

**DAVIS COUNTY DRUG/DUI COURT**  
**POLICY AND PROCEDURE MANUAL**

Established 09/1999  
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## **DAVIS COUNTY DRUG COURT MISSION STATEMENT**

“To make offenders accountable for their actions, bring about a behavioral change that stops the use of illegal drugs, ends recidivism and protects as well as educates the public as to the consequences of illegal drug use.”

### **PURPOSE**

The purpose of the Davis County Drug Court Program is to provide a structure for non violent drug dependant defendants who are High Risk/High Need with treatment, rehabilitation, social support services and the criminal justice system to enhance the functioning of the participant, protect the public and more effectively utilize public resources.

### **PROGRAM GOALS**

- Reduce participant contacts with the criminal justice system.
- Reduce costs associated with criminal case processing and re-arrest.
- Reduce jail overcrowding.
- Introduce participants to an ongoing process of recovery designed to achieve total abstinence from illicit/illegal and other mood altering drugs.
- Promote self-sufficiency and empower substance abusers to become productive and responsible members of our community.

# INTAKE INFORMATION

## 1. ELIGIBILITY STANDARDS

Consideration for admission to the Drug Court Program shall be limited to those defendants who:

- Have been arrested and charged in district court with a class A misdemeanor or felony drug possession charge and who have previously been convicted of a drug offense.
- Have been arrested and charged in district court with a class A misdemeanor or felony offense that was committed due to the defendant being drug-addicted or drug dependent and are determined suitable by the drug court team as appropriate for court monitored treatment.
- Are determined to be high risk and high need as measured by the RANT assessment tool.
- Have the mental and behavioral capacity to manage the intense structure of Drug Court, with the understanding that if adequate treatment is available, candidates are not disqualified from participation because of co-occurring mental health or medical conditions.
- Are or become residents of Davis County

Defendants are ineligible for Drug Court if they have a current offense and/or criminal history that includes a crime that suggests that the applicant poses a present danger to Drug Court staff, other participants, or the community at large. Violent offenses, which include, but may not be limited to, any aggravated offense, child sexual abuse, murder, robbery, kidnapping, felony sex offense, and clandestine lab offenses carry a rebuttable presumption that a defendant is a danger to the community. Gang affiliation also carries a rebuttable presumption that a defendant is a danger to the community.

Prior Drug Court or RSAT participation creates a rebuttable presumption that a defendant cannot be managed effectively in Drug Court.

Entry into the Drug Court Program is dependent upon space availability within the program.

## 2. SUITABILITY STANDARDS

Drug Court Staff shall assist the Drug Court team in determining the overall suitability of defendants for the program by completing a standardized Drug Court Assessment for eligible defendants.

- Risk/Needs Assessment factors contributing to admission to the Davis County Drug Court Program include family and community ties, employment status and a summary of the defendant's prior criminal history for offenses other than those

which would “automatically” exclude the defendant but which may be helpful in determining suitability for the Drug Court Program. Mental Health and Substance Abuse treatment histories are also reviewed. Consideration of risk assessment factors is discretionary and shall be used by the Drug Court Judge on a case-by-case basis.

### 3. REFERRAL

Referral to the Drug Court Program may be made by the prosecuting attorney, the defense attorney, a judge, probation representatives or treatment professional. The prosecutor must approve all referrals to the Drug Court program based on the above eligibility standards.

All cases filed through the Davis County Attorney’s Office are reviewed for drug court suitability at defendant’s Initial Appearance and for potential candidates the drug court team facilitates official screening for the drug court program, and where appropriate entry into the program, as soon as is practicable.

After initial approval for screening from the prosecuting attorney, the Drug Court Coordinator and/or Drug Court Staff will screen each case to ensure that the appropriate parties are involved with the timely assessment and orientation of the Drug Court Candidates prior to the Drug Court referral.

Upon completion of the orientation, drug testing will begin with the prospective candidate producing four successive negative drug tests prior to admission to the Drug Court Program. Defendant must be a Davis County resident and the residence must be verified by a compliance officer.

The final decision to admit a defendant to the Drug Court Program shall be made by the Drug Court Judge only. This determination shall be based on recommendations from the Prosecuting Attorney, Defense Attorney, Drug Court Coordinator, Drug Court Investigator/Tracker and representative of treatment team.

### 4. TRANSFERS FROM OUT OF COUNTY

Davis County Drug Court will accept transfers from other jurisdictions within the State of Utah.

The assigned prosecutor in the sending jurisdiction and the Drug Court Team Prosecutor in the accepting jurisdiction must approve the transfer of any drug court case from and to another jurisdiction.

Prior to the transfer the participant must be informed of and agree to comply with all of the policies and procedures of the accepting jurisdiction’s drug court.

The plea agreement is determined by the sending jurisdiction and the plea is entered prior to the transfer. The Court Clerk of the sending jurisdiction obtains a date for the participant to appear in the accepting jurisdiction and gives the participant notice of that date at the time of the plea or transfer.

The sending Court shall provide the accepting Court with copies of all plea forms and agreements. The accepting jurisdiction then has jurisdiction over and is responsible for all further proceedings in the case, including but not limited to any Orders to Show Cause, incentives and sanctions, terminations from the Drug Court Program and probation, sentencing, dismissal and graduation from Drug Court.

## 5. THE COURTROOM

The Court recognized the Drug Court calendar as a priority and will establish a specialized separate court on a full time basis, dedicated to the evaluation, treatment and supervision of eligible and suitable Drug Court defendants.

The Drug Court Clerk, as an agent of the Judge shall keep the Drug Court operations separate and ensure that all Drug Court cases are processed in an efficient manner. The Drug Court Coordinator shall gather data to document the success or failure of the Drug Court Program.

Pursuant to the written policies of the Public Defender and the Prosecuting Attorney, urinalysis testing shall only be used to evaluate the participant's progress in the Drug Court Program.

Pursuant to the written policies of the Public Defender and the Prosecuting Attorney, statements made by Drug Court participants shall not be used in subsequent adversarial proceedings.

## 6. CONFIDENTIALITY

The Drug Court makes an effort to protect the confidentiality of its participants. However, participants must sign a Drug Court Agreement as a condition of participation in the Court, in which the participant acknowledges that there will be an inter-disciplinary sharing of information concerning urinalysis tests, treatment and probation compliance.

# **PARTICIPATION**

## **1. ALL INVOLVED AGENCIES**

Treatment agencies providing services must be licensed by the State of origin to treat substance abusing clients. Drug test contractors shall be SAMSHA certified.

Each agency shall assign staff and alternates to be dedicated to the Drug Court based on personal interest in the program, interpersonal skills, motivation and professional abilities.

All participating agencies agree to support the Drug Court Program by making appropriate adjustments to internal policies, practices and procedures to ensure successful day-to-day operations of the Drug Court Program.

## **2. COURT APPEARANCES**

Weekly court appearances are required for the first phase (Blue) of the program. The participants will be required to appear every two weeks for the second phase (Red) of the program. In the last and final phase of the program (Yellow), the participant will be required to appear every fourth week. Court will be held every Tuesday at 9:00 am.

Prior to the Drug Court session, the Drug Court Team staffs each case on the calendar and discusses participant progress. During the court hearing, clients are called before the Judge and given an opportunity to report on progress and discuss any issues with the Court. Incentives for compliance and sanctions for non-compliance may be issued during the status hearings.

## **3. INCENTIVES AND SANCTIONS**

Progressive, graduated sanctions and incentives are used in response to program successes and failures.

The Drug Court Judge, at his discretion, may employ, but is not limited to, the following graduated incentives to assist participants in complying with the program.

- Verbal recognition, encouragement, and praise
- Certificates of completion
- Earning tickets for raffle drawings
- Gift certificates
- Free drug testing vouchers
- Shirts and hats
- Decreased court appearances

- Vacation approvals
- Graduation from the Drug Court Program
- Reduction or dismissal of criminal charges

The Drug Court Judge, at his discretion, may employ, but is not limited to, the following graduated sanctions to assist participants in complying with the program.

- Verbal warning or admonishment
- Completing reports, essays, or research papers.
- Increased drug testing
- Increased participation in treatment including residential treatment
- Increased frequency of court appearances before the Drug Court Judge
- Assignment of community service hours to be completed
- Research and preparation of assigned writing
- Detention for a period of time to be determined by the Drug Court Judge
- Termination from the Drug Court program

Any violation of drug court rules may require a court appearance on the next drug court calendar.

The judge is the ultimate arbitrator of factual controversies and makes the final decision concerning the imposition of incentives or sanctions that affect a participant's legal status or liberty. The Judge makes these decisions after taking into consideration the input of other drug court team members and discussing the matter in court with the participant or the participant's legal representative. The judge relies on the expert input of duly trained treatment professionals when imposing treatment-related conditions.

#### 4. PROGRAM FEES

The treatment and drug test providers will establish administrative and bookkeeping procedures to ensure collection of all fees and regular reports to the Court.

Participants will be charged \$250.00 participation fee.

The drug court team seeks to minimize testing and treatment costs whenever practicable, including attempting to negotiate the lowest testing and treatment fees possible and seeking grants to offset costs to the participants.

Treatment fees are offered at a substantial reduction of the overall market costs to all participants with fees offered on a sliding scale to participants based on their resources and ability to pay.

A participant agrees to pay all fees for standard drug testing as well as to pay for confirmation testing of positive tests if the participant requests a confirmation test. Participants are expected to have money budgeted to pay for tests as they are randomly required. Participants are not



entitled to and should not expect to receive vouchers (I.O.U.s) to cover testing fees. If testing vouchers are provided to a participant due to unseen financial hardship, participants typically may not have more than two outstanding unpaid testing vouchers at a time. Further, if a voucher is provided to a participant, the participant must disclose this fact to the drug court judge at his or her next scheduled court appointment and immediately set up a repayment plan to repay the voucher.

Full payment of all fees and fines must be satisfied prior to graduation unless waived by the Drug Court Judge.

## 5. PHASES

### Screening

#### **Phase One - (approximately 120 days)**

While, standardized patient placement criteria govern the level of care that is provided to each participant, in this phase a typical participant attends IOP (Intensive Outpatient Program) which is approximately eight weeks for four days/nights per week. In the last half of this phase, treatment is typically reduced to two days/nights per week. Individual treatment sessions are scheduled by the assigned therapist. During this phase participants are required to submit to random urinalysis testing an average of at least three times each week and will typically test on the “blue” testing schedule. During this phase, participants are typically required to appear weekly, and must appear no less than every other week.

#### **Phase Two – Red (approximately 150 days)**

In this phase a typical participant continues to attend treatment with groups twice per week and individual sessions as scheduled by the assigned therapist. During this phase participants are required to submit to random urinalysis testing an average of at least two times each week and will typically test on the “red” testing schedule. During this phase, participants are typically required to appear biweekly, and must appear no less than every other week.

#### **Phase Three – Yellow (approximately 90 days)**

In this phase a typical participant continues group therapy sessions and individual sessions as determined by the assigned therapist. Intensity in treatment is determined by participant treatment progress to this point. During this phase participants are expected to attend Alumni group meetings which are held on the first Tuesday and Saturday of each month at Davis Behavioral Health. During this phase participants are required to continue to submit to random urinalysis testing an average of at least two times each week and will typically test on the “yellow” testing schedule. Also during this phase, participants are typically required to appear in Court every fourth week.

#### **Phase Four – Purple (approximately 45 days)**

During this phase participants are expected to attend Alumni group meetings which are held on the first Tuesday and Saturday of each month at Davis Behavioral Health. During this phase participants are to start mentoring another participant who just entered the program. During this phase participants are required to continue to submit to random urinalysis testing an average of at least two times each week and will typically test on the “purple” testing schedule. During this phase, participants are typically required to appear in Court every fourth week.

The minimum length of the drug court program is 15 months.

Participants must have 90 days of clean valid tests prior to graduation.

### **6. SUBSTANCE RESTRICTIONS**

Consequences are imposed for the non-medically indicated use of potentially intoxicating or addictive substances, including alcohol, cannabis (marijuana), synthetic cannabis (spice, bath salts, etc.) and prescription medications, regardless of the licit or illicit status of the substance.

The drug court team relies on expert medical input to determine whether a prescription for an addictive or intoxicating substance is medically necessary and whether non-addictive, non-intoxicating, and medically safe alternative treatments are available.

Participants must report all medications used by the participant to the drug court team. The use of all medications must be approved by the drug court team while a participant is in the drug court program. This approval from the Drug Court Team should occur prior to use of the substances by a participant, except in cases of a verifiable medical emergency.

A participant must report all prescriptions issued to the participant while in drug court even if the prescription is never filled. Participants agree to provide verification of any prescriptions from their doctor including signing a release for the drug court team to contact any doctor treating a participant or prescribing medication to the participant.

If a doctor determines that a medication that is potentially intoxicating or addictive is medically necessary, the participant must submit a letter to the drug court team from the doctor stating that the doctor is aware of the participant’s status as a recovering addict, that the doctor has been made aware of the participants participation in the drug court program, and that the doctor deems the prescription as medically necessary. The doctor also must submit a medical plan for the participant to cease use of the substance as soon as is reasonably practicable.

Participants agree to take all approved medications strictly as prescribed. Participants also agree to dispose of all unused and unneeded prescriptions and prescription drugs in a lawful manner as directed by the drug court team.

Participants using prescribed intoxicating or addictive medication will not advance within the drug court program unless a specific waiver is granted. The use of medically assisted treatment, if its use was approved by the drug court team and the participant is using it as prescribed, will not restrict advancement within the program.

## DRUG TESTING

Participants are required to contact the drug court testing phone number each day to see if it is his or her day to test. Drug testing is random and may be required on weekends and holidays. If required to test, participants must appear during regularly scheduled hours at the drug court test facility ready to provide a sample and with money to pay for the test. Participants are required to comply with all rules of the drug court testing facility.

Collection of drug test specimens is witnessed and specimens are examined routinely for evidence of dilution, tampering, and adulteration.

Participants are expected to provide valid specimens for testing purposes whenever requested to do so by any member of the drug court team. Any attempt at tampering with or adulterating a sample, including intentional dilution, may be grounds for termination from the drug court program.

Any missed tests, failures to produce a usable, testable sample, or tests that are diluted, adulterated, or otherwise tampered with will be treated as a positive test and subject to sanctions.

If a participant denies substance use in response to a positive test, a participant may request a confirmation test of the same specimen. A drug court participant requesting confirmation must pay for the confirmation test at the Davis County Attorney's Office by the end of the business day after receiving notice of the positive test. A confirmed positive test justifies substantial sanctions due to the participant dishonesty associated with such incidents.

Randomly selected specimens may be tested periodically for a broader range of substances to detect any new drugs of abuse.

## 7. EDUCATION AND EMPLOYMENT

Participants are required to have a stable job, be enrolled in a vocational or educational program, or be engaged in a comparable pro-social activity as soon as is practicable during the program and as a condition of graduating from drug court.

## 8. RESIDENCE AND SEARCHES

Participants are expected to maintain a stable place of residence approved by the drug court team throughout the drug court program when reasonably possible. When this is not possible, participants are required to expend all reasonable efforts to obtain such housing as soon as practicable.

## 9. TRAVEL AND VACATION RESTRICTIONS

Participants are not allowed to travel anywhere that takes them away from Davis County for more than a twenty four hour period, that will make them unavailable to test on any given day, or that will take them away from scheduled treatment without first receiving permission from the drug court team. Any such absences are termed a “vacation” by the drug court program.

Participants are not entitled to “vacations” during the program. Vacations will be allowed on a limited basis as incentives and when otherwise deemed necessary or in the best interest of a participant by the drug court team. If a vacation is approved, participants must submit a valid drug test the day prior to leaving and the day after returning from the vacation or otherwise determined by supervision.

Vacations will not be allowed for participants who have had a dirty, missed, or invalid test or any other sanctionable conduct within 90 days of the desired vacation.

## 10. TREATMENT AND RELEASE PLAN

All Drug Court participants shall be offered a comprehensive and integrated program of drug treatment and recovery services to be supervised by the Drug Court Judge.

Individualized treatment plans for participants shall consist of several distinct phases, each of which shall have specified treatment objectives, therapeutic and recovery activities and requirements for advancement to the next phase.

Completion of each phase shall only be determined by the Drug Court Judge and on the condition that the participant has satisfied the established minimum criteria for advancement.

Although actual length of treatment program for each participant will vary depending upon the individual’s progress, the total period for treatment and court supervision shall not be less than 15 months.

Termination from the program shall only be determined by the Drug Court Judge with appropriate input from the Drug Court Team. A participant may be terminated from drug court

if he or she is deemed non-amenable to treatment by the drug court team after consultation with treatment providers.

## 11. MEDICALLY ASSISTED TREATMENT STANDARDS

There is no blanket prohibition against the use of medically assisted treatment for participants. The decision whether or not to allow the use of medically assisted treatment is based on particularized assessment in each case of the needs of the participant and the interests of the public and the administration of justice. The drug court team bases its decision whether or not to permit the use of medically assisted treatment in part on competent expert evidence and/or consultation with competent medical providers approved by the drug court team. In cases in which a participant, the participant's legal counsel, or a medical expert has requested the use of medically assisted treatment, the judge articulates the rationale for allowing or disallowing the use of addiction medication.

Medically assisted treatment may be approved pre or post admission to the drug court program.

A participant in drug court or an individual being screened for drug court who is receiving or seeking to receive medically assisted treatment must sign a medical release allowing the drug court team to have access to all medical records associated with the medical assisted treatment as well as the ability to communicate directly and frequently with the medical professional[s] providing the medically assisted treatment.

The drug court team must approve the provider of and method of medically assisted treatment.

The medically assisted treatment provider will provide a specific treatment plan and the rationale for the treatment plan in writing to the drug court team and will provides updates to the drug court team as that plan changes.

Because the ultimate goal of drug court is to assist participants to become free from drug dependency, medically assisted treatment within drug court should attempt to provide the lowest dose possible for addiction treatment with a goal of becoming medically assisted treatment substance free if practicable.

Illegal distribution of or misuse of substances provided for medically assisted treatment is grounds for termination of the use of medically assisted treatment and/or termination from the drug court program.

## 12. DRUG COURT PARTICIPANT EXPECTATIONS

In addition to the foregoing, Drug Court participants are expected to comply with the following:

- a. Be honest. Be honest with the drug court team, treatment providers, and yourself.
- b. Be on time. Be present and on time to court, treatment, testing, and any other required drug court activity.
- c. Be respectful. Treat the drug court team, courtroom staff, treatment providers, testing providers, and other participants with respect and kindness. Violent, threatening, or otherwise inappropriate behavior is not tolerated.
- d. Dress appropriately. Dress appropriately for court, treatment, testing, and any other required drug court activity. Shorts, dirty or soiled clothing, and low cut or midriff baring shirts or other revealing items of clothing, are not appropriate courtroom attire.
- e. Don't fraternize. Contact with other drug court participants outside of required drug court activities is not permitted without prior approval by the drug court team. Dating or intimate relationships with other drug court participants or other clients at the treatment provider are not allowed

### 13.UPDATE OF POLICY AND PROCEDURE MANUAL

The policies and procedures set forth herein may be changed at any time. Any changes made will be guided by and made in accordance with new legislation, state reporting requirements, and updated research and drug court "best practice" standards.

## DRUG COURT CONTACTS

### Case Manager

**Tera Gibson**

Davis County Attorney's Office

801.451.4305

### 2<sup>nd</sup> District Court Clerk

**Shawnie Brocious**

801.447.3801

### Judge Michael Edwards

801.447.3800

### Public Defender

**Ryan Bushell**

801.612.9505

### Prosecutor

**Rick Westmoreland**

801-451-4300

### Drug Testing Hotline

801.451.4369

### Davis Behavioral Health

**Spencer Baker**

801.773.7060

### Compliance Officers

#### Tim Cottrell

801.451.3503 (office)

385.322.4655 (cell)

#### John Herndon

801.451.3506 (office)

801.540.7083 (cell)

#### Craig Webb

801.451.3509 (office)

801.725.4826 (cell)

#### Dan Niebuhr

Adult Probation & Parole

801.451.4700 (office)

385.239.5288 (cell)