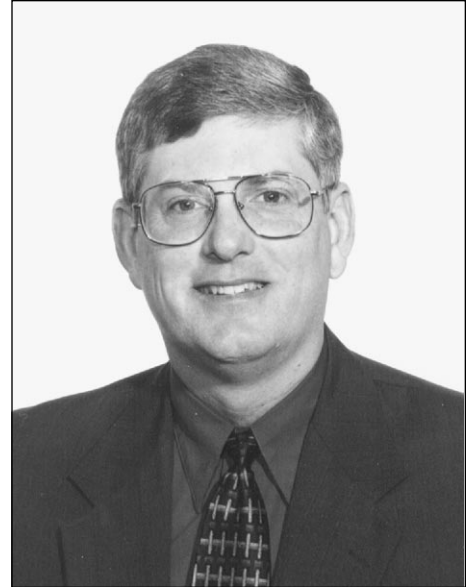


# Admission Procedures for the Adult Drug Treatment Court

by *Kevin M. Oeffner*  
*Circuit Court Administrator*



Regular readers of this column, particularly criminal law practitioners, should by now know that the Oakland County Adult Treatment Court (ATC) has been operational for six months. In past articles, most notably the July 2001 edition of *Laches*, I've provided a broad overview of the workings of the ATC. In this column, I will explain the specifics as to how an offender may be admitted to the ATC.

Generally, the prosecutor will screen the defendant's offenses for potential eligibility during the warrant evaluation. The defendant must be charged with a non-violent offense for which community supervision is available under Public Act 511. The defendant must also be presumptively placed in a sentence guidelines straddle cell likely to lead to incarceration.

This is key! The defense attorney and his or her client must understand that the defendant will likely face jail or prison time if the case proceeds in the customary adversarial manner. Generally, a defendant sentenced to the ATC as a condition of probation must graduate (i.e. successfully complete a comprehensive and regimented drug treatment and rehabilitation program) to avoid incarceration.

Screening will include the administration of a NEEDS assessment that provides a measurement of nine relevant domains including substance and alcohol abuse, mental health, and amenability of the defendant to be subjected to community supervision. The prosecutor will notify the defense attorney as to the results of the screening and evaluation process prior to the district court arraignment or preliminary exam. Defense counsel can seek a good-cause adjournment of the preliminary exam for one week to evaluate the case and advise his or her client.

A note about the process described above: In most cases the prosecutor will initiate screening and administration of the NEEDS assessment. If the defendant has a substance abuse problem and the immediate charge(s) are PA 511-eligible, the defense attorney may inquire as to whether his or her client meets the ATC eligibility requirements. The attorney should contact any one of the following three people: Ellen Zehnder, an employee of the Circuit Court who serves as the ATC Coordinator, may be contacted at 248-975-9890; Gerry Gleeson, who is the assistant prosecutor assigned to the ATC, may be reached at 248-858-0655; or

you may call Diana Bare, who serves as the defense advisor to the ATC. Ms. Bare may be contacted at her law office by calling 248-627-7835.

At this point, it is the responsibility of the defense attorney to review all relevant information, interview the defendant, and determine whether to proceed in the traditional adversarial manner or seek admission to the ATC. It is important to understand that the defendant must waive the right to a preliminary exam, the right to bring motions before the court, the right to a trial, and other fundamental rights associated with the traditional adversarial process if admitted to the ATC.

If the defendant determines to pursue admittance to the ATC, he or she will appear before the district court judge and waive his or her right to the preliminary exam. The judge will bind the matter over to Circuit Court. A defendant provisionally admitted to the ATC will appear for arraignment before the trial judge to whom the case was assigned. The defendant must enter a plea of guilty pursuant to a *Cobbs* agreement. In most cases the judge will defer sentence until he or she has an opportunity to review the pre-sentence investigation report. After review of the PSI, the trial judge may accept the guilty plea and sentence the defendant to the ATC as a condition of probation.

It should be noted that the PSI may be critical to the defendant's admittance to the ATC. If it uncovers a past history of assaultive behavior or shows that the defendant has not been truthful in providing information, the prosecutor may "veto" the defendant's request for admittance. Non-violent offenses that are PA 511-eligible do not guarantee admittance to the ATC. The prosecutor and judge can weigh other information and reject a defendant's admittance even if the offender meets the basic eligibility criteria.

After the defendant is sentenced to the ATC, the defense attorney will collaborate with the defense advisor to the ATC to transition the case to the program. The defense advisor will not have a confidential attorney-client relationship with the defendant. Please call Ms. Zehnder or Ms. Bare for a description of the defense advisor's responsibilities.

*(continued on page 33)*

*(continued from page 28)*

Once the defendant has been sentenced to the ATC, Circuit Court Probation will ensure that an evaluation has been conducted and is filed with the court. The defendant will be referred to PACE (Prior Authorization and Central Evaluation, a screening and assessment office within the Oakland County Health Division), where a treatment plan will be recommended for the defendant. The Probation Department will also contact the defendant to process the individual for the ATC, which includes an explanation of the rights and obligations of persons admitted to the program, and an explanation of the requirements for graduation from the ATC.

The ATC Team will review the file, treatment plan, and supervision plan prepared by the Probation Department prior to the defendant's appearance at the ATC session. The next step is for the defendant to appear at court. The ATC judge will question the defendant on the record with the ATC Team in attendance. If all goes well, the prosecutor will make a motion that the defendant be accepted into the ATC. The judge may grant the motion at which time the defendant is admitted to the ATC. And that's when the defendant's work begins.

It should be noted that a defendant may be removed from the ATC for reasons including, but not limited to, failure to meet the stated objectives in the defendant's supervision and treatment plan or if he or she is charged with a new felony while participating in the ATC. For more detailed information about the ATC, please contact the persons mentioned above.

Until next month ...