

30.1 ASSIGNMENT OF CRIMINAL CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS

(A) Purpose

The Mental Health and Developmental Disabilities (MHDD) docket is established for offenders with an eligible mental illness and/or intellectual disability to provide a continuum of care to offenders needs while protecting the community. MHDD utilizes appropriate assessments to determine the eligibility and placement into the MHDD dockets.

(B) Appointment of Judges to Preside Over Mental Health And Developmental Disabilities Dockets

The Administrative Judge will select a Common Pleas General Division judge for the chairperson and members for the MHDD docket. The judges will serve for a period of three years from the date of assignment. Upon approval of the Administrative Judge, the judges may be reappointed to successive terms.

(C) Clinical Eligibility

Defendants with a confirmed severe mental illness with a psychotic feature or developmental disabilities, as determined by the Court's guidelines set forth in the ¹**Appendage A** hereto are to be assigned to an MHDD docket. Eligible diagnoses must be confirmed through an assessment from a mental health professional within the last 12 months.

(D) Assignment of Cases to Mental Health And Developmental Disabilities Dockets

- (1) At arraignment, except as otherwise provided for in paragraph (E) of this rule, there will be a random assignment of identified MHDD defendants to MHDD judges.
- (2) Transfer of cases to MHDD Dockets Post Arraignment – Prior to Plea:
 - (a) In cases where it is determined after assignment to a non-MHDD judge and prior to the plea that the defendant qualifies for the MHDD docket, the assigned judge may apply to the Administrative Judge for transfer of the case to the MHDD docket. Upon approval for transfer, the MHDD judge will be assigned randomly. The MHDD judge receiving the case will be exempted from receiving one new case for assignment from the regular arraignment room draw for each case transferred.
 - (b) Once a Common Pleas Court has been formally notified of a defendant's MHDD docket eligibility, no transfer of defendant's case will be permitted after 30 days from the formal notification and it must be prior to any plea. Eligible defendants may also be transferred following sentencing to a community control sanction.
 - (c) In cases involving multiple defendants, if one or more of the defendants, but not all, are determined to be eligible for the MHDD docket, the transfer of those eligible defendants may only occur following sentencing to a community control sanction.
 - (d) In cases where it is determined after assignment to a non-MHDD judge, that the defendant qualifies for the MHDD docket and has been opined Incompetent To Stand Trial but Restorable or in need of a 20-day evaluation, the non-MHDD judge shall first issue an order for restoration/20-day evaluation and thereafter, may apply for transfer of the case as set forth in (a) above.

Cuyahoga County Common Pleas Court Local Rules

- (e) In cases where a defendant has been found incompetent to stand trial, unrestorable (ISTU) or not guilty by reason of insanity (NGRI), a Court may apply to transfer the case only after it has been concluded and is subject to the continuing jurisdiction of the Court.
- (f) All matters before the court shall be resolved prior to any transfer request.

(E) Cases will not be Assigned to Mental Health and Developmental Disabilities Dockets when:

- (1) Defendants charged under Ohio Revised Code Sections 2903.01, 2903.02, 2903.03 and 2903.04 are not eligible for the MHDD docket upon arraignment or upon transfer except as provided in subsection (D)(2)(e).
- (2) A case that is greater than 180 days post-Arraignment regardless of when MHDD clinical eligibility is determined. A transfer may occur following sentencing to a community control sanction.
- (3) At any time a case is re-assigned to Judges as outlined in Local Rule 30.0(E)(1-5). A transfer may occur following sentencing to a community control sanction.

(F) Post-Disposition Case Assignment for Multi-Track Placement

(1) Multi-Track Docket Eligibility

Post-Disposition Multi-Track Dockets are established to provide appropriate criminogenic and behavioral health interventions based on the offender's risk and need when eligible for Community Control Sanctions.

²**Appendage B** below outlines the current target population and/or participation requirements for each MHDD Court docket(s) for which an offender may be placed.

Throughout the pretrial process, the client may complete various evidence based practice screenings and assessments to determine appropriate Docket Track Placement following disposition. The totality of the assessments determine the eligibility and placement into the specific dockets.

- (a) The Court and parties shall be notified of the appropriate Docket Track Placement prior to the plea by the Specialty Court Department.
- (b) Multiple dockets may have a volunteerism component and a Participation Agreement will need to be executed prior to admission on the docket.

(2) Legal Criteria

- (a) Any misdemeanor or felony offense eligible for Community Control Sanctions, including Judicial Release.
- (b) Any charge determined eligible for diversion, per the Cuyahoga County Prosecutor's Office or any offender eligible for Intervention in Lieu of Conviction (ORC 2951.041) or other diversionary programs with the appropriate clinical diagnosis;
 - i. Diversionary and Non-Diversionary Tracks
 - 1. If the offender is placed on the Diversionary Track, the Court shall accept the offender's plea of guilty and waiver of the right to a speedy trial, a preliminary hearing, and the time period within which a grand jury may indict. The guilty verdict shall be held in abeyance as the participant completes the program.
 - 2. Every participant will be reviewed for placement for the Diversionary Track by the Cuyahoga Prosecutor's Office. A participant may have prior

Cuyahoga County Common Pleas Court Local Rules

felony convictions and be eligible for this track. If the Prosecutor's Office does not consent to the Diversionary Track, the participant will be placed in the Non-Diversionary Track. The offender shall have their guilty pleas accepted and a finding of guilt entered, in accordance with Ohio Rule of Criminal Procedure 11.

(3) Transfer of Cases to Multi-Track Docket

In cases where it is has been determined an offender meets legal and clinical criteria for one of the dockets outlined in ²**Appendage B** below, the assigned courtroom will be notified and may apply to the Administrative Judge when a case has been granted diversion or is post-disposition.

(4) Successful Completion

Once an offender completes all court ordered conditions and phasing requirements of the MHDD Court docket they may apply for successful termination/graduation.

- (a) An offender who successfully completes the diversionary track of the MHDD Court docket(s) shall have their proceedings dismissed and the Court shall order the sealing of records pursuant to R.C. 2953.52. The case shall be without adjudication of guilt, and is not a criminal conviction for purposes of any disqualification or disability imposed by law and/or upon conviction of a criminal offense.
- (b) An offender who successfully completes the non-diversionary track of the MHDD Court docket(s) will have their Community Control sanctions terminated.

Passed by emergency vote 10/23/2023.

¹**Appendage A: 30.1 ASSIGNMENT OF CRIMINAL CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS**

Clinical Eligibility Guidelines

Clinical eligibility requires a defendant to suffer from a severe and persistent, psychotic-spectrum mental illness and/or developmental disability (Neurodevelopmental Disorder).

Clinical eligibility requires that the eligible diagnosis be verified within 12 months prior to request to transfer to MHDD Court. The MHDD flag remains in effect throughout the time the defendant is under supervision of the Court and only needs to be re-verified if they are off the docket 12 months or more.

Diagnoses with descriptors “provisional” or “by history” will require additional verification from another source before the MHDD flag is approved. This time period to verify the diagnosis will pause the 30 day window to approve a transfer as noted in Local Rule 30.1 (D)(2)(b).

Mental Health Diagnoses (DSM-5)

Disorders that have psychotic elements include the following:

- **Schizophrenia and other psychotic spectrum disorders (such as Delusional Disorder)**
- **Disorders with psychotic features (such as Bipolar I Disorder with Mood Congruent Psychotic Features)**

Developmental Disability Diagnoses (DSM-5)

- **Intellectual Disability (Mild, Moderate, Severe, Profound) and/or an adaptive skills deficit based on a diagnostic report.**
- **Unspecified Intellectual Disability**
- **Borderline Intellectual Functioning (IQ 70-79)**
- **Autism Spectrum Disorder**
- **Major or Mild Neurocognitive Disorder**
- **Any Neurodevelopmental Disorder diagnoses indicated on an Adult Form of Eligibility Determination (FED) for a defendant receiving Cuyahoga County Board of Developmental Disabilities (CCBDD) services. If the diagnosis doesn't match other MHDD eligibility criteria, defendant would no longer be eligible for MHDD if found ineligible for CCBDD Services.**

²**Appendage B: 30.1 ASSIGNMENT OF CRIMINAL CASES TO MENTAL HEALTH AND DEVELOPMENTAL DISABILITIES DOCKETS**

The Mental Health and Developmental Disabilities (MHDD) Court docket(s) addresses offenders with an eligible mental illness and/or intellectual or other qualifying disabilities. Offenders may also suffer from other behavioral health disorders or have differing criminogenic needs. Therefore, it was important for the Cuyahoga County Common Pleas Court to tailor each of the MHDD Court docket(s) to target diverse behavioral health disorders in an effort to treat each offender's needs safely and effectively based on best practice standards. Additionally, some of the docket may have a volunteerism component and a Participation Agreement would need to be executed prior to admission.

The MHDD Court docket funding is often provided by federal or state grants and therefore target population for each of the dockets may be revised over time based on community needs and growing research. Offenders may be eligible for multiple dockets Appendix B will be updated whenever a target population is modified or changed.

The following information defines the target population and eligibility for each MHDD Court docket(s) based on an offender's mental health assessment, along with an ORAS assessment and an interview with the potential participant.

1. **BJA Grant Court:**

This Court is established for offenders with significant risk to reoffend and significant substance use disorders. The multidisciplinary team of counselors, case managers, peer support and probation officers will work closely with offenders through consistent and regular judicial interaction to create a culture of support and accountability utilizing many aspects of the drug court model.

- Eligible Mental Health Diagnosis
- Moderate to severe substance use disorders;
- High Risk ORAS Assessment (Moderate Risk may be considered)
- Diversionary and Non-Diversionary Track available
- Participation Agreement required
- Exclusions:
 - i. Offender is a Violent Offender pursuant to 34 U.S. Code § 10613
 - ii. Offenders is charged with or has history of sex offenses.

2. **FACT Grant Court:**

This Court is established for offenders with low risk to reoffend, but significant mental health disorders utilizing Assertive Community Treatment (ACT) Model. The multidisciplinary team of counselors, case managers, peer support with work closely with the offender through the community settings to provide integrated approach to community mental health service delivery to reduce unneeded hospitalizations and criminal justice involvement while providing the offender with the ability to become independent and integrate into the community. Judicial interaction is utilized parsimoniously, as probation officer(s) will monitor compliance.

- Eligible Mental Health Diagnosis
- Low Risk ORAS Assessment (Moderate Risk may be considered)
- Adult Needs and Strengths Assessment (ANSA) to determine Level of Care
- Diversionary and Non-Diversionary Track available
- Participation Agreement required

3. *Developmental Disabilities Court*

This Court is established for offenders with eligible intellectual disabilities. The multidisciplinary team of County Board of Developmental Disability professionals, behavioral health professionals, and probation officers will work closely with offenders in concrete and sustainable goals while working with the offender to create adaptable services through technology, employment supports, and ancillary services. Concrete Judicial Interaction will assist with accountability and support.

- Eligible Intellectual or Developmental Disability
- Low – High ORAS Assessment
- Diversionary and Non-Diversionary Tracks available
- Participation Agreement is NOT required

4. *Traditional Mental Health Court docket criteria:*

This Court is establish for offenders who are not eligible for the above mental health courts based on risk or do not choose to enter the above mental health court dockets. This court will work consistently with probation officers and variety of mental health agencies. Judicial Interaction will be utilized as needed based on compliance measures.

- Eligible Mental Health Diagnosis
- Low – High ORAS Assessment (preferable: Moderate Risk)
- Diversionary and Non-Diversionary Tracks available
- Participation Agreement is NOT required