

Kanawha County Drug Court

Policy and Procedures Manual

2009

This manual reflects local operations and will be incorporated and/or modified for consistency with the West Virginia Treatment Courts Adult Drug Court Policy and Procedures Manual upon completion and approval by the West Virginia Supreme Court.

This manual is subject to revision as needed.

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PLANNING/STEERING TEAM

The Planning/Steering Committee of the Kanawha County Drug Court includes the following personnel from a broad community partnership:

- Jennifer Bailey, Circuit Court Judge for the Thirteenth Judicial Circuit and Kanawha County Drug Court Judge
- Mike Rutherford, Sheriff of Kanawha County
- Jennifer Sayre, Kanawha County Commission
- Scott Reynolds and Reagan Whitmyer, Kanawha County Prosecuting Attorney's Office
- Ronni Sheets ,Kanawha County Public Defender's Office
- Don Searls, Leah Kelley and Tammy Hyre, Kanawha County Day Report Center
- Susan Given, Drug Court Coordinator/PO
- Judy Jones, Chief Adult Probation Officer for Kanawha County

MISSION STATEMENT

The mission of the Kanawha County Drug Court is to enhance Public Safety while reducing crime and related convictions. This is to be accomplished through judicially supervised substance abuse treatment, rehabilitation, and intense monitoring with the goal of returning drug-free, law abiding, and productive citizens to the community.

GOALS AND OBJECTIVES

Goal 1: To promote Public Safety by reducing and/or eliminating criminal behavior and recidivism among participating offenders.

- Objective 1: Provide frequent and intense court supervision for participants.
- Objective 2: Staff will complete frequent home contacts with participants.
- Objective 3: Reduce and/or eliminate the re-arrest rate of participants during program participation.
- Objective 4: Reduce and/or eliminate re-arrest rate of participants following graduation of program.
- Objective 5: Assess re-arrest rates for 100% of program participants at the completion of the program and at 3 months, 6 months, and 1 and 2 years following graduation.

Goal 2: To promote Public Safety by decreasing participant's reliance upon social and human services by increasing their ability to live independently and responsibly.

- Objective 1: Assist participants with securing employment and drug-free housing through the usage of community resources.
- Objective 2: Provide training and mentoring in life skills, such as parenting and financial management, to the participants.
- Objective 3: Require the payment of restitution by participants.
- Objective 4: Participants will be employed full-time and will continue employment upon graduation.
- Objective 5: All Drug Court participants will have at least a high school diploma or general equivalency diploma (GED) upon completion of the program whenever possible.

Goal 3: To conserve justice system resources through the reduction of direct costs of arrest and incarceration of participants.

- Objective 1: Provide structured treatment, services and supervision to reduce opportunities for the risk of recidivism.
- Objective 2: Reduce the number of jail bed days being utilized by non-violent offenders committing drug related crimes.
- Objective 3: Reduce and/or eliminate the participant's contacts with Law Enforcement.
- Objective 4: To reduce the reliance on incarceration as the primary sanction for criminal offenses and violations of probation by maintaining at least 50 offenders in cost-effective, efficient community-based treatment programs delivered through the Drug Court Program.

Goal 4: To conserve justice system resources through the reduction in direct costs of judicial services.

Objective 1: Create individualized plans for treatment, services and supervision that will assist the participant in successful advancement and completion of the program.

Objective 2: Provide assistance to the participants in obtaining and/or improving employment and becoming financially responsible.

Objective 3: Participants will make payments toward their legal financial obligations including payment to the Drug Court Program.

Objective 4: Reduce the cost of trials and decrease the regular court docket through the usage of the Drug Court Program.

Goal 5: To rehabilitate non-violent addicted and abusing offenders by eliminating the use of controlled substances and alcohol.

Objective 1: Assess participant addiction/abusing and treatment needs.

Objective 2: Develop individualized, initial treatment plans for 100% of program participants within 15 days of acceptance into the Drug Court Program.

Objective 3. Refer participants to the appropriate substance abuse and/or alcohol treatment services.

Objective 4: Monitor and assess the effectiveness of the treatment service providers.

Objective 5: Have a graduation rate of at least 70% of the participants of the program.

Goal 6: To rehabilitate non-violent addicted/abusing offenders by assisting participants in regaining their lives and re-uniting families.

Objective 1: Engage participants in appropriate services relating to education, employment, housing, financial responsibility, families, physical and mental health and other issues that affect their ability to be a drug-free, productive citizen and succeed in the completion of the program.

Objective 2: Graduate participants, who are drug-free and/or sober and are in the recovery process, have a minimum of a high school equivalency diploma, and employed full-time, are responsible parents and are responsible, productive citizens.

Objective 3: To engage 100% of program graduates in aftercare planning.

Goal 7: Engage the community in the recovery process.

Objective 1: Solicit public speaking engagements by Drug Court Team Members and Drug Court graduates at community forums and community

meetings to make the public aware of the cycle of addiction and the role of the Drug Court. Public speaking engagements will occur at least 4 times per year.

Objective 2: Provide locations for community service completion and or part-time/full-time employment for all participants.

Objective 3: Solicit local businesses to Drug Court participants toward recovery through public/private partnerships that provide tangible rewards for success.

DRUG COURT MODEL

I. PRE-INDICTMENT/PRE-TRIAL DIVERSION

Target population-

Persons with no prior felony convictions

Referral sources-

Arresting officers

Magistrates arraigning Defendant

Magistrate assigned to the preliminary hearing

Defense Counsel

Prosecuting Attorney

Judge assigned case at arraignment

Outcome-

Dismissal of felony charge upon completion of program

II. POST CONVICTION

Target population-

Persons convicted of felonies driven by their addiction

Referral sources-

Judge assigned to case

Defense Counsel

Prosecuting Attorney

Probation

Day Report Center

Outcome-

Diversion from incarceration

Credit for time spent in Drug Court as credit toward sentence of

Probation/Home confinement upon successful completion of program

III. POST SENTENCE/PROBATION AND HOME CONFINEMENT VIOLATION

Target population-

Convicted persons having violated the terms of probation or home-confinement by using controlled substances or alcohol, and/or those who have committed new offenses due to their addiction

Referral sources-

- Judge assigned to case
- Defense Counsel
- Prosecuting Attorney
- Probation
- Day Report
- Home Confinement

The Prosecuting Attorney's office will have the final say as to who will be accepted into the program following an evaluation and review of the persons referred.

Outcome-

- Diversion from incarceration
- Return to alternative sentence and/or reduction of length of alternative sentence upon successful completion

TARGET POPULATION AND ELIGIBILITY CRITERIA

Offenders must meet the following eligibility criteria in order to enter the Kanawha County Drug Court program:

- Adults;
- West Virginia Residents, living in Kanawha County;
- Charged with non-violent (as defined by federal law) misdemeanor and/or felony offense(s) including DUI, but excluding any crime where a child is a victim or involving a sex offense;
- Diagnosed or assessed as substance abusing or addicted;
- Will agree to participate in the program including following the advice of physicians, and/or other treatment providers;
- Non-violent (as reflected in moderate to low risk on administered risk assessments) and does not pose a risk to themselves, the staff or other community members
- Treatment must be available to address the need of the person;
- Must be able to comprehend and comply with the program requirements;
and
- Approved for participation by the prosecuting attorney.

ENTRY PROCESS

After charges are filed, potential candidates for Drug Court may be identified at either pre-indictment/pre-trial diversion, post conviction for persons convicted of felonies driven by their addiction or substance abuse or post sentence/probation and home confinement violation for convicted persons having violated the terms of probation or home-confinement by using controlled substances or alcohol, and/or those who have committed new offenses due to their addiction or substance abuse. Referrals can be made at pre-indictment/pre-trial by arresting officers, magistrates arraigning defendant, magistrate assigned to the preliminary hearing, defense counsel, prosecuting attorney or Judge assigned case at arraignment to the program. Referrals can be made at post conviction by the Judge assigned to the case, defense counsel, prosecuting attorney, probation or day report center. Referrals can be made at post sentence/probation and home-confinement violation by the Judge assigned to the case, defense counsel, prosecuting attorney, probation, day report or home-confinement.

The goal is to identify eligible participants early and promptly to maximize the effectiveness of Drug Court.

Referrals shall be forwarded either to the prosecutor or the Drug Court Coordinator (DCC). If made to the DCC, the referral shall be promptly forwarded by the DCC to the prosecutor for approval. If made directly to the prosecutor, the referral shall promptly be reviewed for initial approval and notice provided to the DCC of a potential referral. The prosecutor and the DCC notify defense counsel. Defense counsel meets with the client, reviews the charges and determines legal eligibility, educates the client about the program, and notifies the Prosecutor if the client is willing to participate. Prosecutor and defense counsel negotiate the details of the plea/diversion agreement.

The agreement reached between the prosecutor and defense counsel is presented to the Court and if acceptable to the Court, official referral is made to Drug Court.

After prosecutor approval, the DCC will meet with the candidate to obtain the necessary signed forms for entry into the program, and schedule the candidate for assessment. The candidate shall be assessed both for risk and substance abuse or addiction diagnosis. The assessment will be arranged within three days of notification to the DCC of prosecutor approval. Appearance before the Drug Court Judge for acceptance into the program and treatment planning will occur within 7 days.

PROGRAM PHASES

A multiphase treatment process is used in Drug Court. The process is divided into three phases, each of at least four month duration; therefore the program is, at a minimum, one year in duration. It is expected that most participants will take more than one year to complete the entire program. Participants must apply to the Drug Court for movement from one phase to the next. To move from one phase to the next, the offender must meet the criteria of the preceding phase. The participant's application is review by the treatment team, which makes a recommendation to the Drug Court Judge.

Frequency of treatment services will be dependent upon the individual's needs, but generally the most intensive treatment will occur subsequent to stabilization of the individual and then decrease gradually as the individual progresses through the program. Judicial supervision occurs most intensely at entry into the program with less judicial appearances and supervision occurring as the participant moves through the program phases.

The three phases are:

Phase I: Stabilization and Intensive Treatment Phase

Detoxification (as indicated), initial treatment assessment, education and screening for other needs occur at this phase. The participants appears before the Drug Court Judge once a week*; reports to their assigned case manager once a week; attends substance abuse treatment several times per week (8-10 hrs.) including support groups such as NA and AA; and must complete 28 hours of community service if unemployed. The participant must be drug free for at least 60 consecutive days before eligible to move to Phase II.

Phase II: Intensive Treatment Phase

Individual and/or Group Counseling and other therapies are fully active at this phase. The participant appears before the Drug Court Judge a minimum of twice a month*; reports to their assigned case manager a minimum of twice a month; must complete outpatient treatment; must complete 28 hours of community service; and must seek employment if unemployed. The participant must be drug free for at least 90 consecutive days before eligible to move to Phase III.

Phase III: Reintegration Phase

Re-establishment of employment, social reintegration, education, stable housing and aftercare activities are the focus of this phase. The participant will appear before the Drug Court Judge a minimum of once a month,* report to their assigned case manager a minimum of once a week, or less; complete 28 hours a

week of community service if not employed not full time employed; and must actively seek full time employment or education/job skills training. The participant must be drug free for at least 120 days to complete the Drug Court Program.

*At all phases, the Drug Court Judge makes the determination of frequency of appearances before the Court based upon a review of the case and considering recommendations of the Drug Court Treatment Team.

TERMINATION CRITERIA

The Drug Court Judge may terminate a participant if the following occurs:

- The participant is charged with an offense falling within the violent offender definition.
- The participant is arrested for a serious traffic offense as contained in Chapter 17C, Article 5, West Virginia Code, a misdemeanor offense, as contained in Chapter 60A and/or Chapter 61, West Virginia Code or a felony offense during program participation.
- The participant absconds.
- The participant does not appear for two or more status hearings or drug tests without good cause for the failure to appear.
- The participant expresses by work or action the intent to no longer comply with program requirements.
- The Drug Court exhausts the program's list of graduated sanctions.
- The participant engages in violent behavior or posing an unacceptable risk to program staff, self or the community.
- The treatment team determines that the offender's treatment needs cannot be met in the program.

TERMINATION PROCEDURE

Any member of the treatment team may propose that a participant be terminated from the Program. The motion to terminate a participant from the Program shall then be entertained by the Treatment Team without the participation of the Drug Court Judge.

Upon passage of such motion, a short, concise statement of fact constituting the grounds for termination shall be delivered to the participant by the Drug Court Coordinator. If the participant wishes to contest the factual basis for the termination motion, the Drug Court Judge shall, as soon as possible, set a time for a summary hearing. Upon the request of the participant, the hearing may be held in closed court.

At the end of the hearing, the Drug Court Coordinator and the participant may be heard on the factual basis of the motion to terminate. The Drug Court Judge will entertain whatever testimony, statement and/or exhibits the Judge believes will assist in determining the factual basis for said motion.

The decision of the Drug Court Judge is not subject to review or appeal.

GRADUATION CRITERIA

Graduation requires at least completion of the three phases of treatment. No substance abuse can occur within the last 120 days before graduation. The participant must have created an aftercare plan with the assistance of the Drug Court Treatment Team.

INCENTIVES AND SANCTIONS

Based upon available resources, incentives might include:

- (1) Praise from the Judge;
- (2) Applause;
- (3) Overall recognition of clean time;
- (4) Encouragement from the treatment team and program staff;
- (5) Ceremonies in court to recognize accomplishments;
- (6) Group pizza parties;
- (7) Movie, Bowling, Skating, or Go-cart passes;
- (8) Restaurant/ Fast Food Vouchers;
- (9) Wal-Mart Gift Cards;
- (10) Excused day/reduction in hours of Community Service;
- (11) Bus passes;
- (12) Recognition of graduation to the next phase of the treatment program;
- (13) Less frequent court appearances;
- (14) Reduced supervision;
- (15) Reduced fines or fees;
- (16) Dismissal of criminal charges or reduction in sentence;
- (17) Graduation from the program

Sanctions for noncompliance may include, but are not limited to the following:

- (1) Admonishment or Verbal warning by the Drug Court Judge;
- (2) Essay assignment;
- (3) Additional community service hours;
- (4) Jail time or weekends in jail;
- (5) Demotion of phases;
- (6) Increased frequency of drug testing and court appearances;
- (7) Required attendance at court hearings of other offenders;
- (8) Fines;
- (9) Increased treatment intensity;
- (10) Curfew;
- (11) Home Confinement;
- (12) Reduction in benefits;
- (13) Public apologies to the Drug Court Judge and Staff;
- (14) Additional treatment or counseling sessions;
- (15) Additional support groups sessions;
- (16) Increased court appearances;
- (17) Increased contact with Drug Court staff;
- (18) Termination from the program.

SUPERVISION PROTOCOL

The Drug Court Coordinator will be responsible for all legal case management.

Cases are monitored on a weekly basis by the Drug Court Coordinator.

Judicial supervision will consist of team meetings occurring regularly once per week to discuss the participants scheduled for status hearings that week or for participants that have had problems.

Summarized written progress reports will be provided to the Court prior to each status hearing and more detailed reports will be provided once per month.

The Drug Court Coordinator will be responsible for ensuring that all information is sent to the Court.

Participants will appear before the Judge at least weekly and then time will decrease as the phases of the program are completed.

The Drug Court Team will consist of:

- Drug Court Judge
- Drug Court Coordinator
- Treatment Providers
- Defense Counsel
- Law Enforcement
- Home Confinement
- Prosecutor involved in the case

DRUG TESTING PROTOCOL

Participants will be drug tested at least three times per week on a random schedule in Phase I of the program. Testing will reduce as the participant changes phase of the program.

Tests will be administered by the Kanawha County Day Report Center or the Kanawha County Probation Department.

Alcohol Screening will be completed using a Portable Breath Testing Unit.

Urine Drug Testing will otherwise be used.

Elements to guard against tampering include:

- Direct observation of urine sample collection
- Verification of temperature and measurement of creatine levels to determine water loading
- Following of written procedures for urine sample collection
- Analysis and result reporting
- Documented chain of custody
- Following quality control and assurance procedures
- Verification of accuracy procedures when contested

The test will be able to detect the primary drug used by the offender as well as any other potential drugs suspected or prevalent in the community.