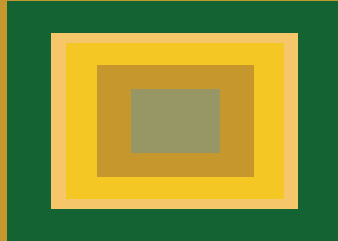




King County Drug Diversion Court



**Policy and
Procedure Manual**

This manual for the King County Adult Diversion Drug Court is designed to structure, but not to eliminate, decision making for all those individuals who seek to join the program as well as those who participate in it. The court reserves the right, in each individual case, to make discretionary decisions consistent with the law and public policy.

TABLE OF CONTENTS

I. INTRODUCTION	
A. Mission	3
B. Goals	3
II. WASHINGTON STATE LEGISLATION	4
III. ORGANIZATION	5
IV. ELIGIBILITY	7
A. Screening	7
B. Referral	7
C. Transfer Request	7
D. Rules Regarding Eligibility	7
E. Eligibility Criteria	8
V. REQUIREMENTS: PHASE I- STATUS PHASE	10
A. Purpose	10
B. Arraignment/Transfer	10
C. DDC Orientation Session	10
D. Phase One Requirements	11
VI. PROGRAM COMPONENTS	11
A. DDC Phase Minimum Requirements	11
B. DDC Phase Advancement	12
C. Phase Demotion	13
D. Graduation Requirements	13
E. Review Hearings	13
F. Urinalysis Testing	13
G. Sanctions and Incentives	14
H. Bench Warrants	15
I. Graduation	15
J. Other Requirements	15
K. Policy on Missed Groups	15
L. Termination	16
VII. SPECIAL POLICIES	17
A. Policy Regarding Prescription Drugs	17
B. New Offenses	19
C. Transitional Recovery Program (TRP)	21
D. Accelerated Drug Court Model	21
E. Re-entry to Drug Court Following Graduation	21
VIII. YOUNG ADULT TRACK	22

I. INTRODUCTION

The King County Drug Diversion Court (DDC) was implemented in August 1994, the twelfth Drug Court in the country. The DDC is a pre-adjudication program that provides eligible defendants the opportunity to receive drug treatment in lieu of incarceration. Eligible defendants can elect to participate in the program or proceed with traditional court processing.

If defendants meet the requirements of each of the four phases of DDC, they graduate from the program and the charges are dismissed. If defendants fail to make progress they are terminated from the program and sentenced on their original charge.

Drug courts are built upon a unique partnership between the criminal justice system and drug treatment community, one which structures treatment intervention around the authority and personal involvement of a single drug court judge. Drug courts are also dependent upon the creation of a non-adversarial courtroom atmosphere where a dedicated team of court officers and staff work together toward a common goal of breaking the cycle of drug abuse and criminal behavior.

A. Mission:

The mission of King County Drug Diversion Court is to combine the resources of the criminal justice system, drug and alcohol treatment and other community service providers to compel the substance-abusing offender to address his or her substance abuse problem by providing an opportunity for treatment and holding the offender strictly accountable.

B. Goals:

1. reduce substance use and related criminal activity;
2. enhance community safety;
3. reduce reliance on incarceration for non-violent drug dependent offenders;
4. hold drug dependent offenders accountable for their actions and decisions;
5. integrate substance abuse treatment with criminal justice case processing;
6. provide resources and support to assist the drug dependent offender in the acquisition of skills necessary for the maintenance of sobriety;
7. reduce the impact of drug related cases on criminal justice resources; and
8. reward positive life changes while maintaining accountability for negative conduct.

II. WASHINGTON STATE LEGISLATION

RCW: 2.28.170 Drug Courts

(1) Counties may establish and operate drug courts.

(2) For the purposes of this section, "drug court" means a court that has special calendars or dockets designed to achieve a reduction in recidivism and substance abuse among nonviolent, substance abusing felony and nonfelony offenders, whether adult or juvenile, by increasing their likelihood for successful rehabilitation through early, continuous, and intense judicially supervised treatment; mandatory periodic drug testing; and the use of appropriate sanctions and other rehabilitation services.

(3)(a) Any jurisdiction that seeks a state appropriation to fund a drug court program must first:

(i) Exhaust all federal funding that is available to support the operations of its drug court and associated services; and

(ii) Match, on a dollar-for-dollar basis, state moneys allocated for drug court programs with local cash or in-kind resources. Moneys allocated by the state must be used to supplement, not supplant, other federal, state, and local funds for drug court operations and associated services. However, from July 26, 2009, until June 30, 2013, no match is required for state moneys expended for the administrative and overhead costs associated with the operation of a drug court pursuant to RCW [70.96A.350](#).

(b) Any county that establishes a drug court pursuant to this section shall establish minimum requirements for the participation of offenders in the program. The drug court may adopt local requirements that are more stringent than the minimum. The minimum requirements are:

(i) The offender would benefit from substance abuse treatment;

(ii) The offender has not previously been convicted of a serious violent offense or sex offense as defined in RCW [9.94A.030](#); and

(iii) Without regard to whether proof of any of these elements is required to convict, the offender is not currently charged with or convicted of an offense:

(A) That is a sex offense;

(B) That is a serious violent offense;

(C) During which the defendant used a firearm; or

(D) During which the defendant caused substantial or great bodily harm or death to another person

III. ORGANIZATION

Effective 12/21/2011, King County Drug Diversion Court Policy and Procedures Manual:
Section III, A,1,b and Section III, A, 3 revised.

A. Drug Diversion Court (DDC) Organization

1. DDC Executive Committee: The DDC Executive Committee provides oversight of the program. The committee is comprised of representatives from superior court, judicial administration, prosecutor's office, public defense, county council, county executive, adult detention, law enforcement and treatment. The Executive Committee is responsible for setting major policy regarding the DDC.
2. DDC Judge: The DDC judge determines the focus and direction of the DDC program through effective leadership and collaboration with the DDC team. The DDC judge:
 - a) provides support, encouragement, rewards and sanctions as necessary as the DDC participant progresses through the program;
 - b) makes final decisions
 - c) leads pre-court staffing meetings;
 - d) promotes DDC policies, rules and procedures; and
 - e) serves as the central figure in a team effort that focuses on sobriety and accountability as the primary goals for DDC participants.
3. DDC Team: The DDC team is comprised of the judge, prosecutor and public defender, DDC Services administrative and treatment staff, police liaison and the treatment providers. The DDC team works in a cooperative and non-adversarial manner toward a common goal of assisting DDC participants to break the cycle of drug abuse and criminal behavior.

Team meetings are held each morning prior to the DDC calendar to review cases to be heard that day. The DDC team meets weekly to discuss problem cases in-depth. During the team meetings, the DDC team strives to reach consensus regarding next steps while also providing information and proposals to the court. The court then hears from the defendant at their next scheduled hearing and renders a decision.

4. DDC Defense Attorney: The role of the DDC defense attorney is to ensure his or her client's legal rights are protected while encouraging the client's full participation in the program. Defense counsel:
 - a) participates fully as a DDC team member;
 - b) meets with potential DDC clients to evaluate their interest and amenability to the program, adhering to the eligibility criteria;
 - c) advises a client of their legal rights, legal options, and potential sentencing outcomes;
 - d) actively monitors client progress in the DDC and discusses the long-term benefits of a drug-free lifestyle; and
 - e) participates in a cooperative manner at drug court hearings and meetings and promotes a unified DDC team approach.

5. Adheres to DDC policies, rules and procedures, including reminding participants of their agreements, the DDC rules and mandates and the need to accept consequences for deviation.
6. DDC Prosecutor: The role of the DDC prosecutor is to protect public safety by ensuring that each candidate is appropriate for the program and complies with all DDC requirements. The prosecutor:
 - a) participates fully as a DDC team member;
 - b) makes eligibility recommendations and contacts collaborative agencies for input;
 - c) makes recommendations for termination and/or sanctions that balance community safety needs with potential for therapeutic outcomes;
 - d) participates in a cooperative manner at DDC hearings and meetings, and promotes a unified DDC team approach;
 - e) monitors client progress in the DDC program; and
 - f) adheres to DDC policies, rules and procedures.
7. DDC Program Manager: The DDC program manager is responsible for the administrative, financial and contractual aspects of the program, public relations, collaboration with other criminal justice and community agencies, and facilitating monthly business meetings and retreats. The DDC program manager also supervises Drug Diversion Court Services staff.
8. DDC Services (DDCS): DDCS provides liaison and case management services for the program. DDCS is responsible for providing Drug Diversion Court orientation, conducting preliminary assessments and referring DDC participants to appropriate treatment and ancillary services. DDCS serves as a conduit for the exchange of information between the court, treatment and other service providers, maintains the data and reports on the progress of each DDC participant. DDCS treatment staff makes treatment recommendations throughout a DDC participant's time in the program.
9. DDC Contract Treatment Agencies: DDC contracts with geographically diverse, community-based treatment agencies that provide intensive outpatient, residential and methadone services for DDC participants.
10. Non-Contract Treatment Agencies: Under certain circumstances, the court may allow participants to attend a non-contract treatment agency. This is acceptable provided that participants arrange for payment of treatment and that participants ensure that the treatment agency meets the DDC treatment and reporting requirements.
11. Drug Court Participant: Drug Court participants are to be fully aware of all drug court rules and requirements. Participants attend all scheduled and required meetings including drug court hearings. Participants are required to comply with courtroom decorum and etiquette as defined in the drug participant handbook which includes remaining in the courtroom while waiting to be seen by the drug court judge, paying attention during all proceedings and not engaging in side-talk.

IV. ELIGIBILITY (revised 11-1-10)

A. Screening

The King County Prosecuting Attorney's Office screens all police referrals for DDC eligibility.

B. Referral

When the Prosecutor determines a defendant to be DDC eligible, the case is filed directly into DDC for arraignment. A deviation from this direct file policy will be made in otherwise eligible VUCSA Delivery or Possession with Intent to Deliver cases where SPD (Seattle Police Department) objects, at time of filing, to a defendant's participation in Drug Court. The basis for the objection shall be made in writing and be authorized by an SPD Official at the rank of Lieutenant or higher. The written objection will be made part of the Discovery packet provided to defense counsel so as to put all parties on notice. A defendant whose case is filed mainstream under this policy deviation, may petition the Drug Court Judge to transfer the case into Drug Court. SPD and the King County Prosecutor will be given an opportunity to respond to the transfer request. The reasons, for which the objection is made, may be sufficient basis to exclude an otherwise eligible defendant. The Court will make the ultimate determination regarding eligibility when admission under this policy deviation has been raised.

C. Transfer Request

Defendants whose cases have been filed mainstream may ask to have the case reviewed again by the Prosecutor. Defense attorneys are to provide a completed transfer request and any supporting documents to the Drug Court Prosecutor for his/her review. A copy of the transfer request should also be provided to the Drug Court Prosecutor's paralegal.

D. Rules Regarding Eligibility

1. The eligibility criteria are published; not open to discretion by the defense bar, the prosecutor's office or the court (except as noted in Section I D, 4) and will be adhered to strictly. Criteria were agreed upon by the Superior Court, the defense bar, the prosecuting attorney, chemical dependency experts, and law enforcement.
2. The court will not make exceptions to eligibility criteria. In cases where the prosecutor has deemed a defendant to be ineligible, a defendant may petition the court for acceptance to the program. In making a determination on the defendant's request, the court will consider only if the drug court eligibility criteria was appropriately applied.
3. There must be a reasonable basis to believe the defendant can successfully complete the DDC program after taking into consideration factors such as: The defendant's mental and/or physical health; past performance in DDC and living situation. The court will make the ultimate determination regarding eligibility when a "reasonable basis" for successful completion is in question.
4. Juvenile history may be considered at the discretion of the court.

E. Eligibility Criteria

1) VUCSA

a) Possession

- i) Cocaine/Heroin/Methamphetamine: 3-7 grams, cumulative value of drugs possessed and cash on person cannot exceed \$700
- ii) Marijuana: 100-125 grams
- iii) Prescription Pills: 50-100 pills
- iv) MDMA: 20-50 pills
- v) Exception: Defendants who possess less than 3 grams of heroin, cocaine, or methamphetamine AND who if convicted of felony possession, would be facing a standard range sentence of 12+ - 24 months in Department of Corrections, will have their cases direct filed into Drug Court as a felony - if otherwise eligible.

b) Delivery

- i) Cocaine/Heroin/Methamphetamine/Bunk
 - (1) Drugs sold cannot exceed 7 grams AND
 - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
- ii) Marijuana
 - (1) Drugs sold cannot exceed 25 grams AND
 - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
- iii) Prescription Medication
 - (1) Number of pills sold cannot exceed 50 AND
 - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700
- iv) MDMA
 - (1) Number of pills sold cannot exceed 20 AND
 - (2) Cumulative value of drugs sold, possessed, and cash on person (excluding police buy money) cannot exceed \$700

c) Forged Prescription – Consistent with prosecutor felony standards

2) Class B & C Felonies

a) Eligible Crimes

- i) UIBC, Unlawful Issuance of Bank Checks
- ii) Possession of Stolen Property in the 1st or 2nd degree
- iii) Organized Retail Theft
- iv) Theft 1 & 2
- v) Failure to Return Leased Property
- vi) Trafficking in Stolen Property 1 & 2
- vii) Burglary 2
- viii) Identity Theft 1 & 2
- ix) Possession of Stolen Vehicle
- x) Theft of Stolen Vehicle

xi) Cases in which the Prosecutor agrees to an amendment of the charge to a Drug Court eligible offense, and which the Prosecutor, Defense, and Court all agree that Drug Court is appropriate.

xii) Domestic violence property crimes and certain Felony Violation of a No Contact Order (two prior) and Felony Harassment cases are eligible for drug court only upon recommendation of DV EPU, victim approval, and law enforcement approval.

i. A defendant whose current Felony Violation of No Contact Order charge falls under the two prior conviction prong involving consensual or invited contact may be eligible depending on a full review of the available domestic violence history.

ii. A defendant whose current Felony Harassment case involves a parent/child relationship or siblings may be eligible depending on a full review of the available domestic violence history.

xiii) Escape 2 if committed while under the supervision of Drug Court.

xiv) A defendant charged with an eligible Class B Felony or Class C Felony, who is also charged with a Driving While Under the Influence / Physical Control arising out of the same criminal fact pattern, may bring that DUI / Physical Control to Drug Court.

b) Factors that Disqualify Defendant

i) Restitution exceeds \$2000.

ii) Evidence that defendant manufactured IDs or targeted vulnerable victims or abused position of trust to get financial information or victim's information was stolen in a residential burglary, robbery, theft from a person, or defendant used/possessed more than three (3) victims' financial information or defendant opened more than three (3) accounts in a victim's name or the crime represents a significant breach of fiduciary duty.

iii) Evidence that the defendant is a major player in car theft: Defined as having had four (4) or more pending felony car theft charges and/or convictions resulting in four (4) or more points. Vehicle Prowl, and felony charges that stem from a vehicle prowl, are to be included in the scoring and shall each be weighted one third (1/3) point.

Felony car theft offenses include the following: TMV 1, TMV 2, PSV, Theft of a Motor Vehicle, and Theft 1, 2, PSP 1, 2 (if the charges are predicated upon a stolen car.). These offenses are to be weighted one (1) full point.

iv) Defendant's criminal history (as outlined in Section 3)

3) Disqualifying Criminal History

a) No prior sex misdemeanor or felony, or violent felony offenses, no matter how old, in the defendant's criminal history, as defined in RCW 9.94.030(6) and (41). If the defendant has a Robbery 2 conviction that is greater than ten years old, and the offense did not involve the use of a weapon, it will not disqualify the defendant.

b) No Violation of the Uniform Firearms Act or Theft 2 offenses involving a Firearm in criminal history.

c) The current offense cannot involve a weapon.

- d) No felony assaults in criminal history.
- e) No Promoting Prostitution.
- f) A maximum of 4 prior domestic violence offenses in the defendant's criminal history in the past ten (10) years, misdemeanor or felony.
- g) A maximum of two Driving While Under the Influence convictions, including deferred prosecutions, within the past ten (10) years.
- h) No pending felony non-DDC eligible cases.
- i) An offender is ineligible for Drug Court if the current offense was originally filed as an expedited felony and the offender rejected the expedited offer.
- j) An offender is ineligible if they are currently on a DOSA sentence UNLESS the current offense predates the imposition of the DOSA and the offender is otherwise eligible.

V. REQUIREMENTS: PHASE I – STATUS PHASE

A. Purpose

Phase I, the time period between DDC arraignment or transfer and formal entry into the DDC program, allows time for the prospective DDC participant to become fully informed of the requirements of DDC and the consequences of noncompliance prior to waiving trial and other rights. Phase I is also an opportunity for the prospective DDC participant to demonstrate to the court that he or she will meet the rigorous requirements of DDC.

B. Arraignment/Transfer

Defendants deemed eligible for the program are scheduled for arraignment in DDC. If a case is not filed directly into drug court, a defendant can petition the prosecutor for transfer into the program. Eligibility for the program continues to be evaluated during Phase I.

At the hearing, the DDC judge briefly describes the conditions and expectations of DDC. Defendants have three primary options.

1. Enter a guilty plea and be sentenced by the DDC judge.
2. Plead not guilty and request that case be transferred out of DDC.
3. Participate in DDC orientation, assessment and referral to treatment.

C. DDC Orientation Session

1. Preliminary Assessment: At the DDC orientation, a DDC case manager provides defendants with information regarding court and treatment expectations including Phase I requirements and provides defendants with a copy of the King County Drug Diversion Court Participant Handbook which details the requirements of DDC. The case manager also collects preliminary information from the defendant regarding their social, criminal, medical, and mental health histories, as well as information regarding the extent and nature of their substance use and treatment. The case manager makes a preliminary diagnosis according to the DSM IV criteria.
2. Referral to Treatment Agency: Based on this information, the case manager schedules an intake and assessment appointment for defendants at one of the DDC contract treatment agencies to occur within three days of the orientation.

3. Treatment and Assessment: At the treatment intake/assessment appointment the defendants receive a complete assessment in accordance with WAC standards and current American Society of Addictive Medicine (ASAM) criteria and placement standards. The treatment assessment report is not provided to the prosecutor.
4. Initial Treatment Plan: The treatment agency develops an initial treatment plan within the first 30 days of assessment.
5. Confidentiality: Information regarding a defendant's participation in substance abuse treatment may be disclosed when the defendant has given informed consent in writing for the disclosure. Defendants are required to sign a release of information to participate in the program.

D. Phase I Requirements

During Phase I defendants are required to:

1. undergo a comprehensive intake/assessment appointment at a treatment agency and participate in group and individual counseling sessions as directed by the agency;
2. undergo urinalyses (UA's) tests;
3. attend sober support groups;
4. comply with the pretrial release conditions;
5. attend all court-ordered obligations; and
6. attend status hearings. The status hearing is set for approximately four weeks after arraignment or transfer hearing. A defendant wishing to participate will sign a contract with the prosecutor (DDC Waiver and Agreement, see appendix A). If defendant has satisfactorily completed the Phase I requirements, the court may allow formal entry (opt-in) into the program.

VI. PROGRAM COMPONENTS

A. DDC Phase Minimum Requirements

Drug Court Level	Urinalysis (random and observed)	Treatment Sessions	12 Step or Sober Support Group	Court Appearances
Phase I	1 Per Week	All Required	3 Per Week	1 Per 4 Weeks
Phase II	2 Per Week	All Required	3 Per Week	1 Per 4 Weeks
Phase III	2 Per Week	All Required	3 Per Week	1 Per 6 Weeks
Phase IV	2 Per Week	All Required	3 per week	1 Per 6 Weeks

- The court may impose additional requirements such as more frequent court appearances, increased sober support meetings, more frequent UA's, etc.

- DDC participants are required to perform 24 hours of community service before graduating from the program.

B. DDC Phase Advancement

Following formal opt-in to the program, (from Phase I to Phase II), defendants complete phases and advance based on the court's discretion and consistent compliance with DDC requirements.

General guidelines regarding completion of phases and advancement are as follows.

1. Completion of Phase II requires:

- a) a minimum of 90 consecutive days of 100% compliance with all DDC program requirements including abstinence from drugs and alcohol; and
- b) payment of at least 20% of original restitution amount owed on DDC cases.

2. Completion of Phase III requires:

- a) a minimum of 120 days of consecutive months of 100% compliance with all DDC program requirements including abstinence from drugs and alcohol;
- b) immediately prior to graduation, defendant must have a minimum of 6 consecutive months of abstinence from drugs and alcohol;
- c) completion of 2 hours of community service.
- d) payment of at least 50% of original restitution amount owed on DDC cases; and
- e) involvement in a productive activity such as employment, job training, education or community service.
- f) Graduation requirements must be completed (with the exception of Community Service hours) and restitution paid by the first hearing after promotion to Phase IV.
- g) Completion of 10 hours of community service.

3. Completion of Phase IV requires:

- a) a minimum of 90 consecutive days of 100% compliance with all DDC program requirements including abstinence from drugs and alcohol;
- b) immediately prior to graduation, defendant must have a minimum of 180 days of abstinence from drugs and alcohol;
- c) payment of 100% of original restitution amount owed on DDC cases; and
- d) involvement in a productive activity such as employment, job training, education or community service.

- e) completion of 12 hours of community service in order to move out of Phase IV, and toward graduation.

C. Phase Demotion

A phase demotion may occur due to failure to comply with DDC rules and requirements.

D. Graduation Requirements

1. Abstinence from drugs and alcohol for a minimum of 6 months.
2. Payment in full of any restitution owed.
3. Compliance with pre-graduation drug court requirements such as completion of a continuing care plan, letter to arresting officer, attendance at a prior graduation ceremony etc.
4. Involvement in a productive activity such as employment, job training, education or community service.

Schedule	# of Hours to be Completed
In order to move to Phase III	2
In order to move to Phase IV	10
In order to graduate	12
Total to be Completed	24

E. Review Hearings

The review hearing provides an opportunity for the judge and other DDC team members to assess a defendant's progress in meeting DDC requirements, to administer appropriate sanctions and rewards, and to provide encouragement and support in a structured and formal setting.

1. Frequency: Hearings are generally scheduled monthly during Phases I and II, and every six weeks during Phases III and IV. The Court has the discretion to set hearings more or less frequently depending upon the needs of the participant.
2. Progress Reports: The DDC contract treatment agencies provide progress reports to DDC Services. The progress reports address all issues of treatment including urinalysis results, attendance at sober support meetings, attendance at individual and group counseling sessions, attitude and behavior. Progress reports are generally submitted to DDC Services by the Wednesday evening prior to the week of the scheduled hearing.

F. Urinalysis Testing

Urinalysis testing is central to the court's monitoring of participant compliance. Participants are responsible for ensuring that they are testing in accordance with DDC Phase requirements.

1. Participants agree that the court may generally rely on a presumptive chemical test result (urinalysis results). A participant may request a further confirming test of any positive urinalysis, but the participant agrees that if the confirming test comes back positive, the participant's sanction may be doubled or they may be terminated from the program based on dishonesty.
2. DDC treatment case managers may direct a participant to obtain a UA at any time.
3. Participant non-compliance: Non-compliance issues, such as positive urinalyses results are reported to DDC services via an incident report in a timely manner.
4. Fake /Adulterated Urinalysis Tests (UAs)
 - a. Fake/Adulterated UAs will result in a 10 day jail sanction
 - b. If there is an admission when confronted, the participant will restart phase two and be staffed for zero tolerance for honesty until graduation.
 - c. If there is a denial when confronted, and the specimen is verified, the case will be staffed for termination.
5. Diluted UA
 - a. A Diluted UA is treated as a faked UA and will result in a 10 day jail sanction
 - b. If there is an admission when confronted, the participant will restart phase two and be staffed for zero tolerance for honesty until graduation.
 - c. If there is a denial when confronted, and the specimen is verified, the case will be staffed for termination.
6. Out-of-Range (OOR) UA
An OOR UA at any phase will result in a formal OOR Warning; any additional OOR UA will be treated as a positive UA and will result in a sanction.

G. Sanctions and Incentives

1. Sanctions- Participants who test positive for drugs, alcohol or other mood-altering substances, or fail to follow DDC requirements will receive a sanction. Further, a participant may be sanctioned or terminated from DDC if they conduct themselves in a manner contrary to DDC rules and regulations.
2. Sanctions are generally imposed according to the current sanction grid.
3. Sanctions include but are not limited to:
 - a) in-court "jury box observation";
 - b) community service hours;
 - c) Community Center for Alternative Program (CCAP);
 - d) Work Education Release (WER) work release;
 - e) Community Work Program (CWP);
 - f) jail;
 - g) other: accountability panel, attendance at a court-sponsored class, essay writing, increased attendance at sober support meetings, demotion to a prior DDC phase; and
 - h) termination

4. Incentives: Participants who comply with treatment requirements and DDC rules are rewarded and encouraged by the Court through incentives which include:
 - a) verbal praise;
 - b) a tangible reward such as coupon or a ticket;
 - c) promotion to the next DDC level; and
 - d) placement in a special "express" group whose cases are generally heard first on the calendar.

H. Bench Warrants

1. Non-compliance with DDC requirements may result in the issuance of a bench warrant.
2. Jail-time: Participants arrested on a DDC bench warrant may be held in-custody for several days before appearing before the drug court judge. Hearings will be scheduled at the court's discretion.
3. Defendants on warrant can request to address a bench warrant at the end of any DDC calendars, time permitting.
4. Bench warrants and administrative detox: A bench warrant issued in regard to a defendant receiving methadone initiates a special seven-day detox process.

I. Graduation

Graduation from DDC is marked by a specially set hearing. An Order of Dismissal of the Charge(s) is presented to graduates by the DDC judge.

J. Other Requirements

1. Honesty is essential to success in DCC. Participants will be rewarded for honesty and sanctioned for dishonesty. Dishonesty may result in termination from the program.
2. A participant cannot leave the state without first obtaining permission from the court.
3. Possession, use or ownership of any firearms is prohibited. A participant cannot reside where a firearm is present.
4. Threatening, assaultive, disrespectful or disruptive behavior of any kind in DDC, at treatment or in the community at large will not be tolerated and may be grounds for immediate termination from the program.
5. Verifying Sober Support Meetings: Court will not accept meeting hall phone number on Sober Support verification sheets and will require the phone number of the person who signed the form.

K. Policy on Missed Groups and One on One's and Make Up Requirements

1. No treatment agency can excuse missed groups or one on one's.

2. The participant must contact their drug court case manager (DCCM) prior to missing the group or one on one with details and plans to provide verification of the reason for the miss. Failure to do so will result in a sanction.
3. The DCCM will be given discretion to approve or disapprove the miss. If the defendant contacts their DCCM after the miss, the presumption is that they will be sanctioned.
4. If the DCCM recommends a sanction and the participant wants to appeal, the primary responsibility falls on the participant to make contact with their attorney and initiate the appeal process.

L. Termination

Due to many factors, there are instances when a DDC participant's continuation in the DDC program is unproductive for the participant, the program or both.

Termination from DDC may be voluntary or involuntary. A participant may decide to terminate from the program because the program can no longer serve the needs of the participant (voluntary), or either party or the court, sua sponte, may at any time during the program, recommend that a participant be terminated from the program due to non-compliance or breach of any of the rules of DDC (involuntary).

An involuntary termination will be addressed through traditional motion practice. The termination hearing will be heard by the sitting DDC judge unless that judge recuses him or herself, in which case, the termination will be heard by the other sitting drug court judge. The decision to terminate should be based on what is in the record. Rulings that have been made remain the law of the case and are not subject to relitigation. When necessary, the court will review the FTR Gold recording of prior drug court hearings. Unless the court authorizes, witnesses will not be subpoenaed to testify. The burden of proof is on the state to prove, by a preponderance of the evidence, that the defendant has violated the Waiver and Agreement. Considering the established violation(s), the court will then determine if termination is the appropriate remedy.

In making the decision to terminate a participant from the DDC, the Court shall consider a participant's past efforts regarding compliance and progress in the program. If the motion for termination is granted, a stipulated trial and sentencing, if appropriate, will follow. The following violations may result in termination. List is not exclusive.

1. Dishonesty to the court.
2. Positive Urinalysis or Breath Analysis
3. Missing UA's or individual treatment sessions.
4. Missing sober support meetings as required.
5. Non-compliance with required treatment program.
6. Presenting falsified UA's, or falsified documentation of community service, or sober support group meetings to the Court or to treatment personnel.
7. Failure to abide by the terms of the DDC agreement or mandates in the handbook.

8. Threatening, assaultive, disrespectful or disruptive behavior of any kind in DDC, at treatment or in the community at large.
9. Arrest for a new offense. (see new offense grid, Section VI B)
10. Using prescription drugs or over the counter drugs without first obtaining the approval of treatment and DDC.
11. Failure to pay restitution.
12. Willful failure to appear at hearings.
13. Inability of the defendant to regularly participate in required treatment, including urinalysis testing; treatment sessions, sober support group meetings, and/or review hearings with the court.

VII. SPECIAL POLICIES

A. Policy Regarding Prescription Drugs

General Policy: As a general rule, defendants in DDC are expected to be drug free, including the use of mood-altering prescription medications. While a person may be disqualified for participation in drug court because of the nature of the medications he or she is prescribed, the court shall not become involved in the decision regarding appropriate medications for a participant in the program. DDC defendants who take prescription medications, or other mood-altering substances that would cause a positive urinalysis result while in DDC, may be sanctioned or terminated according to the following guidelines.

1. Specific Situations

- a) Participants with chronic pain: DDC participants with chronic conditions requiring repeated use of prescription medication (opiate, opiate-based or benzodiazepine medications, or medical marijuana) are not good candidates for the DDC program.
- b) Participants who opt into drug court and then experience an episode of acute pain: Participants who opt into drug court and then experience an episode of acute pain. must have a special form completed by their doctor. The doctor must indicate on the form that he or she is aware that the participant presenting the form is in DDC and is expected to remain drug free except in extreme instances.

Forms are available through the court and treatment. Completed forms should be provided to the Court at participant's next hearing and to the treatment provider at participant's next appointment. Forms will include the following:

- doctor's name and signature;
- medication prescribed;

- amount prescribed (including refills);
 - reason for prescription; and
 - duration of treatment.
- c) Participants on other medications must get approval from their treatment agency for over the counter or prescribed medication prior to using such medication. The Court has the discretion to rule that a defendant's legally prescribed medication is consistent with the court's ability to monitor program compliance. Use of prescription drugs, other than psychotropic and antibiotics, may impact a participant's clean time and progress in DDC.

B. New Offenses

Status/Type of New Offense	Phase I	Phase II	Phase III	Phase IV
New offense is <u>Eligible</u> for drug court under current KC Drug Court Eligibility Criteria.	Case can come into DDC.	Case can come into DDC if participant agrees to the high end of the standard range on each offense in the event of termination.	Case may come into drug court IF the new offense is not in the <u>same category</u> as the original case filed into drug court. Participant must agree to the high end of the standard range on each offense in the event of termination. A finding of probable cause on the eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:* • Termination • Requirement that defendant restart the drug court program • Modification of treatment requirements. • Incarceration pending resolution of case. * List is not exclusive For categories see: KCDC: SCREENING, REFERRAL AND ELIGIBILITY (revised 11.1.2010) Section E., 1. - VUCSA Crimes or Section E. 2, Class B & C felonies.	Case will not come into drug court. A finding of probable cause on the new eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:* • Termination • Requirement that defendant restart the drug court program • Modification of treatment requirements. • Incarceration pending resolution of case. * List is not exclusive
New offense is <u>Non-eligible</u> for drug court under current KC Drug Court Eligibility	All pending cases will be handled mainstream.	The non-eligible case will remain mainstream. The court may permit the defendant to remain in both systems if it appears that the mainstream case will not substantially disrupt treatment. A finding of probable cause on the non-eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:* • Termination • Requirement that defendant restart the drug court program • Modification of treatment requirements. • Incarceration pending resolution of ineligible cases. * List is not exclusive		
Violent or Sex Offense as Defined by SRA (misdemeanor or felony)	All pending cases will be handled mainstream.	Strong presumption of termination if the DDC judge finds there is probable cause to believe that defendant committed crime. Conviction is not required		
Domestic Violence Offense (misdemeanor or felony)	All pending cases will be handled mainstream.	Strong presumption of termination if the DDC judge finds there is probable cause to believe that defendant committed crime. Conviction is not required		

Status/Type of New Offense	Phase I	Phase II	Phase III	Phase IV
DUI misdemeanor	Strong presumption that all pending cases will be handled mainstream upon arrest and a judicial finding of probable cause for Physical Control, and Driving Under the Influence. Conviction is not required	Strong presumption for termination upon arrest and a judicial finding of probable cause for Physical Control, and Driving Under the Influence. Conviction is not required		
New Offense is eligible for drug court, but is in the same category of offense (VUCSA delivery type or property crime) as the current drug court case. For categories see: KCDC: SCREENING, REFERRAL AND ELIGIBILITY (revised 11.1.2010) Section E., 1. - VUCSA Crimes or Section E. 2, Class B & C felonies.	Case can come into DDC.	Case can come into DDC if participant agrees to the high end of the standard range on each offense in the event of termination.	The new case is treated as an ineligible case and will remain mainstream. The court may permit the defendant to remain in both systems if it appears that the mainstream case will not substantially disrupt treatment. A finding of probable cause on the non-eligible case may affect the defendant's status in drug court in regard to the current drug court case(s) and may result in:* • Termination • Requirement that defendant restart the drug court program • Modification of treatment requirements. • Incarceration pending resolution of ineligible cases. * List is not exclusive.	

C. **Transitional Recovery Program (TRP)**

The Transitional Recovery Program is a minimum 60 day in-custody treatment program.

1. DDC requires people charged with the crime of VUCSA Delivery or Possession with Intent to Deliver a Controlled Substance (excluding marijuana) to complete the Transitional Recovery Program in the jail at the beginning of their DDC participation.
2. Defendants facing Department of Corrections commitment time if convicted may be required to complete the Transitional Recovery Program in the jail at the beginning of their DDC participation.
3. DDC may require a participant to complete the Transitional Recovery Program as a condition of remaining in the DDC.
4. Following completion of the Transitional Recovery Program, the court reserves the ability to order controlled release into the community which may include work education release, Community Center for Alternatives Program or verified clean and sober housing. The DDC Team will staff a participant's case midway through participant's time in the Transitional Recovery Program to plan for an appropriate release mode.

D. **Accelerated Drug Court Model**

Defendants that successfully complete a long-term inpatient treatment program may be eligible for an accelerated drug court model. In order to qualify drug court participants must:

1. successfully complete a minimum six-month Long Term Inpatient Treatment (LTIPTX) program;
2. resume chemical dependency (CD) treatment in the community upon completion of the inpatient program. (At a minimum the participant must be providing UA's and attending sober support meetings);
3. maintain 100% compliance for a period of five consecutive months. In the accelerated drug court model, Phase II is 30 days, Phase III is 60 days, and Phase IV is 60 days with graduation occurring on the next available graduation day after 60 days on Phase IV;
4. a sanction at any point eliminates the accelerated model as an option and the participant returns to the traditional drug court model; and
5. a defendant, who at time of entry into long term inpatient treatment is in DDC phase 3 or 4, still must complete five consecutive sanction free months following inpatient treatment.

E. **Re-entry to Drug Court Following Graduation**

Defendants who receive new drug court eligible charges following graduation from DDC will not be allowed to re-enter DDC unless those charges occur at least three years after a defendant's graduation date.

VIII. YOUNG ADULT TRACK

A special track for young adults, ages 18 to 25 years old was implemented September 1, 2010. The pilot is designed to address the special needs of young adult offenders which have become a central part of the drug court population since a change in the court's eligibility criteria in November of 2008.

The proposed adult drug court track employs the assessment tools, clinical approaches and support services proven effective in treating young offenders. Court sanctions address behavior issues and therapeutic interventions address treatment concerns. Emphasis is on accurately identifying needs and developing and continually revising a plan of action. The young adult drug court participant sets long and short term goals and progression from one phase of drug court to another is dependent on achievement of goals in addition to accumulation of sobriety. The track is designed to increase participant's intrinsic motivation and engender a sense of accomplishment and achievement.