof must be provided to the Court on their next appearance date so that the case can be dismissed.

Defendants who do not want to participate in one of the numerous diversion programs or do not qualify for a program may wish to dispose of their case by way of a guilty plea. Duty attorneys can handle these dispositions if the defendant, after being fully informed, still wishes to resolve the case that day.

Duty attorneys help defendants reschedule their case if they are not diversion eligible or prefer to hire their own attorney. On behalf of indigent defendants, duty attorneys petition the Court to appoint counsel from the D.C. Panel Criminal Justice Act (CJA) Attorney list.²

Duty attorneys are appointed for a single day; the individuals they assist are not their clients. The relationship with a defendant terminates at the end of the day. If a defendant must return to court to demonstrate completion of a diversion program, the duty attorney assigned for that day will assist them on the new date.

In providing services to unrepresented defendants, duty attorneys also speak with family and friends who appear in support of a defendant. They contact individuals that may be willing to post a defendant's bond, and they obtain or verify information that may assist the Court in making release decisions. The Duty Attorney Program plays an important role in assuring that just and proper resolutions of cases are efficiently achieved.

² The CJA list consists of attorneys, pre-screened by a judicial panel that may be appointed to indigent clients.

The Office of the Attorney General for the District of Columbia

The Office of the Attorney General for the District of Columbia (OAG) represents the District of Columbia and is responsible for the prosecution of DC misdemeanors and criminal traffic offenses that occur in the District of Columbia.

Police officers, who have made an arrest for a DC misdemeanor or criminal traffic case, appear at OAG's office where the formal charging document, an Information, is prepared. Once the case is papered, the Information is taken to the intake office of the Criminal Division in the courthouse. There, the court jacket is prepared and the case is assigned a number. Cases are then presented in Court.

With respect to the DCMTCC, OAG reviews cases and identifies the ones that are eligible for diversion. The cases generally involve defendants who do not have significant criminal histories and are currently charged with minor offenses. In these cases, OAG seeks to address some of the root causes of a defendant's illegal behavior. By addressing the root causes, OAG's goal is to limit that defendant's future interactions with the criminal justice system. Cases that are not eligible for diversion are set for status or trial.

OAG has one Assistant Attorney General specifically assigned to DCMTCC. That attorney is referred to as the Community Court Prosecutor (CCP). The CCP creates and facilitates diversion programs which serve as alternatives to traditional prosecution. One of the duties of the CCP is to conduct arraignments in the DCMTCC. At each arraignment, the CCP reviews the case and determines whether the case is diversion eligible. Cases which are diversion eligible are set for future status hearings in the DCMTCC. The CCP will also facilitate these status hearings. In addition to the CCP's courtroom responsibilities, the CCP also assists in the development of diversion programs. The CCP and defense counsel work closely to resolve any diversion-related issues that arise.

The District of Columbia Pretrial Services Agency

The District of Columbia Pretrial Services Agency (PSA) provides case management and supervision during the pretrial release period and facilitates treatment services for up to five DC misdemeanor and criminal traffic cases (defendants) at one time. These cases (defendants) are referred by the Community Court Coordinator's staff for supervision and specialized treatment of mental health issues and/or substance abuse. These special cases are supervised in accordance with the policies and procedures for other cases under PSA supervision. If a defendant with a DC misdemeanor/criminal traffic violation is in bench warrant status for over 60 days, PSA will remove this defendant from the DC misdemeanor/criminal traffic violation Supervision List in order to free slots for other defendants. PSA does not accept probation cases or defendants who have other pending criminal matters. The PSA designee will contact the supervising case manager and inform them of the new DC misdemeanor/criminal traffic violation and assessment needs. PSA will send court reports to the judiciary at every court date to advise regarding

treatment status, recommendations for enhanced treatment, show cause requests, and continuation in services. Throughout the pretrial release period, PSA notifies the Court, prosecution, and defense of noncompliance with release conditions.

The DCMTCC Case Process is as follows:

- (1) A representative of Community Court will contact the PSA designee to identify the availability of open slots.
- (2) If space is available, the defendant is referred to the Social Services & Assessment Center (SSAC) for a substance abuse assessment and/or a mental health assessment.
- (3) If substance abuse or mental health services are not deemed necessary, PSA's responsibilities will discontinue and the Court will be so advised.
- (4) If services are deemed necessary, the SSAC will notify the PSA designee for further instructions.
- (5) If the defendant is eligible for drug treatment, a representative from the Sanction-Based Treatment Unit (SBTU) will report to court to officially place the defendant in a PSA Unit, as well as refer to contracted treatment vendor.
- (6) If the defendant is in need of mental health or co-occurring disorder treatment, PSA will send a representative from the Specialized Supervision Unit (SSU) to commence PSA supervision of the defendant and connect him or her to the Department of Mental Health for services.

Pretrial Services Officers (PSO's) supervising DC misdemeanor/criminal traffic violation cases are responsible for keeping the PSA designee abreast of updates, changes and dispositions in these cases.

In addition, when a DCMTCC defendant appears on the lock-up list, PSA forwards a Pretrial Services Report to DCMTCC on the day of his or her arraignment. The Pretrial Services reports do not include interviews, only a criminal history. If the person is released on citation, a report is not provided. Also, if the lock-up arrest is a DC misdemeanor or traffic bench warrant a Pretrial Services Report is generally not provided. PSA provides reports for all new cases that appear on the lock up list.

Court Services and Offender Supervision Agency

The Court Services and Offender Supervision Agency for the District of Columbia (CSOSA) supervises individuals on probation, parole, or supervised release. In the DCMTCC, CSOSA supervises probation cases. For individuals placed on supervised probation, the agency monitors compliance with the conditions of probation and provides case management services based on the individual's assessed needs. These services include frequent contact with a Community Supervision Officer, routine drug testing and

placement in the agency's substance abuse treatment (when appropriate or court-ordered), mental health evaluation and referral for treatment, education and employment services. The CSOSA officer appears in the DCMTCC when there is a "show cause" hearing because of an allegation that the offender has failed to abide by one or more conditions of probation.

CSOSA's Traffic Alcohol Program (TAP) supervises Court-ordered supervised probation cases resulting from traffic alcohol related offenses. The primary goal of the Traffic Alcohol Program is to assess offender risk and needs, ensure treatment of offenders, provide close supervision and support referrals to treatment programs. Offenders who are currently serving community supervision terms on a US misdemeanor or felony conviction with CSOSA/Community Supervision Services remain with their assigned Community Supervision Officer if convicted of a traffic offense during a subsequently imposed supervision term.

CSOSA refers those offenders who have been convicted of driving while intoxicated and are court-ordered to attend a victim sensitivity group, the Remove Intoxicated Drivers Victim Impact Panel. The group meets once a month. There is a nominal fee to participate.

At least one victim presents to the group of offender's the impact of driving while intoxicated. Additionally, the facilitator shares related videos, newspaper and magazine articles. It has been found that a cumulative effect of victimization has provided the best result in the Victim Impact Panel.

Metropolitan Police Department

The Metropolitan Police Department (MPD) serves as the primary law enforcement agency for the District of Columbia that patrols, investigates and arrests individuals suspected of committing criminal offenses in the District.³

MPD operates out of seven police districts that comprise the entire city of Washington, DC. These seven police districts are augmented by numerous support and administrative positions and assignments, which also feed into the Community Court process. In addition, MPD has divided each district into Police Service Areas, which have defined geographic boundaries and are the basic building blocks of community policing in the District. Every District resident lives in a police service area, and each one of these areas has a team of police officers and officials specifically assigned to it. The purpose of the police service areas is to ensure better police services for District neighborhoods.⁴

³ In addition to defendants arrested by MPD, the DCMTCC also receives defendants who are arrested for DC misdemeanor and criminal traffic offenses by the other law enforcement agencies that operate within and serve the District of Columbia

⁴ Consistent with MPD's effort to prevent crime through problem solving partnerships with the community, each police district station is the host of various community meetings. For instance, each district's Citizens Advisory Council (CAC) meets monthly at the police station. The CAC is an advisory

In conjunction with the mission of the MPD to prevent crime and the fear of crime, including terrorism (foreign and domestic), MPD is committed to working with its partners to build safe, healthy and prepared neighborhoods throughout the District of Columbia. To this end, MPD believes in and works closely with the DCMTCC to achieve its mission.

District of Columbia Department of Motor Vehicles

The Department of Motor Vehicles (DMV) is responsible for ensuring the safety of vehicular movement in the District of Columbia through the vetting, testing and credentialing of drivers and verification of ownership, operability, and insurance of vehicles.

In carrying out these state-level functions, the DMV manages the licensing and driver records of over 350,000 drivers, and the titling and registration of over 240,000 vehicles. In addition, due to the unique governmental structure of the District of Columbia, the DMV manages the information systems, payment and de-criminalized adjudication of parking and minor moving violations, involving nearly three million tickets issued by 29 agencies having enforcement authority within the Districts boundaries.

Violations of DMV requirements constitute a large proportion of the infractions that result in appearances at the DCMTCC. As a result, the DMV has sought a more integral role with the Court and related agencies. This has resulted in better coordination and exchange of driver record and ticket infraction information with the prosecuting agencies and the Court. In addition, the DMV seeks to provide better coordination of compliance services, access to licensing and registration services, and remedial actions that will ensure compliance with driving regulations and the Court's instructions.

District of Columbia Department of Mental Health Services

The primary mission of Department of Mental Health (DMH) is to address the mental health services and support needs of District residents. DMH provides the funding, planning and monitors the mental health system for adults, children, youth and families. Services are provided directly through a network of community mental health provider agencies and St. Elizabeth's Hospital.

In 2005, DMH began increased focus on services to individuals who interfaced with the criminal justice system. The DMH Jail Diversion Program, known as DC Linkage Plus is responsible for facilitating Mental Health Rehabilitation Services (MHRS) to individuals involved in the criminal justice system. The program provides screenings and referral services to community service agencies, as well as facilitates the continuity of care for individuals already linked to a community service agency. Services are coordinated for individuals referred from the Courts, PSA, in-patient forensic services, the Department of

panel in each police district that provides the district commander with information and recommendations from the community on the public's safety problems and police service needs.

Corrections, individuals re-entering the community from the prison and those identified by the homeless outreach program who may have frequent contact with the Metropolitan Police Department.

In February 2006, DMH began providing coverage to DCMTCC to screen individuals referred from the Court for mental health services and to provide linkage and monitoring of the connection to services.

The DMH Court Liaison is available by direct line or by cell phone to DCMTCC staff on a daily basis. Defendants who report a mental illness and/or are observed to exhibit behavior that may require intervention are screened and assessed for mental illness. A determination of enrollment in the mental health system is carried out. The Core Service Agency (CSA) Clinical Supervisor is contacted regarding any defendants known in the system. Appointment date, time and person to be seen are scheduled and this information provided to the defendant and the Court. The DMH Court Liaison monitors if the defendant kept the appointment and notifies the Court regarding the status. Defendants not known to a DMH provider, but in need of services are referred and connected directly to one of the DC Linkage Plus CSAs for services. The defendant is given an appointment date, time and person to see. This information is also provided to the Court. Monitoring for compliance with recommendations for treatment is provided to the Court. The DMH Court Liaison works closely with the DCMTCC staff and attends regular monthly community court meetings.

IV. CASE PROCESSING COMPONENTS

Eligibility Criteria/Entry of Cases into the DCMTCC

Cases on the DCMTCC calendar involve individuals charged with DC misdemeanor offenses and criminal traffic cases that originate anywhere in the District of Columbia.⁵

Arrest and Citation Release Cases

The Citation release program allows law enforcement officers to release defendants who were arrested on certain misdemeanor charges. The defendants who are released are then required to appear in Court on a designated date approximately two or three weeks. Defendants are brought to the station house and booked. MPD logs arrest information in the CJIS computer system that PSA continuously monitors. PSA staff conducts criminal history profiles that include FBI and warrant record checks to determine if the person is eligible for release. Citation release is not permitted if the defendant has an outstanding warrant, is on probation or parole supervision, has an extensive record of failure to appear or escape, inaccurately reports information, cannot conduct an interview or his/her name and/or place of residence cannot be reasonably identified.

⁵ Civil traffic infractions are handled by the Bureau of Traffic Adjudication, a part of the Department of Motor Vehicles.

If PSA staff deems the defendant eligible for citation release, they request an interview. The District Police Station calls PSA and a telephone interview of the defendant is conducted. PSA gathers demographic and community ties information and attempts to verify that information with the defendant's references. After the information has been verified, PSA advises the defendant of the tentative release and the requirement of a court appearance. MPD then makes the final decision whether to release the defendant on citation. If the defendant is to be released, PSA provides the officer with the next available court date and logs the agreed upon date into the CJIS system. This compiled list of defendants and their assigned court dates is distributed to MPD, OAG, and the Court to show who is expected to appear in Court.

Between the time of the arrest and the date on the citation, the officer must go to OAG to paper the case.

Arrest and Bond Release Cases

Defendants arrested and determined by law enforcement officials ineligible for citation release may be released on bond pursuant to the Bond and Collateral List promulgated by the Superior Court pursuant to the DC Code. The defendants are required to appear in Court at a date determined by the arresting law enforcement agency. Defendants are brought to the district station house and processed. The defendants' criminal history is searched, including FBI and warrant record checks, to determine if they are eligible for release on a bond. If a defendant has an outstanding warrant, is on probation or parole supervision, or has an extensive record of failure to appear or escape, he/she is not eligible for release on a bond. Based upon the information that is gathered, MPD makes the final decision on whether to release the defendant on bond. If the defendant is released upon posting bond (e.g. \$75 in No Permit case/ \$500 in DWI case), and the defendant appears in Court, the bond money will be returned to the defendant if the Court places the defendant on personal recognizance. In any event, the bond money will be returned to the defendant at the conclusion of the case. After the arrest but before the date that the defendant is to appear in Court, the officer will bring all of the paperwork in the case to OAG and a decision will be made whether to file formal charges in the case.

Arrest and Lock-up Cases

Defendants who are not eligible for citation or bond are held in custody until arraigned. Defendants held on OAG and U.S. Attorney's Office charges generally are interviewed by PSA prior to their court appearance. PSA will provide a report to the Court outlining the defendant's background, criminal history, employment status, as well as other relevant information, including a recommendation for release or detention and the services to be ordered by the Court.

Papering Cases

Law enforcement officers go to OAG to paper cases. Upon arrival, the officer will make up the case jacket and present the paperwork to OAG for a charging determination. After

meeting with law enforcement officer and discussing the facts and circumstances of the alleged offense, OAG makes a decision whether to charge a defendant and, if so, with what offense. If OAG determines that there is probable cause to charge the defendant, it creates an Information and files it with the DCMTCC clerk's office to formally charge the defendant with a crime.

Arraignment

At the arraignment, the Court formally advises the defendant of the charges filed by OAG, and the defendant, with the advice of counsel, enters a plea. At the arraignment, most of the defendants enter a plea of "not guilty." After hearing arguments from the prosecution and defense, the Court decides whether to preventively detain the defendant or set conditions for his/her release. If the Court determines that the defendant should be released, it may set conditions of release designed to protect the community such as "do not drive without a valid permit" or "stay away from an area."

After the Court makes the detention decision and OAG determines that the defendant is eligible for diversion, the Assistant Attorney General serves the defendant with diversion paperwork. Diversion options are discussed in section V. If the defendant is eligible for diversion, the case is continued for a status hearing.⁶ The defendant then signs a notice to appear. If the defendant fails to appear for the subsequent hearing, the Court may issue a bench warrant for the defendant's arrest.

Release Non-Compliance

If the defendant violates a condition of release, OAG determines whether to move for revocation or modification of the defendant's release status. If the violation stems from a re-arrest (new charge) or an alleged violation of a "stay away," OAG may request that the Court revoke pretrial release and order preventive detention. The Court, after hearing arguments from the prosecution and the defense, decides whether the defendant has violated his/her release conditions and, if so, whether detention or continuance of the release status with modified conditions is appropriate.

Status Hearing

During the status hearing, the defendant may elect to enter diversion (if deemed eligible by the OAG), plead guilty or request a trial. If the defendant enters diversion, OAG provides the defendant with information outlining the requirements the defendant must fulfill to have his/her case dismissed. If the defendant completes the requirements, OAG will dismiss the case. If the defendant decides to plead guilty, the DCMTCC judge determines an appropriate sentence. If the defendant requests a trial, counsel is appointed or the defendant is given the opportunity to retain counsel before the case is transferred from DCMTCC to the DC Misdemeanor and Traffic Trial Courtroom Calendar.

⁶ More than one status hearing may take place prior to entry into formal diversion. Some cases are resolved after several status hearings, ending with a *nolle prosequi* (dismissal).

Disposition

If a defendant completes his/her diversion program, OAG will *nolle* the case. The judge, in a case where the defendant pleads guilty, must impose a mandatory contribution to the Crime Victims Fund⁶ and may impose a fine, a term of incarceration or a period of probation. Probation may include community service and compliance with social service referrals tailored to the needs of the defendant.

V. DIVERSION OPTIONS

OAG has the sole discretion whether to divert a criminal case from further prosecution. Should a defendant's case be diverted, the agreement is between the defendant and OAG. OAG offers a number of diversion options as described below. If defendants successfully complete diversion, OAG will enter a *nolle prosequi* in their case.

Substance Abuse Driving Diversion

Substance Abuse Driving Diversion is designed for defendants who committed their first driving offense involving alcohol and/or drugs. The eligible charges are: Driving While Intoxicated (DWI), Driving Under the Influence (DUI), Operating While Impaired (OWI), Possession of an Open Container of Alcohol in a Vehicle (POCA-Veh), and Drinking in Public in a Vehicle (DIP-Veh). To qualify, generally the defendants must not have any prior alcohol related traffic arrests, not be involved in an accident involving injury to another person or property damage to another person's property, not hold a commercial driver's license, not have a minor present in the vehicle, not be charged with another offense that he/she cannot post and forfeit (described below), not have failed to appear in a case for which he/she is seeking diversion, and must have provided a low blood-alcohol sample upon arrest.

Defendants enter an alcohol counseling and treatment program and are required to attend classes where instruction is given on the effects of drinking and driving. Classes can include group therapy or individual sessions. Fees associated with this diversion program are paid by the defendant and must be paid prior to receiving the service. The fees may be waived or reduced depending on the defendant's income.

There generally are three levels in the alcohol counseling and treatment program. The first level is designed for social drinkers and includes 12 weeks of alcohol education.

⁶ Proceeds from the Crime Victims Fund (also referred to as the Victims of Violent Crimes Fund) are administered by the Crime Victims Compensation Program and are awarded to innocent victims of violent crimes and their families for crime-related expenses (e.g. medical and mental health costs, funeral and burial costs, lost wages, and loss of support and services). See <http://www.dccourts.gov/dccourts/superior/cvcp.jsp>.

The second level includes the high risk drinkers. It requires 12 weeks of education plus another 8 weeks of group therapy. The third level, designed for severe drinkers, involves 12 weeks of education and another 18 weeks of group therapy.

Alcohol education is conducted by a certified addiction counselor using a widely accepted alcohol education curriculum. The curriculum uncovers various myths and misconceptions regarding alcohol and highlights important issues about alcohol's addictive and destructive properties. One two-hour education class is held per week. The group therapy session is conducted by a licensed addiction specialist or a social worker. For each class, the structure is generally the same, including an hour and a half of the overall session and a half hour of individual question time.

The POCA-Veh and DIP-Veh defendants attend a shortened alcohol education program. The shortened program consists of three (3) 1 ½ - 2 hour classes similar to the classes described above.

Community Service Diversion

Community Service Diversion is designed for defendants who have committed "quality of life" and other minor criminal traffic offenses. Some common offenses include Possession of an Open Container of Alcohol (POCA), Drinking in Public (DIP), Misrepresentation of Age to Enter an Alcohol Beverage Control Establishment, Panhandling, Counterfeit Tags, Unregistered Vehicle, Vending without a License, Indecent Sexual Proposal, Indecent Exposure, Urinating in Public (UIP), Speed Over 30, and Metro misconduct. Upon completion of the community service, OAG will close the defendant's case.

Defendants can perform community service through various organizations, including the Downtown Business Improvement District (BID) and the Department of Public Works (DPW). Those defendants that are eligible for community service with the BID may perform their community service the day following their arraignment. After they complete their community service, they may have their case immediately nolle. Other governmental agencies or local private non-profit organizations can serve as places for defendants to complete their community service requirement as well. In exchange for their successful completion of the community service, OAG will enter a *nolle prosequi* in the defendant's case.

Community Service Diversion is similar for most offenses, but some specific offenses may have additional requirements. For diversion on Indecent Exposure cases, the Community Court Prosecutor interviews the defendant to determine if he/ she is eligible. If found eligible, the defendant must complete 40 hours of community service within 90 days. For speed over 30 miles per hour in excess of the speed limit, defendants complete two days of community service and are required to make a contribution to the Crime Victims Fund.

Remedying

The defendant may “remedy” his/her case in regulatory related offenses by obtaining the required license and paying restitution in applicable cases. The eligible charges include operating after suspension, operating after revocation, driving without a permit, operating a business without a license, vending without a license, and other regulatory licensing offenses. The defendant is typically given 60 days to acquire the license or permit and/or to remedy the problems that caused the license to be suspended. Upon proof to the Court that the defendant now possesses a valid license, OAG will dismiss the case. When restitution is required, the defendant must also pay it prior to dismissal.

Post and Forfeit

The D.C. Superior Court Board of Judges, in conjunction with the Metropolitan Police Department and the Office of the Attorney General, has developed a list of offenses for which the defendant may post and forfeit collateral and the prosecutor will not continue to prosecute the case. Numerous low-level offenses are contained on the “Bond and Collateral List” which was designed to expedite low-level offense through the criminal justice system without a conviction for the defendant. The defendant is permitted to pay a certain amount, ranging from \$25 to \$100 for criminal traffic charges and from \$25 to \$1,000 for misdemeanor charges, and the charge is dismissed without the defendant admitting guilt.

Social Service Referrals

Social service referrals are another diversion option offered by OAG. Offenses that may be eligible for social service referrals include drinking in public (DIP), disorderly conduct, panhandling, and POCA. Referrals are made by the DCMTCC Case Manager. The Case Manager may refer defendants to a wide variety of services including alcohol and substance abuse treatment, job training, mental health services, medical care, material assistance, housing assistance, and/or education. If a defendant is found to be eligible for a social service referral, OAG will ask for a continuance of at least 45 days to permit the defendant to take advantage of the appropriate services. The defendant must return to Court on the next status date with proof of his/her participation. Upon presentation of this documentation, OAG may enter a *nolle prosequi* in the case.

Deferred Sentencing Agreement

Defendants that are not eligible for any other diversion program may be eligible for a Deferred Sentencing Agreement (DSA). In a DSA, the defendant enters a plea of guilty to the offense and the Court sets sentencing out anywhere from 6 months to a year. The defendant is given terms in the DSA that he or she must complete before the sentencing date. The terms can include drug or alcohol treatment, restitution, payment to the Crime Victims Fund, community service, and completion of a traffic safety program. If the defendant successfully fulfills the terms of the agreement, at sentencing he or she may withdraw his or her plea and the government will enter a *nolle prosequi*. If the defendant

does not fulfill the terms of the agreement, the government will ask the Court to impose an appropriate sentence upon the defendant on the day of sentencing.

Diversion Non-Compliance

If OAG determines that a defendant has failed to comply with the requirements of a diversion program, it is within their discretion to terminate the diversion agreement. If the agreement is terminated, the defendant's case will be placed on the traffic trial calendar for prosecution.

VI. STATISTICAL REPORTING

In order to develop performance measures and track progress, the participating agencies will collaboratively establish coordinated data collection and reporting mechanisms that will allow systemic analysis of the data. Additional information regarding statistical reporting will be made available once these mechanisms have been put into place.

VII. CONCLUSION

The DCMTCC represents the collaborative efforts of the Superior Court, local and federal government agencies, service providers and non-profit organizations. The problem-solving approach of the DCMTCC fosters innovative and systemic responses to the longstanding social, human, and legal problems that have been resistant to traditional solutions.

GLOSSARY OF ACRONYMS

APRA: Addiction Prevention and Recovery Administration

BID: Downtown Business Improvement District

CSA: Core Service Agency

CSOSA: Court Services and Offender Supervision Agency

DCMTCC: DC Misdemeanor and Traffic Community Court

DMH: Department of Mental Health

DPW: Department of Public Works

ERCC: East of the River Community Court

MPD: D.C. Metropolitan Police Department

OAG: Office of the Attorney General for the District of Columbia

PSA: D.C. Pretrial Services Agency