

BUTTE-SILVER BOW COUNCIL OF COMMISSIONERS
REGULAR MEETING, TUESDAY, MARCH 16, 2021
7:30 P.M.

COUNCIL CHAMBERS, ROOM 312, BUTTE-SILVER BOW COURTHOUSE

FINDING OF EXISTING EMERGENCY TO PERMIT SUSPENSION
OF RULES TO ALLOW COMMUNICATION NO. 2021-141
TO BE ADDED TO THE MARCH 16, 2021 AGENDA

In accordance with the provisions of Section 6 of Rule VI of the Rules of Business of the Council of Commissioners of the City and County of Butte-Silver Bow, State of Montana, the Council hereby finds that an emergency condition exists which requires that the Council Rules be suspended to allow Communication 2021-141 to be added to the Agenda of the Regular meeting of the Council.

The reason for the suspension is as follows:

Communication No. 2021-141 is a Communication from Deputy County Attorney Mike Clague requesting that the Council authorize the Chief Executive to sign a Memorandum of Understanding (MOU) between the partners of the DUI court. This communication was not submitted by the deadline for the March 16, 2021 Agenda as the MOU was not reviewed by all parties prior to such deadline. However, because the application is due by April 7, 2021 and due to the fact that there will not be another Regular meeting of the Council prior to such deadline, Mr. Clague is requesting that this matter be added to the March 16, 2021 Council Agenda.

Based upon the foregoing, and in order to allow this matter to be acted upon, the Council hereby finds that an emergency exists which requires the suspension of the Council's rules to add Communication No. 2021-141 to the Agenda for the March 16, 2021 Regular meeting.

Motion to approve suspension of the rules to consider placing Communication No. 2021-141 on the Agenda at the March 16, 2021, 2021, Regular meeting for action was made by Commissioner _____ and seconded by Commissioner _____ and _____ members having voted aye and _____ members having voted no, the motion _____.

Dated this 16th day of March, 2021.

Linda Sajor-Joyce
CLERK AND RECORDER



THE CITY-COUNTY OF
Butte-Silver Bow

COUNTY ATTORNEY'S OFFICE
EILEEN JOYCE, COUNTY ATTORNEY
Ph: 406-497-6230; E-Mail: ejoyce@bsb.mt.gov

RECEIVED
MAR 16 2021

BY: 2021-141

March 15, 2021

Council of Commissioners
Courthouse Building
155 West Granite Street
Butte, MT 59701

RE: Council Communication No. _____

Dear Ladies and Gentlemen:

The Butte-Silver Bow DUI Court respectfully requests the Council of Commissioners authorize the Chief Executive to sign the attached Memorandum of Understanding between the partners of the DUI Court. The Memorandum of Understanding is required to apply for a U.S. Department of Justice Grant. The Memorandum of Understanding does not require the City and County of Butte Silver Bow to spend any money at this time.

Thank you for your consideration.

Sincerely,


Mike Clague
Deputy County Attorney

Memorandum of Understanding
Between

**BUTTE-SILVER BOW DUI COURT
AND
DUI COURT MEMBERS AND PARTNERS**

The Butte-Silver Bow DUI Court (DUI Court) members and partners agree that the citizens of Butte-Silver Bow County will benefit in an enhanced DUI Court. The DUI Court will provide a service to our County's driving under the influence population and help to ensure that each offender can be a productive person in the community. The DUI Court will also reduce repeat crimes in the community. Therefore, the DUI Court Members and the Partners, pursuant to this Memorandum of Understanding, agree to use their best efforts to ensure a DUI Court is continued and improved in Butte-Silver Bow County.

A. Program Description/Introduction

This Memorandum of Understanding (the "Agreement") is entered into and effective upon the last signature of a party.

WHEREAS, the purpose of this Agreement is to establish the roles, responsibilities and expectations of the parties and for the parties to endorse the mission, goals, objectives and best practice standards of the DUI Court:

WHEREAS, the DUI Court will adhere to the 10 Key Components of Drug Courts and follow Best Practice Standards as defined by National Association of Drug Court Professionals (Volumes I and II);

WHEREAS, the DUI Court's purpose is to reduce criminal recidivism by providing assessment, education and treatment to substance abusing and/or co-occurring DUI Offender populations;

WHEREAS, the DUI Court plans to provide an alternative to traditional criminal justice system case processing with appropriate substance abuse and mental health treatment and other recovery support services for offenders accepted into the program;

WHEREAS, the DUI Court will closely monitor participants' recovery with frequent drug testing, court appearances, and other program requirements;

WHEREAS, the DUI Court requires strict accountability from program participants and imposes immediate sanctions for unacceptable behavior to promote long-term recovery and stability;

WHEREAS, the DUI Court will reduce costs within the County's and State's criminal justice system;

WHEREAS, the DUI Court will comply with all applicable federal, state, and local laws, rules and regulations governing the confidentiality and privacy of individually identifiable health information, including, but without limitation, the Health Insurance Portability and Accountability Act of 1996 (HIPAA) and including those laws, rules and regulations that prohibit the release of records relating to participant drug and alcohol treatment information except in very limited circumstances as described in 42 CFR Part 2;

WHEREAS, the DUI Court and the collaborating parties will work in partnership to provide community data to inform policy and program development in Butte-Silver Bow County;

WHEREAS the parties agree that the mission of the DUI Court is to enhance public safety by reducing the number of repeat offenders and financial and societal costs to the citizens of Butte-Silver Bow. By signing this agreement, the parties will accomplish the goals of the DUI Court by providing a judicially supervised intensive court established program, utilizing effective mandated treatment, intensive supervision, and support thereby assisting participants to become sober, productive, law-abiding members of our community.

B. Goals

The goal of the DUI Court is to improve the lives of participants with substance use disorders in the criminal justice system through the integration of intensive supervision, alcohol and drug treatment, mental health services, alcohol and drug testing, and case management services with criminal justice system processing.

The parties agree that the program will follow the *10 Key Components of Drug Courts* in which the respective agencies will work cooperatively. They are:

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
3. Eligible participants are identified early and promptly placed in the drug court program.
4. Drug courts provide access to a continuum of alcohol, drug and other related treatment and rehabilitations services.
5. Abstinence is monitored by frequent alcohol and other drug testing.
6. A coordinated strategy governs drug court responses to participant compliance.
7. Ongoing judicial interaction with each drug court participant is essential.
8. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
9. Continuing interdisciplinary education promotes effective drug court planning, implementation, and operations.
10. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court effectiveness.

To achieve its mission, the DUI Court will pursue the following goals:

1. Reduce the number of traffic offense and related crimes committed by DUI Offenders in the community and thereby make the roadways and streets in Silver Bow County safer.
2. Provide incentives through treatment and supervision for participants not to re-offend.
3. Require participants take responsibility for their actions and change their negative behaviors.
4. Provide mental health and chemical dependency treatment of participants to reduce the multiple offenders.
5. Return participants to the community as sober, productive members who are mentally and physically healthy.

C. Provisions

To achieve the goals and mission of the DUI Court, each agency agrees to participate by coordinating and/or providing the following:

The DUI Court agrees to:

1. Establish a fair and equitable alternative for DUI Offenders who because of chemical dependency are at a high risk to re-offend.
2. Supervise a DUI Court Team made up of county attorney staff, sheriff department staff, chemical dependency treatment providers, public defender staff, probation officers, Court Coordinator and court personnel. The screening committee will be responsible for upholding the standards set forth by the DUI Court and holding the offenders responsible for their actions. The screening committee will meet regularly to evaluate the offenders and make recommendations to the DUI Court .
3. Meet weekly to monitor participants' progress in the program by providing rewards for program compliance, sanctions for program violations and treatment adjustments.
4. Ensure each offender completes all treatment, meets with a probation officer and is monitored for alcohol and drug use.
5. Ensure all information related to the DUI Court Team from the offender or public agencies will remain confidential and be secured by the courts that have jurisdiction over the offender.

The Butte City Court agrees to:

1. Refer DUI Offenders arrested and convicted for a DUI related offense to the DUI Court based upon established criteria.

2. Require referred offenders whom the DUI Court agrees to screen complete the screening process including a chemical dependency evaluation.

The Justice Court agrees to:

1. Refer DUI Offenders arrested and convicted for an Offense to the DUI Court based upon established criteria.
2. Serve as the sitting Judge for the DUI Court and oversee the day to day operation of the DUI Court.
3. Provide Justice Court personnel to staff the DUI Court.

The Prosecutor agrees to:

1. Screen eligible participants based upon established criteria for placement into the DUI Court.
2. Designate a representative to participate as a member of the DUI Court Team.
3. Research recidivism information on all participants that have successfully completed the DUI Court.
4. Comply with all DUI Court policies and procedures that have been previously agreed upon by all parties.
5. Assist the DUI Court in obtaining the necessary funding to ensure the DUI Court is a sustainable program.

The Sheriff's Department agrees to:

1. Designate an officer to participate as a member of the DUI Court Team.
2. Assist in screening individuals for acceptance into the DUI Court.
3. Provide law enforcement assistance to enforce the orders of the DUI Court.
4. Provide security during meetings of the DUI Court .

The Court Coordinator agrees to:

1. Participate as member of the DUI Court Team.
2. Research recidivism information on all participants that have successfully completed the DUI Court program.

3. Comply with all DUI Court policies and procedures that have been previously agreed upon by all parties.
4. Assist the DUI Court in obtaining the necessary funding to ensure the DUI Court is a sustainable program.
5. Screen potential participants to determine if the participants meet the established criteria for admission.
6. Track the participants' progress through the program and provide the Court reports as to participants' progress.

The Probation Department agrees to:

1. Supervise DUI Court participants' compliance with court-ordered probation conditions.
2. Designate a Probation Officer to participate as a member of the DUI Court Team.
3. Meet with DUI Court participants as necessary to ensure compliance with court-ordered probation conditions.
4. Conduct random alcohol and drugs tests and home visits to ensure compliance with court ordered probation conditions.
5. Conduct home visits at participants' homes to ensure compliance with court-ordered probation conditions.

The Defense Counsel agrees to:

1. Participate as a member of the DUI Court Team.
2. Provide legal defense services to defendants to whom appointed.
3. Effect a competent, efficient and expedient disposition of cases assigned.
4. Assist in initial screening of participants to ensure the safety and integrity of the DUI Court.

The Treatment Provider/Testing Officer Agrees to:

1. Designate a representative to participate as a member of the DUI Court Team.
2. Conduct alcohol and drug assessments and share results with the DUI Court Team for purposes of formulating individual case plans.

3. Compile DUI Court sobriety and treatment reports regarding participants of the DUI Court and forward to the Court Coordinator on a weekly basis.
4. Provide treatment for DUI Court participants as ordered by the DUI Court.
5. Conduct random breath and/or urine testing to ensure compliance with the DUI Court rules.

The Court Evaluator agrees to:

1. Review the DUI Court and provide each year a program and procedure evaluation.
2. Provide guidance to ensure the DUI Court is complying with the 10 key compents of treatment Courts and is use the best evidence based practices

The City and County of Butte-Silver Bow agrees to:

1. Provide a court room in the County Courthouse for the DUI Court to meet.
2. Assist in obtaining funding to ensure a sustainable DUI Court.
3. Provide the necessary administrative and technical support as required to meet the DUI Court goals.

D. Mutual Indemnification

The participating agencies agree to indemnify, defend and hold harmless each other and their officers, agents and employees from any and all claims, actions or proceedings arising solely out of the acts or omissions of the indemnifying agency in the performance of this Memorandum of Understanding.

The participating agencies agree that each is acting in an independent capacity and not as officers, employees or agents of the other agencies.

E. Term of Agreement

This Agreement is effective on the date of the last signature for one year and will automatically renew yearly unless any party provides 30 days notice of its intent to withdraw from the agreement.

F. Terms and Conditions

All terms and conditions of the Agreement are subject to obtaining DUI Court funding for treatment and testing of DUI Court participants.

G. Termination of Memorandum of Understanding

Upon mutual consent of all parties, the Memorandum of Understanding is subject to further negotiation and revision as required to support the needs and goals of the DUI Court program. Any changes shall be in writing and signed by all parties herein or their duly appointed representative(s) authorized to act on their behalf.

H. Review and/or Revision of Memorandum of Understanding

This Memorandum of Understanding will be reviewed on a yearly basis and revised as necessary upon mutual agreement of all parties.

Signatures of Authorized Representatives:

Butte-Silver Bow DUI Court

By: _____ Date: _____
Judge James F. Kilmer

Butte City Court

By: _____ Date: _____
Judge Jerome McCarthy

Butte-Silver Bow Justice Court Dept. 2

By: _____ Date: _____
Judge Ben Pezdark

Butte-Silver Bow County Attorney Office

By: _____ Date: _____
County Attorney Eileen Joyce

Butte-Silver Bow Sheriff's Department

By: _____ Date: _____
Sheriff Ed Lester

Butte-Silver Bow Probation Department

By: _____ Date: _____
Mike Fortune

DUI Court Coordinator

By: _____ Date: _____

Susanne M. Clague

Treatment Provider/Testing Officer

By: _____
Mike Thatcher, CCCS, Inc. CEO

Date: _____

Defense Counsel

By: _____
Jana McGill

Date: _____

Evaluator

By: _____
Mona Sumner

Date: _____

CITY-COUNTY

J.P. Gallagher, Chief Executive Officer
The City and County of Butte-Silver Bow

Date: _____

ATTEST:

Clerk & Recorder
Butte-Silver Bow County

Date: _____

Approved as to form:

EILEEN JOYCE
BUTTE-SILVER BOW COUNTY ATTORNEY