

**Island County  
Adult Drug Court**

Policy and Procedure Manual

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## **I. INTRODUCTION**

A “drug court” as defined by the National Association of Drug Court Professionals is “a special court given the responsibility to handle cases involving drug-addicted offenders through an extensive supervision and treatment program.” Drug courts represent a non-traditional approach to prosecution of offenders who are addicted to drugs. Rather than focusing only on the crimes they commit and the punishments they receive, drug court also attempts to solve some of their underlying problems.

Drug courts are built upon a partnership between the criminal justice system and the treatment community. This collaboration results in a drug court team that structures treatment, supervision, and intervention in order to break the cycle of drug abuse and associated criminal activity. Drug court participants undergo long-term treatment and counseling, sanctions, incentives, and frequent court appearances. Although drug courts vary somewhat from one jurisdiction to another in terms of structure, scope, and target populations, they all usually share three primary goals: (1) to reduce recidivism, (2) to reduce substance abuse among participants, and (3) to rehabilitate participants.

Because of the unique problems and opportunities that present themselves in working with drug involved criminal defendants, intervention and rehabilitation strategies must be “reality-based.” Drug court programs must therefore recognize:

- Substance abusers are most vulnerable to successful intervention when they are in the crisis of initial arrest and incarceration, so intervention must be immediate.
- Preventing gaps in communication and ensuring offender accountability are of critical importance, so court supervision must be coordinated and comprehensive.
- Substance abuse seldom exists in isolation from other serious problems, which undermine rehabilitation, so intervention must include other available services and resources such as dual diagnosis intervention, educational assessments, and employment assistance.
- Relapse and intermittent progress are part of the recovery process, so sanctions and incentives must be integral to the drug court intervention strategy.

### **A. Mission Statement**

The Island County Drug Court is a program designed to reduce substance abuse and criminal recidivism, and increase rehabilitation through intense judicial intervention and substance use disorder treatment. Frequent drug testing, substance use disorder (SUD) treatment, social service referrals, sanctions and rewards are used to promote long-term sobriety, accountability, and productive lifestyles.

## **B. Goals**

The Island County Drug Court has the following primary goals:

1. Reduce drug use and related criminal activity
2. Reduce recidivism rates
3. Hold drug-dependent offenders accountable for their criminal conduct
4. Provide real and effective rehabilitation for criminal offenders

The following ancillary goals and benefits are also achieved in the pursuit of the primary goals:

1. Reduce criminal justice costs through reduced reliance on incarceration for non-violent felony offenses
2. Promote community awareness of Island County's drug problem and encourage community participation in solving it

## **C. Methods for Achieving Goals**

### Goal 1 – Reduce drug use and related criminal activity

- Mandate intensive substance use disorder treatment and close judicial supervision and mentoring of all participants, with appropriate sanctions and rewards based on performance. Close judicial supervision is premised upon a stable and consistent relationship between the participant and the designated Drug Court Judge.

### Goal 2 – Reduce recidivism rates

- Follow recognized methods and procedures, which have been empirically shown to reduce recidivism. (See, e.g. Barnosky, Robert and Aos, Steve, *Washington State's Drug Courts for Adult Defendants: Outcome Evaluation and Cost-Benefit Analysis*, Washington State Institute of Public Policy (March, 2003); and Aos, Steve, *Can Drug Courts Save Money for Washington State Taxpayers?*, Washington State Institute of Public Policy (January, 1999).)

### Goal 3 – Hold drug-dependent offenders accountable

- Mandate weekly court appearances and at least weekly contact with the case manager or coordinator.
- Impose immediate sanctions for non-compliance, including minor violations.
- Terminate and immediately convict and sentence participants who commit serious violations or repeatedly commit minor violations.

Goal 4 – Provide real and effective rehabilitation for criminal offenders

- Mandate intensive and comprehensive treatment for all participants.
- Provide referrals and incentives to other social services.
- Require job training and employment for graduation.

Ancillary Goal 1 – Reduce criminal justice costs

- Quickly screen defendants for eligibility and start participation soon after charging.
- Utilize sanctions and rewards to avoid long-term incarceration costs.

Ancillary Goal 2 – Promote community awareness of Island County’s drug problem and community participation in solving it

- Create a Drug Court Speaker’s Group to inform and enlist community support and engagement.

## **II. DRUG COURT TEAM PHILOSOPHY AND STATEMENT OF VALUES**

The mission statement communicates what we do as a Drug Court and why. Examining our values can assist us with orientation of new members and continued mobilization of the community for funding, referrals, and resource development. Adhering to our values is essential to the success of the team and participants.

### **A. Core Values**

**Our team is successful and effective in that we have:**

1. Mutual respect and respect for each other's roles, ethical concerns, boundaries, ideas, and perspectives.
2. Shared expectations for programs and understanding of each other's roles.
3. A high level of commitment from all team members.

**The community benefits from the work of our team because of:**

1. Reduced societal costs through reduced crime.
2. Increased awareness of drug and alcohol issues in the community as well as increased communication and increased collaboration between services.
3. Providing skills to drug court participants that may prevent future drug use.
4. Providing better access to services for drug court participants and their families.
5. Providing holistic resources for drug court participants and their families.

**The work of our team contributes to community needs.**

The drug court helps improve family stability and identifies and addresses a range of underlying needs. The team contributes a framework for addressing these needs and providing access to necessary services.

**Community values reflected in our team's decisions.**

The drug court team operates with values compatible to those held by our community, such as accountability, promoting individual dignity, using treatment rather than incarceration whenever appropriate, and decreasing costs of criminal justice.

### **B. Orienting New Members**

**New team member orientation.**

We will orient new team members by providing our policy and procedures manual and encouraging new team members to participate in the process alongside the

outgoing team member if possible. As previously stated, each team member will be encouraged to respect the roles, ethical concerns, boundaries, ideas, and perspectives of other team members, including a new team member.

**New team members have input and ownership in the Drug Court Team plans and operations.**

We have formalized and codified a consensus process that encourages new members to propose additions/modifications to the program after they have been with the team for a period of time. New team members are encouraged to ask questions, obtain information and provide input as a professional member of the drug court team.

### **III. DRUG COURT ORGANIZATION**

#### **A. Drug Court Committee**

A Drug Court Coordinating Committee was established to discuss the feasibility and sustainability of a proposed Island County Drug Court for adult felony defendants. The committee determined the court was feasible and could be sustained with available resources and a population of defendants who would benefit from it. The committee undertook the task of defining the function, procedures, and policies of the Drug Court.

The committee was comprised of the Island County Prosecuting Attorney, the Island County Superior Court Judges, the Island County Health Department's Director of Human Services, the Island County Juvenile Drug Court Coordinator, and representatives from the criminal defense bar, the Department of Corrections, the local treatment community, the Island County Sheriff's Office, and non-governmental drug abuse prevention organizations.

This manual is the tangible result of their work. The commitment and dedication of the drug court team members to inaugurate and operate the Island County Drug Court is the intangible and invaluable result of their work.

#### **B. Team Members and Roles**

It is essential for each team member to make a commitment to participate consistently and dependably in all proceedings during their Drug Court tenures.

##### **1. Drug Court Judge**

The Drug Court Judge will provide leadership to the drug court program and make final programmatic/participant decisions and participate fully as a drug court team member.

The Superior Court judges will establish a procedure to appoint the Drug Court Judge, with the goal of maintaining appropriate continuity between the Drug Court Judge and the drug court participants.

The judge will:

- Lead pre-hearing staffing meeting and make final decisions based on collaborative team input
- Assume not only the role of judge, but also of mentor and encourager to each drug court participant
- Establish a rehabilitative relationship with each participant through intensive interaction during court appearances



## 2. Drug Court Coordinator

The Drug Court Coordinator will provide oversight for the day to day operations of the drug court program. He or she will also monitor whether the program is meeting its short and long term objectives for the participants, community, and the local criminal justice system. The Drug Court Coordinator will be an employee of the Superior Court.

The Drug Court Coordinator will:

- Plan, organize, coordinate, and monitor activities of the drug court program
- Conduct intake interviews with clients and gather all relevant treatment and demographic information
- Attend pre-hearing staffings and hearings in order to evaluate and direct drug court operations, case management, media inquiries, and drug court team cohesiveness and understanding of drug court concepts
- Gather and prepare Drug Court data for grant reporting mandates and to obtain future funding, in conjunction with the Island County Health Department Substance Abuse Coordinator
- Collaborate with government and community agencies in order to meet programmatic goals and provide effective programming
- Monitor conditions of the Drug Court contract, including treatment compliance, abstinence, housing arrangements, employment, traveling, and legal/financial obligations
- Perform random home visits to assess the participant's progress
- Coordinate any community service performed by the participant
- Monitor weekly input of compliance data into Drug Court database for weekly progress report

## 3. Drug Court Prosecutor

The Drug Court Prosecutor will ensure community safety concerns are met and will participate fully as a drug court team member. The Prosecuting Attorney will designate a deputy prosecutor to be responsible for Drug Court eligibility determinations and participating in Drug Court hearings. The appointment should be a long-term appointment.

The Drug Court Prosecutor will:

- Make eligibility determinations and contact collaborative agencies such as law enforcement and Department of Corrections for input
- Make determinations for termination and new charges, such as bail jumping, that balance community needs and therapeutic outcomes
- In status hearings will operate in a non-adversarial manner, promoting a sense of a unified team presence
- Ensure participant understanding of sanctions and present rewards to recognized participants

#### 4. Drug Court Defense Attorney

The Drug Court Defense Attorney will ensure his or her clients' legal rights are protected and will participate fully as a Drug Court team member.

When assigned the defense will:

- Meet with potential Drug Court participants to evaluate their interest in and suitability to the program
- Advise the clients on their legal rights, legal options, program conditions and potential sentencing outcomes
- Monitor client progress in the Drug Court program
- Participate in a non-adversarial manner at status hearings, thus promoting a unified Drug Court team presence

#### 5. Drug Court Case Manager

The Drug Court Case Manager will provide case management services for all drug court participants and will participate fully as a drug court team member.

The Case Manager will:

- \* Monitor participants' compliance with the Terms & Conditions of Drug Court, performing weekly check-ins with each participant
- \* Meet with participants to discuss program requirements, progress in the program, and update case plans periodically
- \* Connect participants with outpatient substance abuse treatment services, and provide referrals and assistance for getting inpatient beds, as directed by the case plan and chemical dependency services provider
- \* Perform physiological testing to determine presence or absence of forbidden substances in participants' bodies
- \* Provide referrals to other necessary social and health services for participants
- \* Apprise the other team members of the participants' compliance with court orders
- \* Participate in weekly staffings and court hearings and provide weekly input of treatment and drug testing data into Drug Court database

#### 6. Drug Court Treatment Provider

The Drug Court Treatment Provider will provide substance use disorder treatment to drug court participants and will participate fully as a drug court team member.

The Treatment Provider will:

- \* Conduct initial substance use disorder assessments and provide a summary report with treatment recommendations for defendants referred by the Drug Court Coordinator
- \* Connect participants with referrals and assistance for getting inpatient treatment bed dates and detoxification services

- \* Provide participants with outpatient SUD treatment services
- \* Perform physiological testing to determine presence or absence of forbidden substances in participants' bodies
- \* Apprise the other team members of the participants' compliance with treatment as well as other court orders
- \* Participate in weekly staffings and court hearings

#### 7. Management Information System (MIS) Coordinator

The MIS Coordinator will input demographic and other relevant data for each participant and maintain a database, which will be used to evaluate the program at the end of each year. The MIS Coordinator attends each drug court planning session and offers input to the drug court team for making information more helpful and to use the information to help build strategies that can best help the participant.

#### 8. Drug Court Law Enforcement Liaison

The Drug Court Law Enforcement Liaison will provide law enforcement support for drug court activities and participate fully as a drug court team member.

Liaison officers will:

- Provide eligibility feedback during initial screening process
- Provide law enforcement presence during Case Manager's visits to a participant's home (i.e., for random, unannounced drug testing)
- Conduct home visits and other law enforcement activities to aid drug court team in monitoring drug court participants

### **C. Drug Court Facilities and Operations**

The Island County Adult Drug Court will be convened every week in one of the three Superior Court departments. Prior to each court hearing, at which all team members and scheduled participants must be present, the Drug Court Team will "staff" all cases that will be before the court. "Staffing" cases includes review of each participant's progress and compliance, and making recommendations and decisions regarding any actions that should be taken on each case.

Administrative support and management will be provided by the Drug Court Coordinator and the Drug Court Case Manager.

## IV. ENTRY AND ASSESSMENT

### A. Capacity

The Adult Drug Court has capacity to serve 25 participants. Once the capacity has been reached, no new participants will be admitted into drug court until a current participant leaves the program.

### B. Eligibility

Participation in Adult Drug Court shall be permitted at the exclusive discretion of the Prosecuting Attorney's Office, upon request of a charged defendant. A defendant who otherwise could be eligible for participation may be denied access to this diversion program by the prosecutor based upon other factors, including, but not limited to: a significant felony or non-felony criminal history; significant number of counts in current cases; evidence that the defendant is not amenable to treatment; whether defendant has adequate social support structures to make success likely. The prosecutor will give great weight to the wishes of victims and consider input from law enforcement.

*Being ineligible for Adult Drug Court DOES NOT disqualify a defendant from obtaining funding from the Criminal Justice Treatment Account for treatment and treatment related services.*

In order to be eligible to participate in Adult Drug Court, the defendant must be charged with a felony in Island County Superior Court and meet the following criteria:

- The defendant is an Island County resident, or, if not an Island County resident, the defendant must establish initial intake criteria further outlined below;
- The defendant suffers from a substance abuse problem or addiction needing treatment;
- The defendant admits to having a substance abuse problem or addiction, and wants treatment;
- There is a causal connection between the defendant's drug abuse and the current charges; and
- The defendant would likely re-offend if not treated for substance abuse problem.

If the defendant is not an Island County resident, he or she may still be considered for participation in Adult Drug Court so long as the defendant is able to provide proof of the following during the initial intake interview:

1. That he/she will be living in a stable, drug-free environment during the time he/she would be participating in Drug Court;
2. That he/she will have access to appropriate treatment facilities/centers as might be required of Drug Court participants, including facilities at which to drug test (UA); and
3. That he/she has a consistent and reliable means of transportation to and from Coupeville, Washington and necessary treatment centers/facilities.

In addition, the defendant must be free from any of the following disqualifying conditions:

- No current charges or prior convictions for “serious violent offenses” as defined in RCW 9.94A.030
- No current charges or prior convictions for “violent offenses” as defined in RCW 9.94A.030
- No current charges or prior convictions for “sex offenses” as defined in RCW 9.94A.030
- No current charges or prior convictions for offenses in which the defendant was armed with a firearm or other deadly weapon
- No current DUI/Physical Control charges (though DUI offense may be filed in District court for deferred prosecution, with consent of all parties)
- No holds from other jurisdictions
- No prior failure in any drug court or other drug diversion program

Drug manufacture, deliver, and “possession with intent” cases may be eligible in the discretion of prosecutor, if there are sufficient indications that the crime was committed in order to support the defendant’s personal drug use, and not for profit.

### **C. Referral and Application Process**

Ordinarily, the defendant or his/her attorney will make a request to the assigned deputy prosecutor that the defendant be considered for Adult Drug Court.

The assigned deputy prosecutor will immediately refer the case to the Drug Court Prosecutor, who will determine whether the defendant is eligible and not otherwise disqualified to participate in Drug Court. The prosecutor will determine if the nature of the crime or the defendant’s history makes the defendant a poor candidate for Drug Court. Factors that the prosecutor shall consider include:

- Number of counts in current cases
- Input from the victim(s) and law enforcement liaison
- Amount of restitution likely to be ordered

- Whether defendant has adequate social supports to comply with Drug Court order
- Strength of evidence indicating that there is a causal connection between substance abuse and the commission of the charged offenses

Prior to petitioning the court for admittance to Drug Court, the defendant must:

1. Establish clinical eligibility for the drug court program by submitting to a substance use disorder assessment at a state-certified treatment agency, and provide drug court staff with treatment recommendations;
2. Be willing to be screened by a mental health professional who can advise whether the defendant could actively participate in and complete a rigorous program like drug court; and,
3. Meet with the Drug Court Coordinator for program screening and to receive detailed information on the Drug Court program.

If the prosecutor determines that the defendant is eligible, the defendant will file a *Motion For Admittance To Drug Court*. (Appendix A)

#### **D. Program Entry**

The defendant will file a *Motion and Order For Admittance to Drug Court* in Superior Court. The Order will require the defendant to appear at the next Drug Court hearing. The Motion for Admittance to Drug Court will include a speedy trial waiver at least 30 days beyond the date currently set for trial, or longer if required by the prosecutor. At the time the *Motion and Order for Admittance to Drug Court* is heard, the participant and prosecutor will stipulate to a *Drug Court Order of Terms and Conditions* setting forth the parties' rights and obligations (Appendix B). The terms and conditions will be effective immediately upon the participant.

Two weeks after executing the *Order of Terms and Conditions*, the participant must decide whether to "opt out" or continue with the program. If the participant elects to continue, he or she will execute the *Stipulation for Bench Trial on Agreed Documentary Evidence For Drug Court*. (Appendix C) This constitutes a stipulation to facts sufficient to support a conviction of the charges. The stipulation also includes a waiver of his or her right to a speedy trial, his or her right to present evidence and confront witnesses, and his or her right to a jury trial.

The participant will waive his/her right to confidentiality in relevant treatment records on a "Release of Confidential Records" form. (Appendix D)

The participant will pay a \$150 Drug Court administrative fee, and execute a promise to pay the balance before, and as a condition of, graduation. Restitution, if any, must be paid according to the agreement the participant signs at the time of stipulation. Failure to do so may result in sanctions or termination from the program. All fees and any restitution must be paid in full by the 15th of the month prior to a participant's scheduled graduation.

If the participant elects to opt out, new trial and pretrial hearings will be set, and the *Drug Court Order of Terms and Conditions* will be vacated.

### **E. Opt Out Period**

The participant has 14 days from the date of his or her first Drug Court appearance to opt out of the program, and have all waivers and stipulations and orders withdrawn and/or vacated, except for the speedy trial waivers.

**IF THE PARTICIPANT VIOLATES ANY OF THE TERMS AND CONDITIONS DURING THE OPT OUT PERIOD, THE COURT MAY REJECT THE PARTICIPANT FROM THE PROGRAM WITHOUT SANCTIONS, AND RETURN HIS OR HER CASE TO THE TRIAL TRACK. SHOULD THIS OCCUR, ALL WAIVERS AND STIPULATIONS AND ORDERS WILL BE WITHDRAWN AND/OR VACATED, EXCEPT FOR THE SPEEDY TRIAL WAIVERS.**

## V. PROGRAM COMPONENTS

### A. Overview

The drug court is at minimum a two year program consisting of intensive treatment, supervision, drug testing, court reporting, and accountability. Once accepted into the program, the participant is scheduled for an intake with the Drug Court Coordinator and Case Manager. All participants attend regularly scheduled SUD treatment, self-help support meetings, and court hearings. Additionally, participants undergo regular drug testing, weekly check-ins with drug court staff, and other program activities. As participants remain programmatically compliant they progress through the phases of drug court. Violations (i.e. drug use, missed appointments, failure to report for drug testing) are immediately addressed with a sanction. As participants progress, they are given incentives (gift certificates, less frequent court appearances, advancing phases) to publicly recognize and encourage their continued compliance. Successful completion of all phases of the drug court program leads to graduation and dismissal of the underlying charges. Chronic violations, or major violations, result in termination from Drug Court, and a stipulated bench trial and sentencing on the underlying charges.

### B. Treatment Phases

Substance use disorder (SUD) treatment will usually consist of the following three phases, all of which must be completed in order to graduate from Drug Court:

#### **Phase 0.5: Inpatient**

##### **If waiting for inpatient bed date and *not* in custody:**

- Weekly contact with SUD treatment provider, to include interim group participation if necessary
- Attend at least 2 community-based self-help support groups per week (AA/NA)
- Random urinalysis
- Attendance at Drug Court every week

##### **If waiting for inpatient bed date and in custody:**

- Release from custody when a bed date is available, to travel directly to the inpatient treatment facility

If you are recommended for inpatient treatment at the time of initial assessment by the SUD treatment provider, you must complete inpatient treatment before advancement to Phase I.



**Phase I, Stabilization: Intensive Outpatient (approx. 3 months)**

- Successful completion of Intensive Outpatient SUD treatment (IOP)
- Attend at least 2 community-based self-help support groups per week
- Random urinalysis
- Attendance at Drug Court every week
- Minimum 30 days clean/sober
- Minimum 4 consecutive weeks without a violation

**Phase II, Continuing Care: MRT & Outpatient Treatment (approx. 6 months)**

- Successful completion of Moral Reconciliation Therapy (MRT)
- Weekly Outpatient SUD treatment group (OP)
- If applicable: Begin work towards GED or High School Diploma with program accredited through the Washington State Office of School Public Instruction
- Attend at least 2 community-based self-help support groups per week
- Random urinalysis
- Attendance at Drug Court every 2 weeks
- Minimum 90 days clean/sober
- Minimum 4 consecutive weeks without a violation

**Phase III, Aftercare: (ranges from 3 to 6 months)**

- Weekly or monthly treatment group
- Attend at least 2 community-based self-help support groups per week
- Random urinalysis
- Attendance at Drug Court every 3 weeks
- Minimum of 20 hours per week engaged in a productive activity: employment, vocational training, education, community service, or child care for participant's own children when not in school
- Minimum 90 days clean/sober
- Minimum 4 consecutive weeks without a violation

**Phase IV, Graduation Preparation: (ranges from 6 to 9 months)**

- Recommendation from SUD treatment in support of graduation
- At least 2 community-based self-help support groups per week
- Random urinalysis
- Attendance at Drug Court every 4 weeks
- Minimum of 20 hours per week engaged in a productive activity: employment, vocational training, education, community service, or child care for participant's own children when not in school
- Minimum 3 consecutive months without a violation
- Minimum 6 months clean/sober
- Restitution and drug court fees paid in full, 30 days prior to graduation

*This document is an outline. Phase completion will be based on participants' progress, ASAM recommendations, and Drug Court mandates. Graduation from Drug Court will be determined when all treatment plan goals and legal requirements are met.*

### **C. Required Acts**

Drug Court participants must comply with all of the following conditions, which are set forth in the *Drug Court Order Of Terms And Conditions*:

- The participant will appear in court on all scheduled dates, on time and dressed appropriately.
- The participant must attend all required meetings and appointments.
- The participant must tell the truth.
- The participant will agree to complete any diagnostic evaluation required and submit to any rehabilitative, medical, or psychological program required by the Drug Court team.
- The participant will contact his/her Case Manager as directed.
- The participant will follow the treatment plan as developed by his/her treatment provider.
- The participant will tell the Case Manager or the Court before he/she changes address, changes or disconnects his/her telephone number, or changes his/her employment.
- The participant will submit urine samples for testing upon request by the Court, Case Manager, or Drug Court Coordinator as directed. If the participant misses a drug test or refuses to submit a urine sample, it will count as a positive drug test.
- The participant understands that he/she must be employed or in school or engaged in vocational training, as required by the Drug Court Judge.
- The participant will attend self-help support meetings such as Narcotics Anonymous (NA) or Alcoholics Anonymous (AA) as directed.
- The participant will pay restitution in full.
- The participant will agree to sign any and all releases of information necessary to monitor his/her progress in the Drug Court program.
- In order to graduate, participants must complete a detailed essay following the provided outline.

### **D. Prohibited Acts**

Drug Court participants will refrain from committing any of the following acts, which are set forth in the *Drug Court Order Of Terms And Conditions*:

- The participant will not possess, use, distribute, sell, or have under his or her control any drug or drug paraphernalia, except as authorized by a lawful prescription.
- The participant will not possess or consume alcohol or marijuana.
- The participant will not knowingly associate with persons using or possessing controlled substances except in the context of treatment.
- The participant will not live with a convicted felon, unless approved by the drug court team.
- The participant will not violate any law, and understands that if he/she engages in any criminal act, he/she may be prosecuted for any new

charge and the new charge may be the basis for his/her exclusion or expulsion from the Drug Court Program.

### **E. Sanctions and Incentives**

Sanctions will be imposed for violations of the terms and conditions of the drug court order, and may include:

- Extension of duration of the Drug Court program
- Re-starting any phase, including a phase that has already been completed
- More frequent appearances in Drug Court
- Attendance at additional self-help meetings
- Writing an essay on a topic chosen by the drug court team
- Community Service
- Electronic Home Monitoring
- Jail

Incentives may be given at the discretion of the Drug Court Judge to recognize and encourage progress of the participant. Incentives may include:

- Picking an edible treat or personal care item from the compliance bowl in court
- Standing ovation during the Drug Court hearing
- Gift certificates
- Opportunity to choose a gift from the Kudos Cabinet
- Approval to travel outside of county and be temporarily relieved of program requirements for a short period of time
- Advancing to the next phase

### **F. Drug Screening**

The Island County Adult Drug Court's drug testing policy will reflect the procedural guidelines outlined in the "10 Key Components" publication from the National Drug Court Institute.

Drug court participants are randomly tested for drugs/alcohol at a minimum of twice per week while in the first three phases of the program. Some participants may move to aftercare monitoring and be drug tested once per week after earning a substantial period of sobriety. Drug testing is performed by multiple individuals and agencies, including the Drug Court Coordinator and Case Manager, treatment counselor, and medical personnel. Collection of urine samples will be directly observed.

## 1. Designated Drug Testing Sites

Drug Court participants will be expected to provide a sample for urinalysis testing at one of the previously approved, designated testing sites. As of January 2017, Drug Court's designated testing sites include:

- Island County Drug Court offices in Coupeville, WA
- Substance Use Disorder (SUD) treatment agencies, upon approval from Drug Court staff
- Skagit County Drug Court's testing site at Pioneer Human Services/Phoenix Recovery Services in Mount Vernon, WA (for those who have been pre-approved and activated on that color line)
- Whatcom County Drug Court's offices in Bellingham, WA (for those who have been pre-approved and activated on that color line)

If a participant fails to provide a sample at his/her designated testing site during the collection window, the UA will be considered a missed drug test and sanctions may be imposed.

To counter concerns about recent drug or alcohol use, a participant may choose to submit a sample for urinalysis testing at another location where the collection of the sample is observed (i.e., hospital emergency room or urgent care laboratory, or Oxford House). Providing proof to the Drug Court team of negative results of an observed UA taken at a non-designated site may mitigate sanctions for the missed UA, the participant will still be found to have committed a violation.

## 2. Sample Collection Procedures

The Drug Court will employ several techniques, on the advice of its contracted urinalysis (UA) lab, to minimize tampering and adulteration. When a drug court participant is about to submit a sample for urinalysis, he/she must empty all pockets and show the tester all possible areas of hiding. The drug court participant must leave all bags in the custody of the tester before entering the bathroom. The bathroom will have been cleared of all possible contaminants and tampering devices. A same-gender staff member will supervise and observe the production of specimens. The tester will enter the bathroom area with the drug court participant to ensure no tampering is evident. The bathroom is checked again for possible tampering. The specimen is tested by a stick-on thermal device for proper temperature, then sealed by the tester and sent for transport. All procedures are conducted within view of the drug court participant so that accusations of tampering cannot be charged to the tester.

## 3. Testing Protocols and Confirmation Fees

Adult Drug Court participants will be expected to submit to drug testing that may include instant urinalysis testing. Due to the limited reliability that instant testing

possesses, positive tests will always be confirmed through an admission from the participant or from a certified laboratory.

If an instant urinalysis test returns as a negative test, no further action is needed from the participant.

If an instant urinalysis test returns as a positive test, the participant will be presented with a urinalysis acknowledgement form. The form will ask the participant to admit or deny the positive result of the test. If the participant admits to the positive results of the instant urinalysis, the admission will suffice as evidence of the participant's violation of the Terms and Conditions of Drug Court.

If the participant denies the instant urinalysis results, the sample will be sent in to the laboratory for confirmation. If the confirmation returns as a negative test from the laboratory, no further action is needed from the participant.

Unconfirmed samples that test positive will be sent into a certified laboratory no more than 48 hours after testing. Drug testing panels will be agreed upon by the Policy Board and the treatment provider, or whoever will be administering the testing. The drug court team reserves the right to conduct specific testing on a participant, such as Ethyl Glucuronide (EtG), at any given time. All confirmation of drug testing shall be conducted through a certified laboratory that has the ability to administer Radio Immunoassay (RIA), Gas Chromatography/Mass Spectrometry (GC/MS), or Thin Layer Chromatography (TLC).

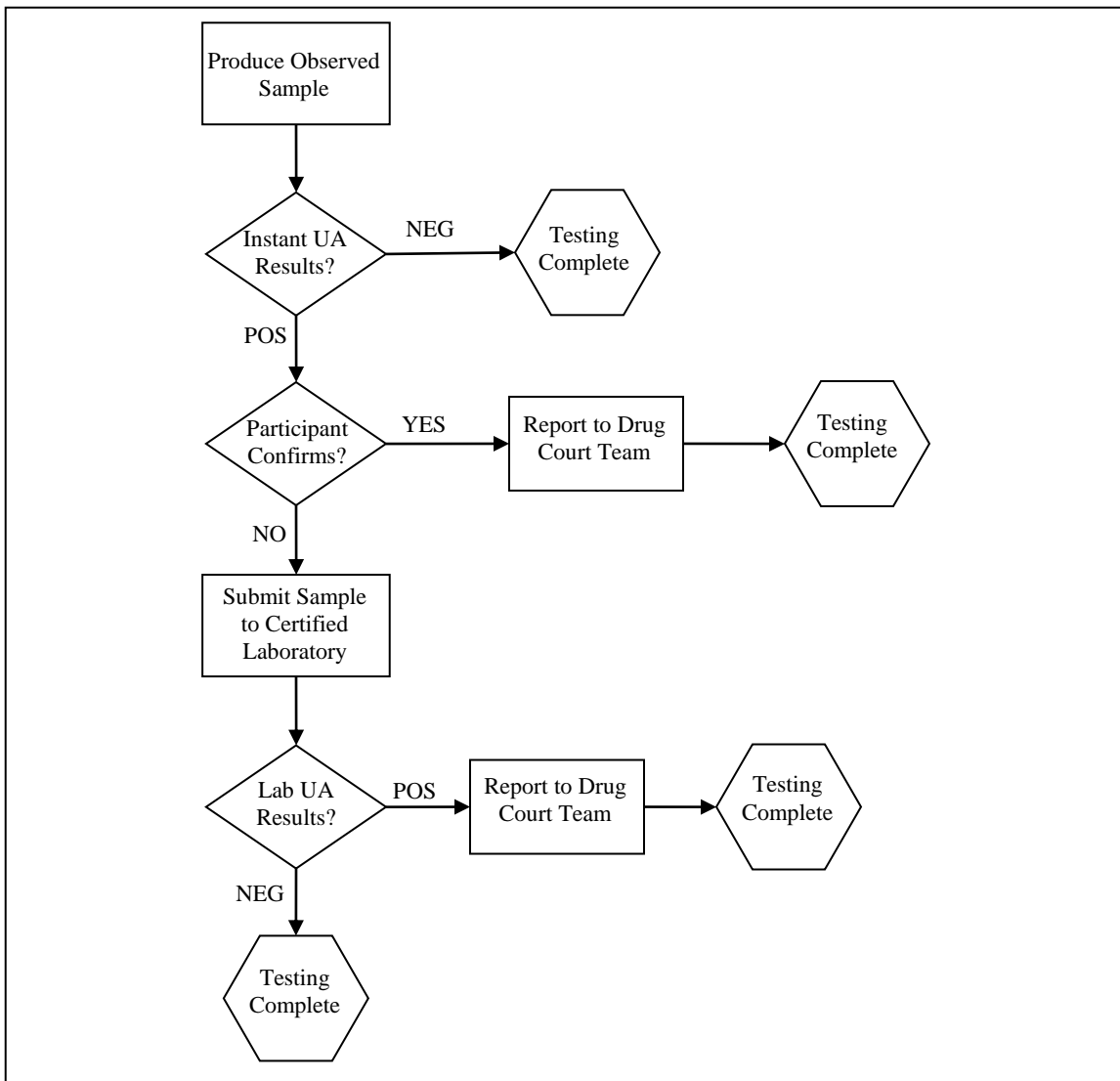


Fig. 1: Urinalysis Flow Chart

#### 4. Notice of Random Collection

Random Urinalysis Drug Testing is required of all participants and facilitated by a toll-free telephone call-in system or login to the system's website. Drug Court participants will be assigned an individual code. Drug court participants must call in daily to see if they are required to test. Different color codes correspond to random frequency intervals: 3 UA's per week; 2 UA's per week; 1 UA per week; 1 UA per every two weeks; and, 1 UA per month, in addition to the minimum of 2 weekend days per month that require all participants to submit to a drug test. If their code or color is stated, drug court participants submit to an observed chain of custody urinalysis test at a time that will be determined by the collecting agency. Testing methods utilize specific gravity, pH, and creatinine values to check for

adulterants. Breathalyzer Tests will be administered in conjunction with drug screens. Results are obtained within 48 hours of receipt of the sample by the lab and appropriate laboratory processing.

The Drug Court Coordinator will establish a mechanism such that the determination of each day's code(s) and/or color(s) are random, and not predictable by the participants. The schedule shall be set up such that each participant is screened for banned substances at least once per week.

#### 5. Screening Test Results

Urinalysis results and results of other monitoring techniques will be documented and provided to the Drug Court Team. Any positive urine screens, tampered or adulterated samples, or refusal to provide a sample can be grounds for sanctions.

#### 6. Warnings Regarding False Positives

Participants will be warned that certain substances can produce "false positive" tests. A warning substantially in the following form will be given to all participants in the participant handbook:

You must be very careful not to ingest the following:

1. Alcohol (could be in cold medicine like Nyquil, barbecue sauce, etc.)
2. Poppy seeds in **any** form (muffins, bagels, bread, salad dressing, etc.)
3. "Natural" or herbal remedies or supplements (e-ola, Mah huang)
4. Over-the-counter or prescription medicines such as Aleve and Sudafed/Pseudoephedrine (also called ma huang, sida cordifolia, and epitonin) without prior approval of your treatment provider
5. Medications from Canada not sold over the counter in USA (222's, etc.)
6. Alcohol Substitutes (Near Beer, etc.) that contain some alcohol

#### 7. Against Drug Court Rules to Consume "Energy Drinks"

Consumption of "energy drinks" is against Drug Court rules not only because it may affect UA results due to the increased likelihood of production of a dilute UA sample, but also because it may affect behavior and health and impair recovery. Examples of beverages that are considered energy drinks are listed in a chart found in the participant Handbook.

## 8. Prescription Medications

Participants in Drug Court are expected to be drug free, including the use of mood-altering, potentially addictive, prescription medications. Participants with chronic pain requiring repeated use of prescription pain medication (opiate, narcotic, or benzodiazepine medications) are not good candidates for the program. Participants must discontinue all addictive medications. The only exceptions that can be made are in cases where a medical professional has determined a particular medication to be necessary for treatment of diagnosed, serious mental health condition(s).

Participants who have opted into Drug Court and have an acute pain episode must follow specific steps before they take any pain medication. The participant must obtain a completed copy of the “Island County Drug Court Medication Form”(Appendix E), which includes the doctor’s name, medication prescribed, amount prescribed (including refills), reason for prescription, duration of treatment, and acknowledgement by the physician that you revealed that you are a substance abuser and the physician feels this is the best course of treatment. This form, along with copies of the prescriptions, must be provided to your treatment counselor and drug court staff immediately.

## 9. Medication Assisted Treatment (MAT)

Island County Adult Drug Court recognizes Medication Assisted Treatment (MAT) as an effective and evidence-based tool in SUD treatment. MAT involves the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders. MAT must be administered by a licensed physician certified to provide the selected treatment, and compliance with any MAT treatment will be closely monitored by the Drug Court team. MAT may only be utilized by individuals who are also actively participating in substance use disorder treatment. Furthermore, specific drug testing protocol will be administered for individuals participating in Medication Assisted Treatment. In order to qualify for and participate in MAT, participants must be seen by a licensed and certified physician for amenability.

## 10. Creatinine and Out of Range Samples

Every urine specimen is tested at the laboratory for creatinine level.

Low creatinine levels help determine whether a participant has diluted a sample by, for example, consuming large amounts of water. If the creatinine level is below 20mg/dL, the sample will be considered a dilute specimen and treated as positive for the presence of prohibited substances. Furthermore, because a dilute sample is treated the same as a positive test result the team reserves the right to extend an individual’s graduation date by 6 months from the date the dilute sample was produced.

High creatinine levels suggest that a participant is trying to mask an attempt to dilute their sample. Consuming over-the-counter creatine supplements can disguise



pre-collection hydration and diluted urine, as creatine converts to creatinine when metabolized in the human body. If a sample returns from the lab with a creatinine level over 300 mg/dL, the participant's creatinine levels will be monitored more closely from that point forward. However, if a sample returns with a creatinine level greater than 400 mg/dL, the sample will be considered an adulterated sample and treated as positive for the presence of prohibited substances.

## **G. Case Management**

The Drug Court Case Managers are responsible for providing primary case management and treatment services for each participant while in drug court. Case management is a coordinated, collaborative effort to provide linkages between the court system and treatment and other service providers and/or agencies, in an effort to assist the participant and/or family with their needs to facilitate successful completion of the program.

Drug Court Case Managers provide:

- Monitoring and reporting of progress of participants to the court in regards to treatment and other program mandates
- Planning for intervention services and the fulfillment of criminal justice obligations
- Brokering treatment and other services and assuring continuity as the participant progresses through treatment and works towards program completion
- Assisting the participant in identifying and working through barriers to successful participation in treatment and in day-to-day living
- Supporting the participant by advocating for the participant with court, treatment, social service, medical, and mental health systems

## **H. Status Hearings and Staffings**

### **1. Status Hearings**

Drug Court hearings will be held every Thursday at the Superior Court in Coupeville, WA. Hearings will begin promptly at 10:30 a.m.

Clients who are making phase transitions and/or achieved sobriety benchmarks are called at the beginning of the docket, followed by the remaining calendar in a random order. Clients are individually called up to the bench and are expected to discuss their progress with the judge. The judge administers appropriate rewards and sanctions and provides encouragement and support. Unexcused failure to appear at court hearings may result in the issuance of a bench warrant.

## 2. Pre-Hearing Staffing

The Drug Court Team meets prior to each status hearing to review progress of each participant, outside the presence of the participants. Pre-hearing staffing meetings will begin at 9:30 a.m.

The Case Manager and Drug Court Coordinator will provide the team progress reports on each participant present at that week's hearing. These progress reports inform the team of each participant's compliance in all drug court areas since the particular participant's last hearing. Based on this report and any additional information brought to the meeting, team members assess a participant's progress and discuss potential treatment or programmatic interventions. It is during these meetings that team members discuss, debate, and potentially disagree with the direction of intervention and team decisions; however, during the drug court status hearing itself the team presents a unified position.

Team discussions will be conducted with a goal of reaching consensus on action to be taken for each participant. In the event that consensus of all team members cannot be achieved, the Drug Court Judge has discretion to determine what action will be taken.

### **I. Fees**

The Participant will pay a \$150 non-refundable administrative fee for participation in the Drug Court program, the balance of which must be paid before graduation, on a schedule set by the Drug Court Coordinator. Failure to pay may result in termination or other sanctions, unless arrangements can be made with the Drug Court Judge that may result in a finding of financial hardship. In any case, the finding by the Drug Court Judge of financial hardship will not be determined unless the participant or the Drug Court Public Defense Attorney brings the matter to the team.

### **J. Graduation Requirements**

In order to graduate, the Drug Court Team must authorize the participant's graduation, and the participant must have met each of the following criteria:

1. The participant will have been in the program for a minimum of eighteen (18) months; the average length of time to complete the program is twenty four (24) months
2. The participant must have completed all of his or her substance use disorder treatment, except for those who are in continued monitoring as part of a Medication Assisted Treatment (MAT) program or on special recommendation of the SUD treatment provider

3. The participant will have had no violations for the three (3) months prior to his or her scheduled graduation date
4. The participant must be in Phase 4 and have maintained abstinence from all drugs and alcohol for a minimum of six (6) consecutive months prior to graduation
5. The participant must have completed all sanctions involving affirmative conduct from previous violations
6. The participant must provide proof of high school graduation or GED completion from a State approved and State funded program, or qualify for an exemption from this requirement, as further outlined below
7. The participant must complete a detailed, written plan of his or her strategies to remain clean and sober after graduation, following the provided pre-graduation essay outline
8. The participant must be employed or in a school or vocational training program, and have all Drug Court fees and restitution paid in full

Routes for Exemption from having GED/high school diploma prior to Graduation:

- Enrollment, attendance, and testing through the Adult Basic Education class at Skagit Valley College: The instructor of this class can provide the Drug Court Team with progress and feedback related to the participant's ability to pass the test. After attempted testing and instruction, it may be determined that the participant would be unable to pass the test during the period of time they would be in the Drug Court program.
- Objective evidence: The participant may provide the team with documentation, evaluation or diagnosis, and/or other reports that would support an argument that the participant is unable to obtain the GED or high school diploma (i.e., diagnosed learning disability).
- Pro-social accomplishments or progress: The participant could qualify for an exemption from GED testing or adult high school diploma program if the team decides that the participant has made substantial progress in other dimensions of their life. To further support this, failing to complete the GED or adult high school diploma program may not be as detrimental to a particular participant's career or future.

Upon graduation, the Court will enter an order dismissing the pending charges.

## **K. Early Termination Procedures**

### **1. Voluntary Termination**

Drug Court participants may request to drop out of the Drug court program any time during the two-week opt out time period. If a participant drops out of the program during this period, there will be no penalties or sanctions and the Drug

Court participant will re-enter the regular criminal court system where traditional prosecution will proceed. With the exception of signed speedy trial waivers, all pre-trial rights of the participant will be restored.

A participant may voluntarily leave the Drug Court program after the two-week opt out period. If he or she terminates participation after the two-week opt out period, the participant shall, at the earliest practical opportunity, submit to a “Stipulated Bench Trial” according to the procedure for that hearing described in Section 3 below.

Upon termination from the program for any reason, any Drug Court fees paid by the participant shall be forfeited, and shall not be credited towards any legal financial obligations that might be imposed as a result of a conviction of the underlying crime.

## 2. Involuntary Termination

A participant shall be involuntarily terminated from the drug court program when: (1) The participant’s continued participation in the program is adjudged to be ineffective in helping the participant; (2) The participant’s continued participation in the program is adjudged to result in a failure of justice; or (3) The participant’s continued presence in the Drug Court program is adjudged to have a negative impact on other participants’ progress in the program.

Involuntary Termination decisions shall be based on the totality of a participant’s record in the Drug Court program, including, but not limited to, the following criteria:

- Number and frequency of violations of Drug Court orders, including positive drug tests;
- Whether there is probable cause to believe the participant has committed a new criminal offense of any kind;
- Treatment history and progress;
- History of unexcused absences from Drug Court and/or issuance of warrants;
- Length of time in the program;
- Participant’s living situation;
- Participant’s fidelity to the Drug Court Mission and Goals;
- Any actions or behaviors that demonstrate that the participant is not likely to obtain continued benefits from the program or that his or her continued participation would have a negative impact on other participants.

In addition, a participant may be involuntarily terminated from the Drug Court program based solely on the existence of probable cause to believe he or she has committed any felony offense after entry into the program.

### 3. Involuntary Termination Procedures

The Drug Court Prosecutor has discretion to bring a motion to involuntarily terminate a participant from the program. See Sec. III.B.3. Such discretion may be exercised at any time the prosecutor has a good faith belief that the participant:

- has repeatedly violated drug court orders; or
- has committed a felony offense; or
- has committed a non-felony offense and the drug court team supports termination; or
- the combination of criteria listed in Section K.2, above, justify termination.

Motion to Terminate: The motion to involuntarily terminate a participant from the program shall be specially set for a Termination Hearing on a non-Drug Court calendar date as soon as practicable. See LCR 5(k). The Termination Hearing shall be limited to the presentation and adjudication of the Drug Court Prosecutor's motion to terminate the participant from the program. The Court should enter an order granting or denying the prosecutor's motion, and stating the reasons therefore. At the conclusion of a Termination Hearing, regardless of outcome, the Court may modify the participant's release conditions. See CrR 3.2.

Upon termination from the program, any Drug Court fees paid by the participant shall be forfeited, and shall not be credited towards any legal financial obligations that might be imposed as a result of a conviction of the underlying crime.

Stipulated Bench Trial. If the Court grants the prosecutor's motion to terminate, or if the participant voluntarily terminates his or her participation in the program after the expiration of the opt-out period, then the participant shall be required to appear at the next regular Drug Court session for a stipulated bench trial.

At that Drug Court session, the Court shall call the terminated participant as the first case of the docket, and conduct a bench trial according to the "Stipulation for Bench Trial on Agreed Documentary Evidence For Drug Court." If the participant is found guilty, the Court shall immediately conduct a sentencing hearing, unless there is good cause to continue the sentencing hearing. In any event, the sentencing should be conducted during a regular Drug Court session.

There is a therapeutic and deterrent value for other Drug Court participants to observe the consequences of non-compliance, especially when those consequences are termination from the program, followed by conviction and sentencing of the current offense. The Drug Court Team may require all current Drug Court participants to appear for any bench trial and sentencing hearing held pursuant to this section. The Drug Court Team may delay the bench trial hearing for one week, so that all current Drug Court participants may receive adequate notice to appear. The stipulated bench trial or sentencing hearing may be delayed in order to accommodate the presence of a crime victim, so that the victim's rights to participate in the sentencing hearing are enforced. See Const. Art. 1, § 35; RCW 7.69.030.

## **V. REPORTING**

The Drug Court Coordinator and MIS Coordinator will provide an annual report to the Drug Court Team. The report should include Drug Court statistics, and a report on recidivism of all current and former drug court participants.

## **VI. MODIFICATION OF POLICIES AND PROCEDURES**

The Drug Court Policy Board shall convene from time to time, and at least annually, to review the operation of the Drug Court and revise policies and procedures as deemed necessary by the Committee.

