

# **REVISED DRUG COURT POLICY AND PROCEDURE MANUAL FOR COUNTY, ILLINOIS**

## **INTRODUCTION**

Drug Court is a special court given the responsibility of handling cases involving high-risk, high-need substance-abusive defendants through intensive supervision, drug testing, treatment, and services with immediate sanctions and incentives.

Drug Court brings together the full weight of all interveners (judges, prosecutors, defense counsel, substance abuse treatment specialists, probation officers, and law enforcement) holding the defendant accountable in dealing with his or her substance abuse problem. The Coordinated Drug Court Plan for the Second Judicial Circuit, of which the County Plan is a part, has been developed to make a difference in the ongoing cycle of drug abuse by providing the incentives and resources necessary to help those who have not known how to help themselves.

## **MISSION STATEMENT**

The mission of the Drug Court Plan is to enhance public safety and reduce crime by holding offenders accountable for their behavior while promoting recovery of alcohol and other drug dependent offenders, through a multi-disciplinary, judicially supervised response.

## **COUNTY DRUG COURT POLICY AND PROCEDURES**

### **I. COUNTY DRUG COURT TEAM**

The County Drug Court shall utilize a Drug Court Team consisting of the following members:

- 1.) A Drug Court Judge designated by the Chief Judge;
- 2.) The State's Attorney or a designated Assistant State's Attorney;
- 3.) A Law Enforcement representative designated by the Resident Circuit Judge;

- 4.) The Public Defender or his or her designated Assistant;
- 5.) The Conflict Public Defender or his or her designated Assistant;
- 6.) Private counsel for any drug Court participant;
- 7.) The Drug Court Officer, who shall, unless otherwise designated by the Chief Judge, be an Adult Probation Officer designated by the Director of Court Services for the Second Judicial Circuit.
- 8.) Colleen Flanagan of T.A.S.C., or her designee;
- 9.) A Substance Abuse Treatment Officer, who shall personally be credentialed and otherwise qualified by the Illinois Department of Alcoholism and Substance Abuse to provide evidence-based individual and group alcohol and drug treatment services (expressly to include Intensive Outpatient Treatment), and shall either be serving as the Drug Court treatment provider for the individual Drug Court candidate or participant or fully informed such as to be able to explain such candidate's or participant's diagnosis, prognosis, treatment plan, status of treatment plan, and his or her progress with respect to treatment. Such Treatment Officer must also be approved by the Chief Judge in advance for service with the Drug Court, except to the extent that such Treatment Officer meets the foregoing requirements and is provided by an employing substance abuse provider agency contracting with Court Services during periods for which there is grant funding available for employment of Treatment Officers.
- 10.) In cases in which Drug Court participants or candidates are suspected by the Drug Court Team to be affected by co-occurring mental health conditions, a Mental Health Treatment Officer who shall be credentialed as required by the Drug Court Coordinator or the Director of Court Services.
- 11.) As a non-voting member of the Drug Court Team of every county, a Circuit-wide Drug Court Coordinator, who, for periods for which grant funding is available for Coordinator services, shall be designated by an employing substance abuse provider agency contracting with 2<sup>nd</sup> Circuit Court Services to provide Drug Court substance abuse and coordination services, and who

shall serve as the operational and services coordinator for the Coordinated Drug Court Program. Such Coordinator and, as applicable, employing agency, shall, in all respects, function and perform in accordance with the terms and conditions of this Plan, and shall promote and act in accordance with all policies adopted or determinations made by the Chief Judge or made or conveyed by the 2<sup>nd</sup> Circuit Drug Court Committee Chair or Director of Court Services.

- 12.) As a non-voting member of the Drug Court Team of every county, a Statistical/Data Evaluator, who shall be Susan Witkin of the University of Illinois Center for Prevention Research and Development or her designee from said agency.

The \_\_\_\_\_ County Drug Court shall operate in accordance with the Drug Court Treatment Act of 2002 (730 ILCS/166) and follow the format established in this Policy and Procedure Manual and all modifications thereto as adopted by Chief Judge of the Second Judicial Circuit pursuant to that Act.

The Drug Court Judge shall notify the Chief Judge of the scheduled dates and times for all Drug Court staffing and sessions of Court and any staffing or court settings at variance with such schedules.

## **II. ACTIVATION OF INDIVIDUAL COUNTY DRUG COURTS**

Implementation of the Coordinated Drug Court Program shall be on a staged basis in order to assure that active drug courts have resources necessary for effective operation and allow for improvement based upon the experience of the initial drug court programs. Accordingly, the \_\_\_\_\_ County Drug Court shall not be activated until ordered to do so by the Chief Judge.

## **III. TWO TRACKS OF THE DRUG COURT PROGRAM**

The Drug Court Program shall consist of two tracks.

### **A. Track 1.**

In Track 1, a defendant with pending charges shall enter a plea of guilty to a felony or misdemeanor offense for which the defendant is eligible to be admitted to Track 1 of the Drug Court Program. A defendant admitted to Track 1 shall be

sentenced to Drug Court Probation. Upon successful completion and graduation from the Drug Court program, the probation shall be terminated, the charges dismissed, and the defendant discharged.

**B. Track 2.**

In Track 2, a defendant with pending charges or a pending Petition to Revoke Court Supervision, Probation or Conditional Discharge shall (1) enter a plea of guilty to a felony or misdemeanor offense for which the defendant is eligible to be sentenced to the Drug Court Program or (2) admit to the violation of probation, conditional discharge, Court supervision, or first offender probation in a case in which the defendant is eligible to be sentenced to the Drug Program. A defendant admitted to Track 2 shall be sentenced to Drug Court Probation. Upon successful completion and graduation from the Drug Court program, the defendant shall be successfully discharged from Drug Court Probation.

**C. Prohibition Against Conditional Admittance.**

Admission to the Crawford County Drug Court Program shall not be conditioned upon payment of any special assessments, or upon payment of fines in amounts which are clearly disproportionate in comparison with fines assessed by the Court for similar offenses under similar circumstances, or upon forfeiture of bail.

**IV. REFERRALS TO THE DRUG COURT PROGRAM**

**A.** Referrals to the Drug Court Program may come from any source including but not limited to the following:

- 1.) Judges of the 2<sup>nd</sup> Judicial Circuit;
- 2.) The County's State's Attorney's Office;
- 3.) The County's Public Defender's Office;
- 4.) Private Attorneys;
- 5.) Law Enforcement;
- 6.) Pro Se Defendant;
- 7.) Drug Court Officer;
- 8.) Any Second Circuit Probation Officer; or
- 9.) Agency or individual who is a substance abuse provider.

B. Referral of a defendant to the County Drug Court program may be made by completing a Drug Court Program Referral Form and forwarding it to the County Drug Court Officer and the County State's Attorney.

## V. INITIAL ELIGIBILITY DETERMINATION

A. Upon receiving the referral form, the County Drug Court Officer shall:

- 1.) Obtain from the Circuit Clerk copies of the case file for the pending local charges and for any cases in which the defendant is on probation, conditional discharge, first offender probation or court supervision;
- 2.) Conduct a local criminal and juvenile records check;
- 3.) Run LEADS; and
- 4.) Based upon the information obtained, make inquiry as to whether or not the defendant has previously successfully completed or been otherwise discharged from a drug court program (hereinafter referred to as being Prior Treatment Ineligible).

B. Unless the Drug Court Officer obtains documentation that the defendant is Prior Treatment Ineligible, he or she shall, based upon the above information, proceed to ascertain that the defendant is not Offense Ineligible.

### C. **Offense Ineligibility ("Charge" or "Past Conviction" Ineligibility).**

A person is Charge Ineligible if he or she is presently charged with any of the following offenses:

- 1.) 1<sup>st</sup> Degree Murder (or Attempt or Conspiracy to Commit);
- 2.) 2<sup>nd</sup> Degree Murder (or Attempt or Conspiracy to Commit);
- 3.) Voluntary Manslaughter;
- 4.) Voluntary Manslaughter of an Unborn Child;
- 5.) Predatory Criminal Sexual Assault of a Child (or Attempt);
- 6.) Aggravated Criminal Sexual Assault (or Attempt);
- 7.) Criminal Sexual Assault (or Attempt);
- 8.) Criminal Sexual Abuse **except** 720 ILCS 5/11-1.50(c) where the victim is 16 years of age;
- 9.) Aggravated Criminal Sexual Abuse **except** 720 ILCS 5/11-1.60(d) where victim at least 16 and defendant under 22;
- 10.) Indecent Solicitation of a Child;

- 11.) Solicitation to Meet a Child;
- 12.) Exploitation of a Child;
- 13.) Sexual Exploitation of a Child;
- 14.) Permitting Sexual Abuse of a Child;
- 15.) Custodial Sexual Misconduct;
- 16.) Approaching, Contacting, Residing with, or Communicating within Certain Places by a Child Sex Offender;
- 17.) Sexual Predator or Child Sex Offender Present or Loitering in or Near Public Parks;
- 18.) Sexual Misconduct with a Person with a Disability;
- 19.) Child Pornography;
- 20.) Pandering;
- 21.) Promoting Prostitution or Juvenile Prostitution;
- 22.) Patronizing a Minor Engaged in Prostitution;
- 23.) Soliciting for a Prostitute or Juvenile Prostitute;
- 24.) Juvenile Pimping or Aggravated Juvenile Pimping;
- 25.) Robbery (or Attempt);
- 26.) Armed Robbery (or Attempt);
- 27.) Armed Violence, **except** for Track II consideration where charge is pursuant to 720 ILCS 5/33A-2(a) and no firearm or bodily harm;
- 28.) Arson;
- 29.) Aggravated Arson;
- 30.) Kidnapping (or Attempt or Conspiracy to Commit);
- 31.) Aggravated Kidnapping (or Attempt or Conspiracy to Commit);
- 32.) Aggravated Battery Resulting in Great Bodily Harm, Permanent Disability or Disfigurement;
- 33.) Battery of an Unborn Child;
- 34.) Ritualized Abuse of a Child;
- 35.) Ritual Mutilation;
- 36.) Female Ritual Mutilation;
- 37.) Stalking;
- 38.) Aggravated Stalking;
- 39.) Aggravated Unlawful Restraint;
- 40.) Aggravated Discharge of a Firearm;
- 41.) Reckless Discharge of a Firearm;
- 42.) Unlawful Discharge of Firearm Projectiles;
- 43.) Aggravated Discharge Machine Gun or Firearm w/Silencer;

- 44.) Any other offense allegedly factually involving discharge of a firearm by the defendant, other than conservation offenses or ordinance violations concerning the locale of discharge;
- 45.) Driving Under the Influence of Alcohol, Driving Under the Influence of Drugs, or Driving Under the Influence of a Combination of Alcohol or Drugs, or the Aggravated form of any such offense, **except** for Track 2 consideration;
- 46.) Any other offense which would be non-probationable because of its statutory classification or status under the Criminal Code or the Unified Code of Corrections, **except**:
  - a) offenses which are not listed in 1-45 above and for which, in consideration of the defendant's prior criminal history, he or she could be admitted to T.A.S.C. Probation pursuant to the Illinois Alcoholism and Other Drug Dependency Act (20ILCS 301/40); **and**
  - b) offenses not listed in 1-45 above, where the elected State's Attorney has made the Drug Court referral.

**A person is Prior Conviction Ineligible if, in a criminal proceeding, he or she has been convicted, within the past 10 years, excluding incarceration time, of any of the following offenses:**

- 1.) 1st Degree Murder (or Attempt or Conspiracy to Commit);
- 2.) 2nd Degree Murder (or Attempt or Conspiracy to Commit);
- 3.) Voluntary Manslaughter;
- 4.) Voluntary Manslaughter of an Unborn Child;
- 5.) Predatory Criminal Sexual Assault of a Child (or Attempt);
- 6.) Aggravated Criminal Sexual Assault (or Attempt)
- 7.) Criminal Sexual Assault (or Attempt);
- 8.) Indecent Solicitation of a Child;
- 9.) Solicitation to Meet a Child;
- 10.) Exploitation of a Child;
- 11.) Sexual Exploitation of a Child;
- 12.) Custodial Sexual Misconduct;
- 13.) Approaching, Contacting, Residing with, or Communicating within Certain Places by a Child Sex Offender;

- 14.) Sexual Predator or Child Sex Offender Present or Loitering in or Near Public Parks;
- 15.) Sexual Misconduct with a Person with a Disability;
- 16.) Child Pornography;
- 17.) Pandering;
- 18.) Promoting Prostitution or Juvenile Prostitution;
- 19.) Robbery (or Attempt);
- 20.) Armed Robbery (or Attempt);
- 21.) Armed Violence, except for Track II consideration where charge is pursuant to 720 ILCS 5/33A-2(a) and no firearm or bodily harm ;
- 22.) Arson;
- 23.) Aggravated Arson;
- 24.) Kidnapping (or Attempt or Conspiracy to Commit);
- 25.) Aggravated Kidnapping (or Attempt or Conspiracy to Commit);
- 26.) Aggravated Battery Resulting in Great Bodily Harm, Permanent Disability or Disfigurement;
- 27.) Battery of an Unborn Child;
- 28.) Ritualized Abuse of a Child;
- 29.) Ritual Mutilation;
- 30.) Female Ritual Mutilation;
- 31.) Stalking;
- 32.) Aggravated Stalking;
- 33.) Aggravated Unlawful Restraint;
- 34.) Aggravated Discharge of a Firearm;
- 35.) Reckless Discharge of a Firearm;
- 36.) Unlawful Discharge of Firearm Projectiles; or
- 37.) Aggravated Discharge Machine Gun or Firearm w/Silencer;
- 38.) Any other offense allegedly involving discharge of a firearm by the defendant, other than conservation offenses ordinance violations concerning the locale of discharge;

**D.** If the Drug Court Officer determines that the defendant is either (a.) Prior Treatment Ineligible or (b.) Offense Ineligible, said Officer shall notify the State's Attorney, the referring party, and the Court; and the proceedings in the defendant's criminal case shall continue; **provided**, if such defendant is neither Prior Treatment Ineligible nor Past Conviction Ineligible the State's Attorney may, without committing to amend or dismiss charges and without waiver of right to



disallow defendant's admission into the Drug Court program, consent on the Referral Form for assessment and Initial Drug Court Staffing. In such case, the Drug Court Officer shall proceed as set forth in Paragraph E. below; provided, a defendant staffed for admission pursuant to this paragraph may not be admitted to the Drug Court Program while Offense Ineligible.

E. If the defendant has not been disqualified pursuant to Paragraph D. above, and agrees to be screened for Drug Court, the defendant shall as witnessed by the Drug Court Officer, execute a written "Agreement to Screening and Waiver" and a "Notice of Rights of Confidentiality for Drug Court Participants and Consent for Disclosure of Confidential Information", both of which shall be presented at defendant's next court appearance.

F. Upon defendant's execution of documents pursuant to E. above, the Drug Court Officer shall notify the defendant to appear at the next meeting of the Drug Court Team if such meeting is scheduled to appear prior to defendant's next criminal court appearance; otherwise, the Drug Court Officer shall remind defendant of the criminal court setting. The Drug Court Officer shall then notify the State's Attorney, the defendant's attorney, the Presiding Judge, and the Drug Court Judge that the referral is proceeding to a Stay Hearing.

G. At defendant's appearance at the Stay Hearing pursuant to F. above, the Presiding Judge or Drug Court Judge shall:

- 1.) Enter in the Court record that defendant has been referred for consideration for Drug Court;
- 2.) File the documents signed pursuant to E. above.
- 3.) Stay all further proceedings in the criminal case;
- 4.) Order the defendant to report to the County Drug Court Officer within 48 hours for screening and to fulfill any further requirements made by the Drug Court Officer; and
- 5.) Order the defendant to report to the Drug Court on a specific date and time for notification of provisional acceptance or non-acceptance into the Drug Court Program and, if provisionally accepted, presentation of plea agreement for Drug Court Probation.

**H.** Prior to screening, the Drug Court Officer shall:

- 1.) Obtain booking photo from the Sheriff's Department;
- 2.) Enter case file into computer/events calendar; and
- 3.) Investigate the defendant's compliance with terms of probation, conditional discharge or court supervision if the defendant has been under such order in the County.

**I.** At the screening, the Drug Court Officer shall:

- 1.) Ascertain that defendant does not deny abuse of alcohol or other drugs;
- 2.) Ascertain that defendant expresses willingness to address his or her abuse and/or dependency and participate in a Court-monitored treatment program;
- 3.) Conduct or obtain a substance abuse/dependency pre-screen and complete full intake utilizing the intake worksheet for the completion of the LSI-R assessment tool; and
- 4.) Obtain a T.A.S.C. assessment/screening (T.C.U.) that includes the following:
  - a. Opinion as to whether or not defendant is dependent upon alcohol or other drugs;
  - b. Opinion whether or not there is a relationship between alcohol or other drugs and criminality;
  - c. Opinion whether or not there is an impact of drug use on major life areas of family, interpersonal relationships, education, employment, leisure, and health; and
  - d. Opinion that the defendant does not have physical, psychological, or other factors present which would prohibit participation in substance abuse treatment.

**J.** If the Drug Court Officer determines that the Defendant meets the criteria set forth in I. 1, I. 2, and I. 4a. above, the Officer shall:

- 1.) Review and have the defendant sign the Program Guidelines and Requirements Form;

- 2.) Obtain signed Releases of Information;
- 3.) Conduct an initial drug test;
- 4.) Complete a home visit;
- 5.) Make collateral contacts; and
- 6.) Forward the file to the Drug Court Judge so that it can be assessed at the Initial Drug Court Staffing on the day that the defendant is ordered to appear for Drug Court.

K. If the Drug Court Officer determines that the Defendant does not meet the criteria set forth in I. 1, I. 2, and I. 4a. above, the Officer shall so inform the State's Attorney, the referring party, and the Court, whereupon a new setting shall be made in defendant's criminal court proceedings and such proceedings shall resume.

## VI. ADMISSION PROCEDURES

### A. Drug Court Staffings

Drug Court Staffings shall be held by the Drug Court Team weekly in the Crawford County Courthouse at such day and at such time as determined by the Presiding Drug Court Judge. Drug Court staffing shall include, at minimum, the Drug Court Judge as designated by the Chief Judge; the State's Attorney or Assistant State's Attorney; Public Defender and/or private attorney; Drug Court Officer; and the Treatment Officer; provided, the Treatment Officer need not appear at Initial Drug Court Staffings. Initial Drug Court Staffings, at which the Drug Court Team shall determine non-acceptance or provisional acceptance of Drug Court candidates, shall constitute the first order of business to be immediately followed by Drug Court Staffings as to current participants.

All Drug Court Staffings shall be attended by the elected State's Attorney or a designated Assistant State's Attorney with authority to accept a defendant into the Drug Court Program; and all initial Drug Court Staffings shall be attended by the T.A.S.C. representative who has administered the T.C.U. to any candidate.

No decision shall be made pursuant to Drug Court Staffings with respect to any Drug Court participant whose individual substance abuse treatment provider is not licensed or credentialed by the Illinois Department of Alcoholism or Substance or has not been duly designated or approved.

**B. INITIAL DRUG COURT STAFFING**

1. The initial Drug Court meeting shall be set on the same day that the defendant is set to appear in Drug Court. The Drug Court Officer shall staff the case with the full Drug Court Team for consideration of defendant's admission into the program.
2. The entire Drug Court Team shall determine whether or not a defendant shall be provisionally admitted to the program and the Track to which the candidate shall be admitted. The Presiding Drug Court Judge or the State's Attorney may disallow the defendant's participation in the Drug Court program, or either Track of the program, but only at the conclusion of the Initial Drug Court Staffing and only after a good faith" participation in said staffing.
3. If the Drug Court Team determines that a candidate should not be admitted to either Track, or if the Drug Court Judge or the State's Attorney disallows a candidate's admission into both Tracks of the Drug Court Program, the Drug Court Team, the State's Attorney, and the Drug Court Judge shall record their decision on the face of the candidate's Referral Form. The Referral form shall be signed by the State's Attorney and the Drug Court Judge and filed with the Circuit Clerk.
4. Notice of denial of admission to the Drug Court shall be given to the defendant and defendant's counsel at the defendant's initial appearance at Drug Court. In addition, the defendant's case shall be returned to the regular criminal court docket and the defendant given notice of his next hearing date and time. At this next hearing, the Court's stay of the proceedings and the defendant's waiver of all time limitations shall be vacated.
5. If the Drug Court Team, including the State's Attorney and the Drug Court Judge, determines that a candidate should be provisionally admitted to either Track of the Drug Court Program, the Drug Court Judge shall record their decision on the Referral Form specifying which Track and this case shall immediately proceed to the defendant's initial Drug Court Appearance. The Referral Form shall be signed by the State's Attorney and the Drug Court Judge.

6. After the defendant has been provisionally admitted to the Drug Court Program, the State's Attorney may make a late request to disallow the defendant into the Drug Court Program, but only by leave of the Drug Court Judge for good cause shown and only if made prior to the Drug Court Judge's final decision at defendant's initial Drug Court Appearance to allow the defendant into the program. Except for this right of the State's Attorney to make a request for a late disallowance, the Drug Court Team's decision to provisionally admit a defendant to the program shall be subject only to the final decision of the Drug Court Judge at defendant's initial Drug Court Appearance.

**C. INITIAL DRUG COURT APPEARANCE**

1. Drug Court will be held weekly in a Courtroom of the Crawford County Courthouse on such day and at such time as determined by the Presiding Drug Court Judge.
2. Prior to appearance in court, the Public Defender assigned to Drug Court and/or private counsel shall meet with the defendant and make a final determination whether the defendant meets the following eligibility criteria:
  - a. Willing to enter a plea of guilty to the offense and/or admit to violation of probation under the proposed Track of Drug Court;
  - b. Willing to Waive the right to a bench/jury trial, and/or revocation hearing;
  - c. Willing to sign a Remission Waiver such that stay of service of jail sentence may be lifted without prior hearing or notice;
  - d. Willing to sign a Waiver of Extradition;
  - e. Willing to waive the rights to appeal or contest the validity of and specific results of drug tests administered by trained personnel using test equipment meeting the equipment requirements under Illinois law for admissibility at trial of conclusive drug testing results;
  - f. Willing to waive any objection to the conducting of Drug Court Probation revocation proceedings or re-sentencing proceedings by the Presiding Drug Court Judge based upon the fact that said Judge has, at any time during or since referral of the Defendant as a Drug Court candidate, received in his or her capacity as Drug Court Judge information presented in any manner or form and relating to the Defendant in any respect.



- e. Motion to Withdraw Plea of Guilty Based Solely on the successful Completion of the Drug Court Program (Track 1 ONLY).
7. Under Track 1, the defendant shall enter a plea of guilty to a felony or misdemeanor offense for which the defendant is eligible to be admitted to Track 1 of the Drug Court Program, and shall immediately be sentenced to Drug Court Probation.

In addition, under Track 1 defendant shall then immediately file a "Motion to Withdraw Plea of Guilty Based Solely on the Successful Completion of the Drug Court Program." This Motion to Withdraw Plea is filed only so that the Court can maintain jurisdiction to allow the plea to be withdrawn, the sentence vacated, and the case dismissed if the defendant successfully completes Drug Court Probation and graduates from the program, and for no other reason.

8. Under Track 2, the defendant shall (1) enter a plea of guilty to at least one offense for which the defendant is eligible to be sentenced to the Drug Court Program or (2) admit violation of probation, conditional discharge, court supervision, or first offender probation. The defendant shall immediately be sentenced to Drug Court Probation. Upon successful completion of Drug Court Probation and graduation from the program, the probation shall be terminated and the defendant discharged.

### **PROGRAM FEES**

Upon formal admittance into the Drug Court Program, the Drug Court Judge shall impose a program fee in an amount up to \$500, one-half of which shall be remitted by the County Treasurer to the County Drug Court Fee Fund and one-half of which shall be remitted by the County Treasurer to the Second Circuit Drug Court Fund administered by the Chief Judge. The defendant shall make payment arrangements with the Presiding Drug Court Judge; provided, each defendant must pay at least one-half of the program fee assessed pursuant to this paragraph before advancing to Phase III, and each defendant must pay the balance of said fee in order to be approved for graduation.

The above program fee shall be in addition to other drug court fees being assessed to participants as of May 24, 2012, by previously adopted county drug court plans. Those drug court fees shall remain assessable under the payment terms determined by the Drug Court Judge and shall be remitted to the county's Drug Court Fund.

### **CASE MANAGEMENT AND INTAKE**

A. A physical file on every defendant must be maintained and shall be completed in accordance with the Adult Intake Classification System in compliance with standards as set forth by the County Probation Department and the Administrative Office of the Illinois Courts.

B. Immediately following his or her Initial Drug Court Appearance, each defendant shall participate in a face-to-face interview conducted by the Drug Court Officer. The officer shall review the file prior to the intake. If any rescheduling is done, the reason for the rescheduling shall be documented as well as the date and time of the next appointment

C. All conditions of the Drug Court Program shall be explained at the initial interview. The Drug Court Officer is responsible for ensuring the defendant understands defendant's obligations to the Court. In addition, the Drug Court Officer shall complete the following at the initial interview:

- 1.) Conduct Second Drug Test;
- 2.) Issue Phase Instructions;
- 3.) Complete full Intake utilizing the intake worksheet for the completion of the LSI-R assessment tool;
- 4.) Verify Employment (if applicable); and
- 5.) Forward file to Substance Abuse Counselor for further assessment.

### **TREATMENT ASSESSMENT**

Upon receipt of the case referral packet from the Drug Court Officer, the Substance Abuse Counselor will assess the defendant and determine whether the defendant meets the following criteria:

- 1.) There is a relationship between drugs and criminality;



- 2.) There is an impact of drug use on major life areas of family, interpersonal relationships, education, employment, leisure, and health;
- 3.) The defendant is an addict or is chemically dependent;
- 4.) The defendant does not have physical, psychological, or other factors present which would prohibit participation in substance abuse treatment; and
- 5.) The defendant shows a willingness to address his substance abuse addiction.

The Substance Abuse Counselor shall do the following:

- 1.) Complete all Initial Assessments;
- 2.) Obtain Releases of Information; and
- 3.) Forward all Assessments, Releases and findings to the Drug Court Officer.

### **CASE PLANNING**

1. The Drug Court Officer shall complete a case plan which shall include the following:
  - a. Conduct Home Visit (if just released from jail/treatment) to verify the defendant's residency and serve as an additional contact;
  - b. Complete an LSI-R Assessment;
  - c. Develop a case plan in accordance with the standards set forth by the Administrative Office of the Illinois Courts.
2. The Drug Court Officer shall develop a strategy of effective intervention including the risk, need, responsibility, dosage and treatment. Supervision and treatment should target higher-risk defendants, focus on the needs related to criminal behavior and reducing recidivism, be responsive to the defendant's unique issues, be delivered in the correct dosage, and be specified in the court's sentence.

3. The Drug Court Officer, in collaboration with the defendant, shall:
  - a. Complete an offense analysis and provide feedback to the probationer;
  - b. Review the priority targets with the defendant, allowing the defendant to choose which he/she is most concerned about;
  - c. Identify the readiness of the defendant to change, using the stages of change (see pages 4-23—4-29 of the Effective Casework: Advanced Interviewing and Case-Planning Part 2 of 3 Participant Workbook);
  - d. Complete a decisional balance worksheet to determine the importance of the targets of change and any barriers which may interfere with the changes (see pages 4-30—4-32 of the Effective Casework Advanced Interviewing and Case-Planning Part 2 of 3 Participant Workbook);
  - e. Complete a case plan taking into consideration the targeted areas that assure that the case plan is responsive of the risk and needs of the defendant (See pages 4-44—4-50 of the Effective Casework: Advanced Interviewing and Case-Planning Part 2 of 3 Participant Workbook).
4. Following the completion of the Case Plan the Drug Court Officer shall document the case plan in client notes as well as have a written case plan in the file with a copy to the defendant.

## **VII. DRUG COURT STAFFINGS AND HEARINGS** **(POST-ADMISSION)**

- A. The Drug Court Officer shall staff each case with the full Drug Court Team before it is called for a Drug Court hearing. Drug Court Staffings shall be held by the Drug Court Team weekly at the Crawford County Courthouse on such day and at such time as determined by the Presiding Drug Court Judge; and initial staffings shall be held prior to staffings for current participants.
- B. All defendant/participants shall appear for all Drug Court hearings as required by the Drug Court Judge or the Drug Court Officer. At such hearings, the Presiding Drug Court Judge shall review the defendant's compliance with the requirements of the phases of the Drug Court Program, consider whether the defendant has met all requirements necessary in order to move to the next phase, and impose any rewards or sanctions that are deemed appropriate.

C. The Drug Court Officer and the drug court treatment provider are responsible for being in Court fifteen minutes before Court is in session. The Officer and treatment provider shall be prepared to report to the courtroom at all times when Drug Court is in session. Duties in the courtroom include, but are not limited to the following:

- 1.) Maintain a file of the proceedings at the Drug Court hearing;
- 2.) Be prepared to contribute significant information regarding a defendant's progress or lack thereof at the staffing;
- 3.) Conduct any drug testing as directed by the Court;
- 4.) Meet and discuss any issues with the defendants that are in the Drug Court Program;

D. No information viewed by Drug Court personnel shall be shared with any outside party. Records shall be open to inspection by any Judge, or by any Probation Officer pursuant to order of the Court, but shall not be public records.

Notwithstanding any waiver created by a defendant's participation in or request for participation in the Drug Court program, neither appointed nor retained counsel shall be required or expected to disclose their clients' confidences or take positions inconsistent with the wishes of their clients; and counsel shall be given the opportunity to confer with their clients before advocating for or against any action or measure being discussed or contemplated by the Drug Court Judge or Drug Court Team.

All probation files, Pre-Sentence Investigations, computer notes, and other such material are considered to be confidential information and are not to be released except by Court Order or client release of information. Case information may be released to other Probation Departments.

During the screening process and once accepted into Drug Court, the defendant may be asked to sign additional Waiver of Confidentiality Forms. Refusal to cooperate with signing necessary releases of information may result in the imposition of sanctions.

## **VIII. VIOLATION, TERMINATION, AND DISCHARGE FROM THE DRUG COURT PROGRAM**

**A.** Before any termination from the drug court program, the Drug Court Judge shall conduct a hearing where the defendant has a right to be present and to be heard, and shall determine from the evidence presented, including but not limited to testimony, reports or proffers of proof from members of the Drug Court Team or others, whether or not the defendant is failing to comply with the Drug Court Program in one or more of the following ways:

- 1.) The defendant is not performing satisfactorily in the program;
- 2.) The defendant elects to drop out of the program;
- 3.) The defendant has engaged in criminal conduct rendering him or her unsuitable for the program;
- 4.) The defendant is not benefitting from the education, treatment, or rehabilitation;
- 5.) The defendant has otherwise violated the terms and conditions of the program or his or her sentence or is for any reason unable to participate; (730 ILCS 166/30).

**B.** If the Drug Court Judge determines that the defendant is not complying, the Drug Court Judge may, following consultation with the Drug Court Team, impose reasonable sanctions under prior written agreement with the defendant, including but not limited to imprisonment, and/or may impose Unsatisfactory Status on the defendant. Upon imposition of Unsatisfactory Status, and until and unless the defendant is unsuccessfully terminated from the Drug Court Program, the defendant shall continue to participate in the Drug Court Program as directed by the Drug Court Judge in consultation with the Drug Court Team.

**C.** If Unsatisfactory Status is imposed, the Drug Court Judge shall direct the State's Attorney to institute revocation proceedings following the procedures in Section 5-6-4 of the Unified Code of Corrections and shall preside over such revocation proceedings.

**D.** If the Court finds at the revocation proceedings that the State has not proven by a preponderance of the evidence that the defendant has violated the terms of the Drug Court Probation, the defendant shall resume regular participation in the Drug Court Program.

E. If the Court finds that the defendant has violated the terms of this Drug Court Probation, the defendant shall be unsuccessfully terminated from the Drug Court Program. The defendant shall then be returned to the regular criminal court docket to be re-sentenced by the Drug Court Judge on the offense(s) to which the defendant entered the plea of guilty or the offense(s) underlying the probation, conditional discharge, first offender probation, or court supervision as to which the defendant has admitted to a violation.

F. Any "Motion to Withdraw Plea of Guilty Based Solely on the Successful Completion of the Drug Court Program" previously filed by the defendant shall be denied upon a finding pursuant to revocation proceedings that the defendant has violated terms of Drug Court Probation.

### **IX. SUCCESSFUL DISCHARGE FROM THE DRUG COURT PROGRAM**

**Track 1.** If the defendant successfully completes the Drug Court Program under Track 1, the Court will grant the defendant's "Motion to Withdraw Plea of Guilty Based Solely on the Successful Completion of the Drug Court Program." The Court will reinstate the charges based on the defendant's withdrawal of plea. The State will file a Motion to Dismiss the pending reinstated criminal charges. The Court will grant the State's motion to dismiss and discharge the defendant from any further proceedings in the original prosecution. The State's Attorney will be barred from reinstating the matter at any further date, and will not object to an expungement order if one is properly brought.

**Track 2.** If the defendant successfully completes the Drug Court Program under Track 2, the Court will find that the defendant has successfully completed the Drug Court Probation and will discharge the defendant from any further proceedings in the original prosecution or prosecution of a Petition to Revoke. The State's Attorney will be barred from reinstating the matter at any further date.

### **SUPERCEDING EFFECT; CIRCUIT-WIDE FORMAT**

*The foregoing Drug Court Policy and Procedure Manual, including:*

- A. Exhibit A – Drug Court Phases; Drug Testing; Treatment; Sanctions & Rewards;

B. Drug Court Program Guidelines and Requirements;

C. and the following forms marked effective January 1, 2013:

1. Drug Court Probation Order;
2. Agreement to Screening and Waiver;
3. Motion to Withdraw Plea of Guilty Based Solely on the Completion of Drug Court Program;
4. Drug Court Program Referral Form;
5. Order Tolling Time Limits, Staying Proceedings and Referring Defendant to Drug Court;
6. Order Granting Motion to Withdraw Plea of Guilty Based Solely on the Completion of Drug Court Program and Order Dismissing Charges with Prejudice;
7. Drug Court Plea Agreement, Plea of Guilty and Waiver of Rights;
8. Order Vacating Stay of Proceedings;
9. Notice of Rights of Confidentiality for Drug Court Participants and Consent for Disclosure of Confidential Information;

inclusive hereto, and incorporated by reference herein, replaces and supersedes all Drug Court Plans and/or policy manuals and forms previously adopted by the Chief Judge of the Second Judicial Circuit pursuant to the Illinois Drug Court Treatment Act. It shall, in each of the counties of the Second Judicial Circuit, constitute the only format by which drug court shall be structured, implemented and conducted from and after November 30, 2012. It shall also govern the implementation and conduct of the 2nd Circuit Coordinated Drug Court Program.

The foregoing Drug Court Policy and Procedure Manual is hereby adopted this \_\_\_\_\_ day of September, 2013.

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Chief Judge

# **EXHIBIT A**

## **DRUG COURT PHASES; DRUG TESTING; TREATMENT; SANCTIONS & REWARDS**

### **DRUG COURT PHASES**

The Drug Court Program will operate under different Phases. The defendant will be required to complete each phase before moving to the next phase. Upon the application of the defendant, the Drug Court and Drug Court Team shall determine whether the defendant has substantially met all the requirements to move to the next phase.

***Phase I: Orientation and Stabilization Phase (estimate 45-60 days) in which focus on attendance, honesty, becoming adjusted to the program expectations:***

- 1.) Obtain a Full Substance Abuse Assessment;
- 2.) Participate in Residential Treatment or Intensive Outpatient Treatment as ordered by the Drug Court;
- 3.) Attend and comply with requirements of your Comprehensive Case Plan and Treatment Plan;
- 4.) Attend Drug Court 1 time per week unless in Residential Treatment;
- 5.) Do not use any alcohol or drugs unless prescribed by a licensed physician, approved by the Drug Court;
- 6.) Make Probation contacts at least 2 times each week; provided that at least 2 of these probation contacts each month shall be home visits;
- 7.) Submit to random drug testing at least 2 times a week by either probation or treatment provider;
- 8.) Attend approved self-help group, community support group or participate in community activities at least 1 time a week;
- 9.) Attend every appointment required by the Drug Court;
- 10.) Be honest and report any drug usage or other information requested as part of the Drug Court program;
- 11.) Have 30 days of Clean Time in the community (not counting Residential Treatment).

***Phase II: Sobriety and Responsibility Phase (estimate 3-6 months) in which focus on attaining a stable period of sobriety. Defendant should begin to look "outside of self" by beginning to focus on education, work, parenting and paying on fees, child support and other financial obligations:***

- 1.) Continue to participate in Residential Treatment, Residential Outpatient Treatment, or Outpatient Treatment as ordered by the Drug Court;
- 2.) Attend Drug Court at least every other week;
- 3.) Make Probation contacts at least 1 time each week; provided further that at least 2 of these probation contacts each month shall be home visits;
- 4.) Submit to random drug testing at least 2 times a week by either probation or treatment provider;
- 5.) Continue to comply with Comprehensive Case Plan and Treatment Plan;
- 6.) Attend education classes, e.g. GED, Parenting Classes, Seeking Safety Classes;
- 7.) Attend approved self-help group, community support group or participate in community activities at least 2 times a week;
- 8.) Pay financial obligations, including fine, costs and restitution;
- 9.) Be employed, seeking employment or participating in a skill building community service;
- 10.) Have 90 continuous days of Clean Time in the community (not counting Residential Treatment);
- 11.) Be honest and report any drug usage or other information requested as part of the Drug Court program;
- 12.) Attend every appointment required by the Drug Court.

***Phase III: Leadership Phase (estimate 4-6 months) in which the defendant has a stable sobriety and is proving leadership within the court cohort and treatment. Defendant is demonstrating engagement within the community:***

- 1.) Attends Outpatient Treatment;
- 2.) Actively engaged in Relapse Prevention groups;
- 3.) Attend Drug Court at least once a month;
- 4.) Make Probation contacts at least 2 times each month; provided further that at least 1 of these probation contacts each month shall be a home visit;
- 5.) Submit to random drug testing at least 1 time a week;
- 6.) Comply with the Comprehensive Case Plan and Treatment Plan;
- 7.) Working to complete education classes, e.g. GED, Parenting Classes, Seeking Safety Classes;



- 8.) Attend approved self-help group, community support group or participate in community activities at least 2-3 times a week;
- 9.) Pay financial obligations, including fine, costs and restitution;
- 10.) Be employed, seeking employment or participating in a skill building community service;
- 11.) Have 120 continuous days of Clean Time in the community (not counting Residential Treatment);
- 12.) Have safe and sober housing;
- 13.) Be honest and report any drug usage or other information requested as part of the Drug Court program;
- 14.) Attend every appointment required by the Drug Court.

***Phase IV: Completion Phase (6-8 months) in which the defendant is stable in sobriety, a leader in the Drug Court Program, gainfully employed and is living in his own personal residence/living arrangement:***

- 1.) Attends Outpatient Treatment up to 2 times a month;
- 2.) Successfully completed Comprehensive Case Plan and Treatment Plan as required;
- 3.) Actively engaged in Relapse Prevention groups;
- 4.) Attend Drug Court at least once a month;
- 5.) Make Probation contacts at least 1 time each month;
- 6.) Submit to random drug testing at least 2 times a month;
- 7.) Successfully complete education classes, e.g. GED, Parenting Classes, Seeking Safety Classes;
- 8.) Attend approved self-help group, community support group or participate in community activities at least 2-3 times a week;
- 9.) Paid in full all financial obligations, including fine, costs and restitution;
- 10.) Be gainfully employed;
- 11.) Living in stable/sober living environment and seeking own personal residence/living arrangements;
- 12.) Have 120 continuous days of Clean Time in the community (not counting Residential Treatment);
- 13.) No sanctions for 60 days;
- 14.) Achieved 12 consecutive months of sobriety in the program;
- 15.) Be honest and report any drug usage or other information requested as part of the Drug Court program;
- 16.) Attend every appointment required by the Drug Court;
- 17.) Be in compliance with all conditions of the Drug Court Agreement.

***Phase V: Aftercare (Estimate 3 months):***

- 1.) Drug testing at Drug Court Officer's discretion;
- 2.) Maintain Employment;
- 3.) Actively be involved in self-help program;
- 4.) Participate in Alumni Group;
- 5.) Appear in Court at discretion of Drug Court Officer;
- 6.) Continue Compliance with Payment Plan.

**DRUG TESTING**

Drug Testing will be performed by and take place through the Treatment Provider, the County Probation Department, or their designee. The Drug Court Officer or Treatment Provider shall provide immediate testing if requested by the Court, but shall have complete discretion to require a drug test at anytime.

Random drug testing is to be considered an integral part of this program and will be conducted by giving each Drug Court defendant a color code. The defendant will be required to call in to the probation office no later than 9:00 a.m. each day to determine if his or her color has been pulled for random drug testing. If the defendant's color code has been pulled for testing, the defendant will appear at the probation office by 9:00 AM the following day to be drug tested. Defendants who fail to call or appear for testing at the times required in the preceding sentence shall not be given the opportunity to submit to a late test; rather, they will be considered to have had a positive test result with a "failure to appear" or "failure to call" annotation.

Random Drug Tests are to be used for the following:

- 1.) As an assessment and diagnostic tool;
- 2.) To reinforce and validate successful recovery and abstinence;
- 3.) As an intervention and confrontation tool;
- 4.) As a deterrent to drug use; and
- 5.) To assist in determining risk and revocation decisions.
- 6.)

**SANCTIONS AND REWARDS**

The Drug Court team will use a combination of sanctions and rewards to reinforce compliance with the Drug Court Agreement and the Treatment plan. The team will

attempt to develop additional sanctions and rewards, which are unique to the individual.

Rewards will be granted as deemed appropriate by the Drug Court Judge in consultation with the Drug Court Team. Rewards may be appropriate when an individual has either successfully completed a treatment phase or has been in compliance for a significant period of time. Rewards may include:

- 1.) Encouragement and praise from the team;
- 2.) Reduction in previously imposed sanctions;
- 3.) Medallions for sobriety benchmarks;
- 4.) Early call in Court;
- 5.) Gift certificates;
- 6.) Fishbowl drawing;
- 7.) Recovery materials (books, mugs, key chains, etc);
- 8.) Decreased frequency of court appearances, and/or drug testing;
- 9.) Decreased levels of supervision;
- 10.) Reduced fines or fees, including program fees;
- 11.) Reduced or suspended incarceration;
- 12.) Dismissal of or reduction in criminal charges;
- 13.) Graduation;
- 14.) Reduction of treatment services.

Sanctions will be imposed for each violation. The Drug Court Officer may in his or her discretion, impose asterisked sanctions below further pending Drug Court staffing. The Drug Court Judge, with input from the Drug Court Team, will determine which sanction is appropriate depending on the nature of the violation and the overall compliance of the individual. Sanctions can include:

- 1.) Verbal warnings and admonishments from the bench in open Court;
- 2.) Admonishments from the team;
- \*3.) Imposition of a curfew;
- \*4.) Requirement to stay away from certain persons or groups of people;
- 5.) Prohibition from going to places or geographic locations;
- 6.) Writing assignments;
- 7.) Shock incarceration;
- 8.) Periodic imprisonment;
- 9.) Written warnings;
- 10.) Loss of sobriety date;
- 11.) House arrest;

- \*12.) Electronic monitoring or SCRAM;
- 13.) Sentence to Service or community service;
- 14.) Restricted supervision privileges;
- 15.) Escalating periods of jail confinement;
- \*16.) Increased supervision reporting;
- \*17.) Increased drug testing;
- 18.) Increased level of treatment;
- 19.) Demotion to earlier program phases;
- 20.) Courtroom detention;
- 21.) Termination from the Drug Court Program and reinstatement of regular Court processing;
- 22.) Restriction upon operation of motor vehicles.