



**MINNESOTA  
JUDICIAL BRANCH**  
FIFTH JUDICIAL DISTRICT

# **SOUTHWEST COMMUNITY DRUG COURT (SCDC)**

**LINCOLN-LYON-REDWOOD COUNTIES  
And  
THE LOWER SIOUX INDIAN COMMUNITY**

## **GUIDELINES**

UPDATED 1-25-2011

## **INTRODUCTION**

The Southwest Community Drug Court (SCDC) is a collaboration between the counties of Lincoln, Lyon, Redwood and the Lower Sioux Indian Community whose tribal land is located in Redwood County. There will be two teams: one in Marshall serving Lincoln and Lyon County participants; and one in Redwood Falls serving Redwood County participants and individuals living within 10 miles of the Lower Sioux reservation. There is one coordinator who travels between the two sites and one evaluator. The model is a partial traveling criminal justice group.

## **HISTORY**

In 2007, Judge Leland Bush approached the Lyon County Board about the idea of establishing an adult drug court for offenders in the county. Bill DuBois and BC Franson, professors at Southwest State University also voiced their strong support. In a follow up newspaper article, Judge Bush was quoted as saying: *In the end, society would get a better citizen through drug court instead of a better criminal through jail or prison.*

Judge Bush assembled an exploratory committee that met sporadically for the next year. In order to create cost efficiencies and other economies of scale, Lincoln, Lyon and Redwood counties were encouraged to study the feasibility of creating a multi-county adult drug court program. Two planning teams were formed: Lincoln-Lyon and Redwood-Lower Sioux Indian Community (LSIC) and they held joint meetings for several months. The county boards in each county and LSIC tribal officers were approached about applying for drug court training and each provided letters of support for the application.

In September 2008, the Fifth Judicial District received a scholarship on behalf of the multi-county teams so they could attend the national Drug Court Planning Initiative (DCPI) training sponsored by the National Drug Court Institute (NDCI) in Oklahoma City, Oklahoma. Two teams consisting of sixteen representatives from Lyon and Redwood counties and the LSIC attended the week long training April 19-24, 2009.

In January 2009, the Fifth Judicial District applied for a drug court implementation grant through the federal Department of Justice – Bureau of Justice Assistance. Once again the counties and tribal community provided letters of support with the application. A \$350,000 three year grant was awarded in September 2009. The teams plan to implement drug court in November 2009.

## **MISSION STATEMENT**

The mission of the Southwest Community Drug Court is to improve public safety and reduce direct and indirect costs to the community associated with substance abuse and related criminal activity. Through a multi-cultural approach this post-plea court will involve offenders in a rigorous and supportive program that includes intensive treatment and personal accountability designed to break the cycle of substance abuse and to improve offender's lives.

***Fostering healthy lives in a rigorous, supportive, and accountable environment***

## **DRUG COURT BEST PRACTICES**

SCDC will incorporate best practices into their programming including the Key Components of Drug Courts and the adult drug court standards as adopted by the Minnesota Judicial Branch.

## **JUDICIAL LEADERSHIP**

Judges David Peterson, Leland Bush, George Harrelson and Michelle Dietrich are dedicated to leading the planning and implementation process for this multi-county project. While the drug court team may make recommendations regarding participant placement, sanctions, incentives, etc., all judicial decisions remain the responsibility of the judge. Drug Court hearings will be held on a weekly basis.

## STEERING COMMITTEE

The steering committee includes executive-level personnel or policy makers from each of the counties (Lincoln, Lyon, Redwood) and the Lower Sioux Indian community. These are the administrators who can facilitate cooperation, resolve potential conflicts, and provide buy-in at the upper echelon of each participating agency. The steering committee will meet at least semi-annually.

Members of the steering committee include, at a minimum the following individuals:

- Judges
- County Commissioners \*
- County Attorneys \*
- DOC Supervisor
- Sheriff's Department\*
- Multi-county Coordinator
- Chief Public Defender
- 5<sup>th</sup> District Administration
- Tribal Representative(s)
- Social Services
- Community member(s)

\* One representative from each county. City police department representatives are invited to attend any of the steering committee meetings.

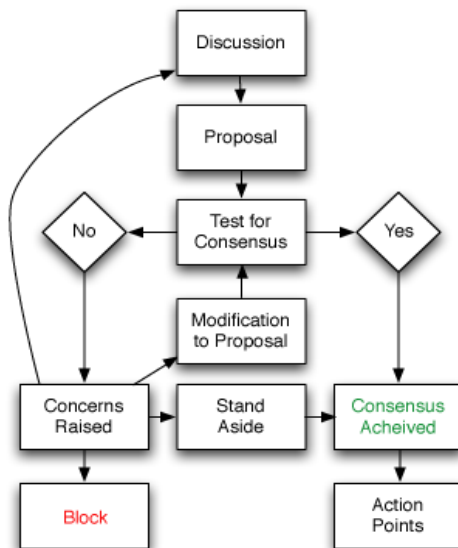
## DRUG COURT TEAM MEMBERS

Each participating agency has signed the Memorandum of Understanding which outlines their roles and responsibilities as members of the SCDC. There are two staffing teams. One team is for Lincoln and Lyon county participants and the other team serves the Redwood County and the Lower Sioux Tribal Community.

Each team includes at a minimum: a judge, prosecutor, volunteer defense attorney, probation representative, treatment representative, human services and law enforcement. The Redwood team will also include tribal representation. One coordinator and an evaluator will work across both programs. The coordinator will have workspace in both Lyon and Redwood counties. See **Appendix A** for a copy of the Memorandum of Understanding which outlines agency and team member roles; a current list of steering committee and staffing team members.

## TEAM MEMBER COMMUNICATIONS

The MN Department of Corrections (DOC) will establish a web-based Extranet (SharePoint) site for communication between team members outside the normal weekly staffing time. Law enforcement and probation agents will enter data regarding their community contacts with drug court participants which may include drug testing results. DOC and the SCDC coordinator will manage users, site content, site permissions and provide assistance to site users as needed.



## DECISION MAKING PROCESS

The SCDC drug court teams share a common vision and goals and have agreed to share resources, authority and responsibility for team actions. They will share ownership of the teams' successes and failures. Therefore, the teams will strive for consensus or the "collective agreement" of the group, keeping in mind that a high degree of variation is still possible among individuals. Genuine consensus typically requires more focus on developing the relationships among stakeholders, so that they work together to achieve agreements. Consensus is not a democratic vote. The individuals keep talking and listening until an understanding is reached. Each team member agrees to follow up team decisions with action, as needed. If there are instances where a consensus cannot be reached and a decision is required, the judge will make the final decision on the course of action to be taken.

## TEAM MEMBER TRAINING

Any proposed team member who has not completed drug court training will receive an orientation to the program from the drug court coordinator. They will also be encouraged to visit an operational drug court within the first two months of becoming a team member. Annual team member training/retreats will be conducted. Treatment providers will provide training to the teams on addiction, recovery, relapse, treatment services, etc. on at least a bi-annual basis. Opportunities to attend state and national trainings will be attended as funding and resources allow. Trainings attended and dates of completion will be recorded and compiled by the 5<sup>th</sup> District.

## FISCAL MANAGEMENT

### Fiscal Agent

The Fifth Judicial District will serve as the primary fiscal agent for any multi-county expenses reimbursable through multi-county problem solving courts grants. Upon review and approval by the multi-county steering committee, all participating counties agree to allow the Fifth Judicial District to serve as the signatory on any multi-county drug court contracts made with outside vendors.

**Program Participation Fees:** Minn. Stat. § 357.42 (2007). A \$600 fee is owed by the participant to offset the cost of the program. Program fees must be paid in full before graduation from the program.

#### Fee Alternatives:

- Up to ½ of the fee may be waived as an incentive for progress and positive behavior in the program.
- Community work service (CWS) to satisfy part or all of the drug court fee for those unable to pay, as appropriate. CWS is credited at the rate of \$6.00 per hour (9/09).

All program participation fees will be collected by Court Administration in Lincoln, Lyon and Redwood counties and deposited into a separate account for exclusive use by the program. Funds may be used to pay for program costs (copying, brochure development, etc.); incentives; local training needs; drug testing; chemical and mental health treatment services not covered by the Consolidated Chemical Dependency Treatment Fund and all other payment options (private insurance, PMAP, etc.) have been exhausted. In order for reimbursement to occur, contracts must be in place with the respective agencies and/or organizations.

Terminated participant fee policy: If an individual drops out or is terminated from the program they are responsible for paying the fees owed up until the time of their termination/withdrawal from the program. The remaining fees for the program will be waived.

**Financial Assistance Fund:** The annual amount of the Fund will be established prior to the beginning of each calendar year by the Steering Committee and funds will be used to offset the client's direct self-pay costs for treatment services or other appropriate financial needs. Funds will be distributed on a "first come, first serve" basis until the established amount for the calendar is depleted. If funds remain in any given calendar year, the balance will be rolled into the following years' Financial Assistance Fund allocation unless prohibited by the funding source. The Financial Assistance Fund is utilized from the Southwest Community Drug Court BJA budget 2009-2012, line items Client Wraparound and Treatment. Funds may be accrued from participant fees and utilized for this fund.

#### Criteria for Financial Assistance Fund - Drug Court Treatment

- (1) Candidate is without insurance coverage and does not have personal resources/assets to pay for drug court treatment.  
\*Documentation may be required to include: tax returns, pay stubs, health care benefit set, list of assets, banking documentation.
- (2) Candidate is above the income threshold to qualify for CD consolidated funds (CCDTF/Rule 24).

- (3) Using a currently adopted county sliding fee schedule as a guide, assistance will be provided on a graduated percentage basis to eligible candidates from the Financial Assistance Fund.

#### Criteria for Financial Assistance Fund – Other

- (1) Without assistance the candidate would be unable to complete drug court treatment or probation goals.
- (2) Candidate does not qualify for, or there is no other public funding available to provide the financial assistance needed in order to continue to progress in the drug court program.
- (3) Candidate may be required to repay a portion or all of the funding received, according to a payment schedule as determined by the drug court probation agent.

#### Review and Approval Procedure

- (1) All requests must be in writing. Probation will, in most cases bring requests to the team for consideration and approval.
- (2) Once a participant has received a total of \$250 from the fund, any future requests must be approved by the Drug Court team.
- (3) One time requests for funding (other than treatment)
  - Under \$100 may be approved by the Drug Court Probation Agent. Drug Court Coordinator must be notified of decision.
  - Over \$100 – must be approved by the Drug Court team.

### **GOALS AND OBJECTIVES**

The primary goals of the SCDC are listed below. For a full list of goals, objectives and the evaluation plan, please see Appendix B

Goal 1: SCDC will increase public safety by reducing crime.

Goal 2: SCDC will reduce substance abuse by improving treatment outcomes.

Goal 3: SCDC will reduce the direct and indirect cost of addiction in our communities.

Goal 4: SCDC will incorporate best practices into its policies and operations

### **RECORD KEEPING AND EVALUATION**

SCDC will follow the guidelines for program evaluation as required by any state or federal funding sources. The management information system to be utilized by the drug courts is MNCIS and CSTS. Drug Court files will be maintained separate from traditional case files. Treatment information and progress reports will be kept separate from court files, by one or more of the methods described below:

- Maintained in a separate treatment file, located in the judges office.
- Shredded after team meetings and/or drug court sessions;
- Maintained in locked cabinets, separate from the court files.

### **TARGET POPULATION**

The target population of the SCDC is adult, non-violent, felony level offenders coming to the attention of the District Court in each of the participating counties; that have been diagnosed chemically dependent; are high need, and; at high risk to re-offend.

## STRUCTURE/MODEL

### Post Plea

#### Defendant is placed on probation

Completion of Drug Court program is imposed as condition of probation.

#### Modification of orders once on probation, in lieu of revocation (Probation Violation cases)

An offender failing various conditions of community supervision and may be assigned to a drug court in lieu of revocation to prison.

#### Re-entry from prison

An offender has been sent to prison and subsequently returns to the community. An offender is assessed as high risk per DOC and treatment is recommended following release from prison as part of reentry to enhance successful reintegration.

## ELIGIBILITY CRITERIA

Offenders may meet eligibility requirements, yet not be suitable for Substance Abuse Court. Defendants with alcohol and/or drug related offenses will be considered eligible; however, consideration for suitability will focus on those offenders who have a viable chance for recovery and represent the least risk to public safety.

### Offender Eligibility

- Over the age of 18 at the time of the offense
- U.S. citizen or qualified alien
- Pled guilty to non-violent, felony level offense
- No prior adult violent offense history – per attached list
- Assessment diagnosis of chemical dependency
- Eligible for treatment per Rule 25 criteria
- Resident of the multi-county collaboration or within a 10 miles radius of the Lower Sioux Indian Community
- Willingness to comply with the drug court requirements
- Co-occurring disorders – Participants must be able to benefit from the program modality and understand the sanctions, incentives and services.
- Ability to participate in treatment and program activities within the guidelines of the Americans with Disabilities Act.
- Assessed as high risk per Department of Corrections

### Offense Eligibility

- Felony level offenses – except drug manufacturing or sales primarily for profit other than to support their own use.
- Probation Violation cases - the presiding judge of the drug court, may, at their discretion, accept those defendants whose cases have not previously been assigned to drug court, and who have been placed on standard probation, if at a probation violation hearing, it is found that they are chemically dependent and have been unable to abstain from chemicals while on probation.
- Extended Jurisdiction Juvenile – case by case basis
- Notwithstanding any other provision herein, the drug court team may accept, upon joint motion of the prosecuting and defense attorneys, persons who do not initially qualify for drug court because of failure to qualify under the eligibility criteria herein, provided the offender is not disqualified by the “violent offender” designation.

## DISQUALIFYING FACTORS

- **Controlled Substance: 1<sup>st</sup> and 2<sup>nd</sup> Degree offenses** (disqualifier may be waived by county attorney)
- **Violent Offender:** For purposes of BJA funded adult drug courts, a person who either:
  - (1) Is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which:
    - a. The person carried, possessed, or used a firearm or another dangerous weapon; and
    - b. There occurred the use of force against the person of another; or
    - c. There occurred the death of, or serious bodily injury to, any person, without regard to whether any of the circumstances described above is an element of the offense or conduct of which or for which the person is charged or convicted; or
  - (2) Has one or more prior convictions of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.

Note: This definition includes recent amendments made by the Second Chance Act of 2007, Pub.L. 110-199. A prior juvenile violent offense history is not a disqualifier. See Appendix C for a list of disqualifying offenses.

- **No chemical dependency assessment diagnosis as chemically dependent**
- **Not assessed as high risk per DOC supervision continuum/professional discretion.**
- **Gang member or gang affiliation** according to the gang member identification criteria developed by the Minnesota Gang Strike Force, which is as follows:

An individual is identified as a gang member based on verifying at least three of the following criteria and is involved in criminal activity:

- (1) Admits gang membership or association (give specific gang name and include any sub-sets, geographical designation, etc.)
- (2) Is observed to associate on a regular basis with known gang members (must identify associates, times and places of observations)
- (3) Has tattoos indicating gang membership (be specific)
- (4) Wears gang symbols to identify with known gang members and/or using gang-related hand signs (take photographs whenever possible, naming associates, flashing signs)
- (5) Is in a photograph with known gang members and/or using gang-related hand signs (take photographs whenever possible, naming associates, flashing signs)
- (6) Name is on a gang document, hit list, or gang-related graffiti (if possible, book document/list into evidence or at least photograph)
- (7) Is identified as a gang member by a reliable source (sources can be Dept. of Corrections, Probation, Parole, Gang Unit, etc.)
- (8) Arrested in the company of identified gang members or associates (list other gang members by name, give time/date/place and details of arrest)
- (9) Corresponds with known gang members or writes and/or receives correspondence about gang activities (give specific details of correspondence, submit the writings if possible)
- (10) Writes about gangs (graffiti) on walls, books, paper, etc. (take photograph of all graffiti-this is invaluable intelligence information)

- **Probation time remaining of less than one (1) year**

- **Personal factors which may disqualify a defendant include:**
  - a. severe psychological problems (hallucinations, paranoia, anti-social personality disorders);
  - b. a medical condition requiring immediate attention;
  - c. transportation problems and no resources are available to remedy the problem;
  - d. unwilling to comply with the court order for the drug court program;
  - e. does not have a history of substance abuse;
  - g. unable to physically participate in treatment activities (within guidelines of the Americans with Disabilities Act)
  - h. at the discretion of the drug court team, a person whose actual residence is so geographically distant from the drug court program service area as to render the intensive probation required by the drug court impractical, may be disqualified from drug court participation.
  - i. not a U.S. citizen or resident of Lincoln, Lyon or Redwood County.
- **Anyone who faces new charges while an active participant in drug court shall be subject to judicial review regarding their continued participation.**
- **Participation in drug court will not bar prosecution for any other current offense.**
- **Prior unsuccessful termination from a drug court program unless approved by the team.**

### **ENTRY PROCESS**

Chemically dependent defendants who are not violent offenders as defined in 28 C.F.R. 93.3(d) may be eligible for Drug Court participation upon approval of the drug court team. The referral process and disposition of a case generally occurs in the following manner.

- (1) **Controlled Substance 1<sup>st</sup> & 2<sup>nd</sup> Degree** – Controlled Substance Crime in the First Degree or Second Degree - Referral to Drug Court Team for determination of acceptance into the program by the County Attorney. If approved for participation by team, defendant shall enter a plea of guilty and shall receive a stay of execution of the prison sentence. The defendant shall be ordered to successfully complete drug court. Other conditions of sentence are negotiated between the prosecutor and the defense attorney. Additional probationary terms upon successful completion of drug court shall be ordered by the sentencing judge.
- (2) **Controlled Substance Crime in the Third, Fourth or Fifth Degree– Presumptive Prison Commit).** Referral to Drug Court Team for determination of acceptance into the program may be made by any team member. If approved for drug court participation by the team, the defendant shall enter a plea of guilty and shall receive a stay of execution of the prison sentence. The defendant shall be ordered to successfully complete drug court. Other conditions of sentence shall be negotiated between the prosecutor and the defense attorney. Additional probationary terms upon successful completion of drug court shall be ordered by the sentencing judge.
- (3) **Controlled Substance: Third, Fourth or Fifth Degree (Presumptive Probation).** Referral to Drug Court Team for determination of acceptance into the program may be made by any team member. If approved for drug court participation by the team, the defendant shall enter a plea of guilty and shall receive the benefit of the plea negotiated between the prosecutor and the defense attorney. The defendant shall be ordered to successfully complete drug court. Additional probationary terms upon successful completion of drug court may be ordered by the



sentencing judge after consideration the severity level of the offense and the defendant's prior criminal history.

**(4) Felony DWI – (Redwood County only)**

Nothing stated above is intended to prohibit a negotiated plea agreement which calls for a disposition pursuant to Minn. Stat. 152.18, if applicable.

## **INTAKE/ADMISSION STEPS**

### **Admission Process for New Offenses:**

**Step 1: The Prosecuting Attorney:**

- reviews the case and determines if the defendant meets initial eligibility criteria for drug court prior to the first court hearing.
- the information is sent to the defense attorney, and a copy is sent to the drug court coordinator who enters the information into the data base. If the defendant is a potential candidate, the coordinator (or prosecutor) will notify probation and the chemical dependency assessor.

**Step 2: The Defense Counsel:**

- reviews the arrest warrant, affidavits, charging document and other relevant information and reviews all program documents (e.g., waivers, written agreements)
- meets with and advises the defendant as to the nature and purpose of the Drug Court, the consequences of abiding or failing to abide by the rules and how participating or not participating in drug court will affect his or her interests
- explains all of the rights that the defendant will temporarily or permanently relinquish
- gives advice on alternative courses of action, including legal and treatment alternatives available outside the drug court program, and discusses with the defendant the long-term benefits of sobriety and a drug-free life
- completes a drug court referral form (if needed) and has the defendant sign consent for release of information forms. All documents are forwarded to the county attorney or coordinator who notifies probation and law enforcement.

**Step 3: The Probation Department conducts a meeting with the candidate prior to the next regular Drug Court Team staffing.**

The Probation Agent will:

- Conduct a screening to determine if the individual meets broad eligibility requirements
- Interviews the candidate to obtain background information (abbreviated pre-sentence investigation).
- Examines criminal history and other records,
- Completes the Level of Service Inventory-Revised (LSI-R) to determine public safety risk and needs of the individual.
- Discusses basic requirements of each drug court phase so the person knows what the program expectations are.
- Probation makes a referral for a chemical health assessment to the county of residence.

**Step 4: The Chemical Dependency Assessor:**

- Conducts an assessment including substance abuse severity, psychosocial indicators including: home life, physical/sexual abuse history, environmental assets/strengths, sexual behaviors, developmental status, employment, education, leisure, recreation and family dynamics.

- Submits information to the appropriate county human services department for funding determination.

#### Step 5: Drug Court Team Staffing:

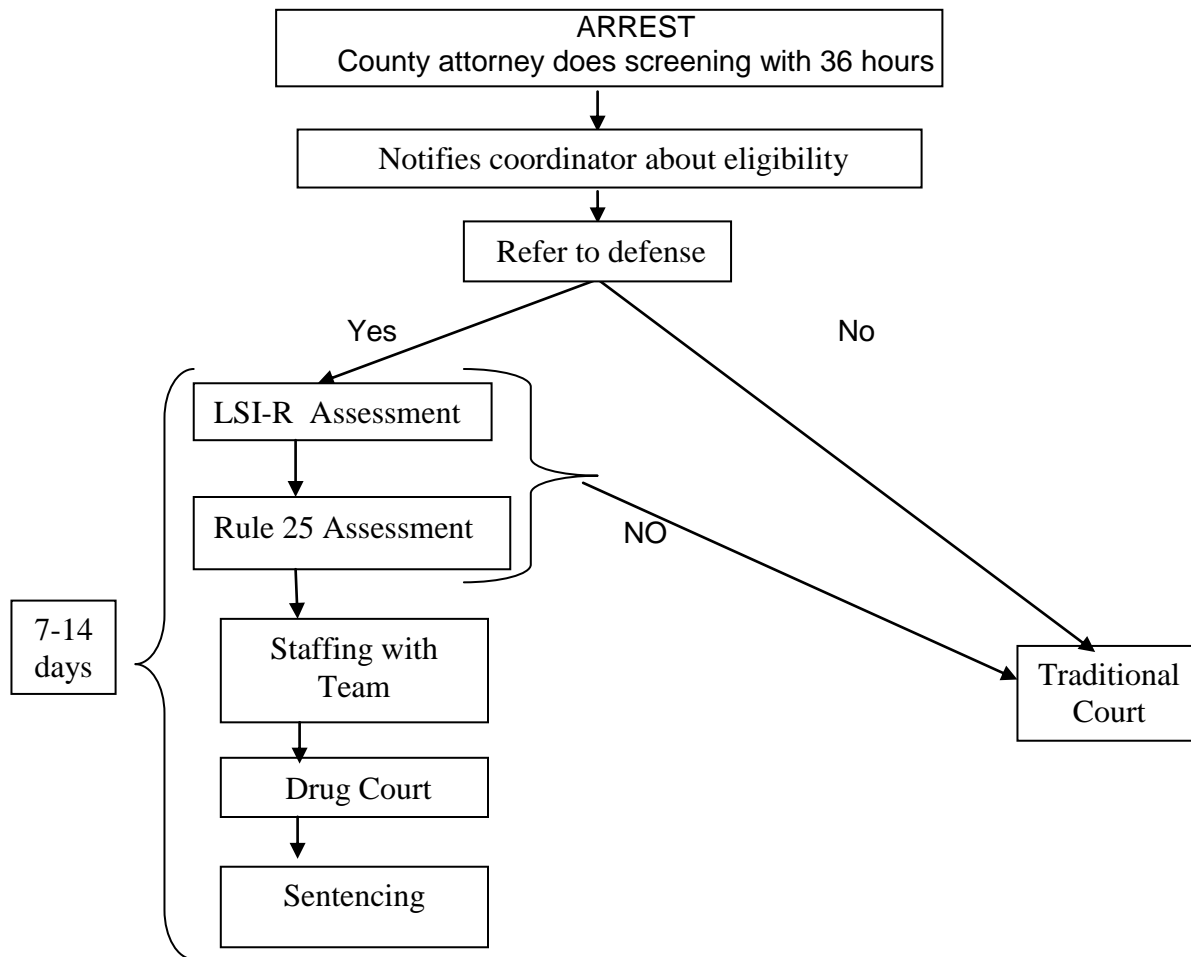
- The drug court team meets prior to each drug court session to discuss new referrals. The team, with approval from the judge, has the final decision on whether a candidate is appropriate for the drug court. The goal is to maintain fidelity to the MN Drug Court Standards (Determinations made within 14 days of conviction on new offenses).
- The treatment provider reports the results of the chemical dependency screening or evaluations completed on new intakes and whether or not the defendant meets the clinical criteria for drug court.
- The probation agent reports the results of any intakes completed since the last staffing, including the results of the LSI-R and an indication of the candidates willingness to participate. S/he also reports on any pre-trial participants as to their level of compliance with conditions of release and/or recommended changes in the conditions (such as psychological assessment, DVI assessment, etc.).
- If the defendant is admitted into drug court:
  - The team reviews the treatment and supervision plans and agrees on a course of action.
  - The defense counsel notifies the defendant to appear at the next drug court hearing.
  - Drug Court Coordinator meets with the candidate before the next drug court hearing to conduct an orientation which includes the following:
    - Provide a participant manual and answer questions
    - Has the defendant sign all documents necessary for Drug Court participation.
    - Length of program participation is clearly established.
    - Payment of fees is discussed.
    - Treatment requirements are made clear
    - Current participants may be available to answer questions and provide encouragement.
    - Verifies the defendant has not been involuntarily discharged from any other substance abuse court.

#### If it is determined the defendant is not appropriate for Drug Court:

- The case is referred back to Court Administration so that it may be assigned to the regular court calendar.
- Pre-trial supervision will revert back to the appropriate agent in each county.
- The public defender notifies the defendant of the decision.

#### Step 6: Drug Court Hearings

- Defendant agrees to participate and is formally admitted into the program in the courtroom setting. The Drug Court Judge signs the Participation Agreement which has already been explained and signed by the Defendant.
- The Drug Court probation agent completes a pre-sentence investigation and Sentencing Guidelines worksheet for sentencing before the Drug Court Judge.
- The judge gives a journal to the new participant and explains the purpose and frequency of submission to the court. The journal is an opportunity for the participant to have a personal written conversation with the judge.



**Admission Process for Probation Violations**

The supervising probation agent will complete a drug court referral and submit it to the coordinator when one of their probation clients has a target violation and appears to be a good candidate for drug court. The coordinator will notify the team of the referral. The drug court agent will screen the offender to determine eligibility and report the results at the next drug court team staffing.

**DRUG COURT TEAM MEETINGS & REVIEW HEARINGS**

	<b>Redwood County Team</b>	<b>Lincoln/Lyon County Team</b>
<b>Day</b>	Thursday	Monday
<b>Staffing Time</b>	1:00pm	11:00 am
<b>Court Time</b>	2:00pm	12:00pm
<b>Room Location</b>		
<b>Courthouse</b>	Redwood County	Lyon County
<b>City</b>	Redwood Falls, MN	Marshall, MN

The Drug Court team meets prior to each drug court session and acts as a multi-disciplinary case management team with respect to individual participants. To the greatest extent possible, the Drug Court Team operates on the basis of consensus.

Participants describe their efforts toward sobriety to an audience of their peers, court staff and the judge. Hearings are used to reinforce the drug court's policies and ensure effective supervision. Hearings also give participants a sense of how they are doing in relation to others. Sentencing hearings may be held after the weekly drug court review hearings.

## SEARCH REQUIREMENTS

While an overall goal is to help drug court participants get sober and maintain sobriety; it is also recognized that unannounced visits are an important component to ensure they are following the program rules. In addition, we may catch them doing something good that can be rewarded at a future drug court hearing. Drug Court participants are required to submit themselves, their vehicle, place of residence or area to search and seizure of narcotics, drugs or other contraband at any time of the day or night with or without a search warrant, without prior notice and without probable cause by any peace officer or probation officer or their representative.

## ARREST REQUIREMENTS

Any law enforcement officer who observes a current participant of Drug Court in any of the following circumstances is authorized to arrest that individual:

- ingesting a controlled substance or alcohol;
- in violation of any criminal law;
- being under the influence of a controlled substance or alcohol;
- possessing a controlled substance or alcohol or drug paraphernalia;
- being in the presence of a person in possession of controlled substance(s) and a reasonable person in a like position would conclude that drugs are present.
- being in possession of any weapons

Participants detained in jail after arrest will be brought before the Drug Court judge for hearing within the next business day. Team members will be immediately notified of the arrest via the Extranet program.

## PROGRAM STRUCTURE

### Phases

The drug court is an approximately 17-25 month program with four phases, beginning with an intensive phase that focuses on stabilization and introduction to substance abuse education. The length of time a participant spends in the program depends on individual progress. Each phase consists of specified treatment objectives, therapeutic and rehabilitative activities, and specific requirements for advancement into the next phase. **Level of treatment may or may not coincide with the drug court program phases.** All participants must sign a drug court participation agreement which specifically details the requirements and prohibitions.

Specifics include:

**Supervision Contacts** – number of times a participant reports to a probation officer or other supervisory personnel (including law enforcement, treatment or other drug court team member contact). During the early phases, contact is usually three times per week and gradually decreases.

**Court appearances** – number of times a participant must appear in court. Persons in early phases will have weekly court contacts. Research has shown that higher risk offenders should also have more contact with the court regardless of their progress within the phases.

**Curfew** – hours in which the participant must be in their home and available for visits from probation and/or law enforcement. Curfew extensions must be requested and approved in advance by the drug court team in the early phases of the program.

**Support group attendance** – attendance at support group meetings is monitored by attendance sheets and sponsors are verified by treatment personnel. Support groups can be organizations such as Alcoholics Anonymous, Narcotics Anonymous and SMART Recovery.

**Length of time drug free** – participants have a recommended number of days in each phase to be drug free (i.e., no positive tests for alcohol or drugs) before phase advancement and graduation. The participant's first sobriety date for drug court purposes will be determined by the treatment counselor

**Education/work** – completion of GED, attendance at ESL classes, high school attendance, vocational training, cognitive skills training, and/or full-time employment are often conditions of advancement and graduation. Participants are responsible for the payment of any training and educational related costs

**Program Participation Fees** – A \$600 fee is owed by the participant to offset the cost of the program. Program fees must be paid in full before graduation from the program.

**Frequency of drug testing** – the number of times a participant is tested will vary according to phase and compliance within program. Participants may be responsible for the cost of any confirmation tests.

**Treatment** – successful completion or engagement within treatment is required for phase advancement. Participants are responsible for paying for the costs of chemical dependency and mental health treatment services.

**Compliance with other court orders** – because of the holistic approach of drug courts, participants are often given additional conditions such as child support, visitation, or other orders.

#### **Special Event Furlough-**

Any time a participant plans to leave the supervision area for 24 hours or longer, he/she must first complete an Application for Special Event Furlough which needs to be approved by the Team. Exceptions will be made in emergency situations on a case by case basis by the probation agent.

- If the establishment, serves alcohol, is an event at which alcohol is served, or is held at a casino :  
*Phase One* participants may not attend.  
*Phase Two* participants need to complete an Application to be approved by the drug court team.  
*Phase Three* is left to the discretion of the probation agent.

### **TERMINATION CRITERIA**

Anyone who withdraws or is terminated from SCDC will have their cases returned to District Court for further action. The drug court team may make a recommendation to the Court for their consideration. Termination from SCDC is a violation of probation.

**Voluntary Withdrawal:** A participant may voluntarily withdraw from the program at any time.

**Non-compliance:** Participants who repeatedly violate the rules of the program that result in sanctions. The decision to terminate will be made by the drug court team.

**Termination for new violent offense:** Participants who are charged with a new violent offense are automatically terminated from the program.

**Administrative Discharge:** If, after a period of time it appears unlikely the participant will be able to satisfactorily complete the program due to physical or mental health issues, they may be administratively discharged which would not be considered an unsuccessful termination.

**Absconding:** A warrant will be issued for participants who fail to appear for court. They will be suspended from the program during the time they are on run. Generally, termination will not occur until the individual is found and the team has determined if continued participation is appropriate.

### **Phase Advancement Plan**

Program length is typically 17-25 months. The length of time the participant spends in the program depends on individual progress and whether or not residential treatment had to be utilized. Each phase consists of specified treatment objectives, therapeutic and rehabilitative activities, and specific requirements for advancement into the next phase.

The treatment phase of the program is determined by the participant's progress; however it will be no less than one year, followed by 6 months of mandatory continuing care.

The participant may be required to **perform all or a select portion of** the treatment requirements in each phase. Actual requirements will be determined and included in the treatment plan, so the participant has a clear understanding of what will need to be accomplished in order to advance to another phase of the program. In order to advance from one phase of the program to the next, the participant will be required to do a phase advancement petition. The drug court team will meet on a weekly basis to share information, do problem-solving, and recommend appropriate court responses to the participant's behaviors and accomplishments

#### **PHASE ONE – 1–3 months**

In this short term, 1-3 months, the participant will be assigned a counselor who is also a member of the Drug Court Team. The counselor will provide the participant with an orientation/overview of the Drug Court Treatment portion of the program and will monitor his/her participation. The participant's problems and needs will be assessed and a treatment plan will be developed. Other general requirements may include the following:

1. Group counseling session (up to three times per week – 3 hour sessions).
2. Individual counseling sessions – 1 time per week
3. Supervision contacts – minimum of 3x per week (probation, law enforcement, treatment)
4. Support Group Meetings (AA, NA or SMART Recovery) – 1-2 times per week
5. Curfew - 10:00pm (except for treatment or work or when approved by probation)
6. Random drug tests provided by participant – Minimum of 2 times per week
7. Court appearances – 1 time per week
8. Daily journaling to the drug court judge to be turned in every week.
9. Turn in weekly schedule to probation

Criteria for advancement to Phase Two:

1. No unexpected or unexcused absences from scheduled services for 15 days
2. Documented required minimum attendance at support group meetings.
3. Must be current with treatment plan
4. All probation paperwork is signed.

5. Stable housing is secured.
6. Team approves movement to Phase II

### **PHASE TWO – 5-7 months**

The participant's treatment plan will be updated by the participant and the counselor. The counseling in this phase will focus on sober living. In addition, the counselor will begin to actively address issues related to personal, family, employment/education and housing needs to develop a plan to of meeting those needs.

**Structured Activity Requirement:** It is a requirement of the SCDL that its participants begin employment as soon as possible. Unless otherwise approved/determined by the Team, a participant is required to begin employment or community work services within 30 days of entering the drug court program (or within 30 days of completing inpatient treatment), whichever occurs later. A participant may achieve the required hours of employment listed below through regular employment, community work service, volunteer work or a combination of these options.

1. After 30 days – up to 25 hours per week
2. After 60 days – up to 40 hours per week
3. After 90 days or longer – If a participant has not found regular employment, they are expected to work up to 40 hours of CWS and may spend weekends in jail until they find regular employment.
4. After 15 days of losing a job – A participant is expected to work up to 30 hours of CWS per week

Other minimum requirements may include the following:

1. Group counseling sessions (up to three times per week for 8 weeks)
2. Individual counseling sessions
3. Supervision contacts – minimum of 3x per week (probation, law enforcement, treatment)
4. Support group meetings – one to two times per week (AA, NA, SMART Recovery)
5. Have a sponsor or at least a temporary sponsor.
6. Random drug tests provided by participant – Minimum of 2 times per week
7. Begin vocational rehabilitation/education for those seeking employment;
8. Curfew – 10:00pm (except for treatment, work except when approved by probation)
9. Weekly court appearances;
10. Participate in a minimum of two (2) pro-social/recreational events.
11. Daily journaling – submitted to the judge weekly.
12. Establish a payment plan for court costs and treatment services if needed.

Criteria for advancement into Phase 3:

1. Meeting all treatment goals as identified for recovery and life changes
2. No positive drug test results within the last ninety (90) days.
3. Have a sponsor.
4. Employed or positive response to vocational/educational goals.
5. Support Group Meetings (AA, NA or SMART Recovery) – 1-2 times per week
6. Actively making payments and current with court costs and treatment fees where applicable.
7. No unexpected or unexcused absences from scheduled services for 90 consecutive days.
8. Must have cog skills class arranged or completed by the end of phase two.
9. Stable housing secured.
10. Submission of a written request to advance to the next phase.

### **PHASE THREE – 5-7 months**

In Phase 3 of the program the participant's treatment plan will be updated and reflect his/her progress, new treatment goals, and objectives for this phase. Counseling and meetings will focus on relapse prevention issues and help the participant to identify ways to cope with stressful situations. The participant will be exposed to weekly topics on education and recovery dynamics. In addition, the participant is encouraged to involve family members in recovery process so they can gain insight to the participant's activities in counseling, and to assist in discovering facts about addiction and recovery while dispelling myths associated with it. Minimum requirements may include the following:

1. Update treatment plan;
2. Group treatment one time per week and individual counseling sessions as needed
3. Supervision contacts – minimum of 1x per week (probation, law enforcement, treatment)
4. Random drug tests minimum of 1 time per week
5. Attend 2 support meetings (AA, NA or SMART Recovery)
6. Attend 2 social/recreational sober activities/events per week.
7. Court appearances and journaling every other week.
8. Classes/groups such as cog skills, anger management, relapse prevention, etc.
9. Supervision contacts 2 times per month
10. Submit schedule every other week.
11. Curfew – 11:00pm unless approved in advance

Criteria for advancement to Phase 4:

1. No positive drug test results within the last six (6) months.
2. Employed or positive response to vocational/educational goals.
3. Documentation of required minimum attendance at support group meetings.
4. Current with payments on court cost and treatment fees where applicable.
5. No unexpected or unexcused absences from scheduled services
6. Maintaining housing
7. Submission of a written request to advance to the next phase

### **PHASE FOUR - 6-8 months**

This is a continuing care phase where the main focus will be relapse prevention, maintaining total abstinence from all drugs, mentoring and daily living skills. The participant is encouraged to increase independent life styles, facilitate group discussions, provide support to members entering counseling, and to continue the learning process. During phase four the participant receives support that helps his/her continued success in the community as a productive and responsible citizen. Minimum requirements may include the following:

1. Update treatment plan;
2. Individual sessions – as needed basis, determined by counselor, treatment team, and/or the client;
3. Continuing care group - 2 times per month (2 hours per session) for 3 months
4. Supervision contacts – 2x per month
5. Random drug tests – minimum of one (1) time per month;
6. Support group meetings (AA, NA, or CA) 2-3 times per week
7. Actively paying on court cost, Drug Court related fees and treatment fees where applicable;
8. Classes/groups such as cog skills, anger management, relapse prevention, budgeting, etc.
9. Focus on full-time vocational skills, employment and/or education goal setting;
10. Recreation, fellowship, and weekly mentoring with treatment counselor's supervision to other phases of program – 2x per week; and
11. Court appearance – every other week. (not twice a month)
12. Attend Alumni groups



### **Recommended Criteria for Advancing to Aftercare:**

1. Four months sanction free.
2. All program fees paid and current with making payments on other court costs, fines and treatment costs.
3. Meeting and maintaining all of the other program requirements of phase 4.
4. Submission of a written request to graduate to the aftercare portion of the program.
5. Approved aftercare plan
6. Consistent negative (clean) tests for at least 6 months.

### **GRADUATION**

Once the participant has successfully completed the criteria for each phase as described in the treatment phase's section, the participant will become a candidate for graduation from the Drug Court Program. Once the participant has completed the graduation process, the Assistant County Attorney and the Defense Attorney will initiate the appropriate paperwork to meet the guidelines for graduation.

### **PROGRAM SERVICES**

#### Substance Abuse Treatment Services

Chemical dependency treatment is a vital part of drug court and is used to provide intensive group/individual counseling. It is also a time for participants to develop the necessary tools to begin the process of recovery, which promotes continued abstinence from drugs and alcohol. Participants will incorporate these tools that they have learned into their daily lives and continue to use them once they are discharged from the program. Drug Court will primarily use two providers for intensive outpatient treatment: Project Turnabout in Marshall and Project Turnabout in Redwood Falls.

Both programs will have a comprehensive individualized treatment plan for each participant, which will incorporate the 12 Step AA model. This incorporates a thorough assessment which includes: psychological testing, social history, chemical use history, educational material as well as a family history of chemical dependency. The participant along with the counselor will determine the approaches that are best suited and acceptable for the participant, and these will be reflected in the participant's individualized treatment plan.

12-Step Model: This model is based on the 12 Steps of Alcoholics Anonymous. Project Turnabout's program in conjunction with the 12 Step philosophy of Alcoholics Anonymous will be incorporated into the participant's recovery program. The guiding principle of this program is a course of action for recovery from addiction. The core belief of this model is that the individual is powerless over chemicals, and that the only way for successful recovery is for the participant to turn over their will and their lives over to a Higher Power. This model, which is often part of formal treatment programs, has the advantage of having independent support groups all over the world, which offers ongoing support for persons striving for recovery.

Motivational Interviewing: This is a technique which can lend itself to any of the theoretical orientations. It is intended to emphasize the need to engage the patient, particularly early on in the assessment and treatment process. It helps to achieve the commitment of the patient to participate in treatment, and his/her ability to articulate the benefits of making behavior changes relative to their chemical use. This is a significant departure from the early days of treatment when strong confrontation was the norm for treatment programs.

Cognitive-Behavioral Therapy: A therapeutic approach which is present centered and forward looking, the emphasis is on altering the thoughts, beliefs, attitudes and assumptions of the patient, so as to prepare them to manage the challenges and opportunities that present in his/her life in a positive and constructive manner. This therapeutic approach is found to be effective in working with the substance abuse population, often in conjunction with other approaches.

A team of professionals including; the correction agent , Rule 25 Assessor, and licensed treatment counselor often times have mutual interest in how referrals to other services and supports are contributing to the success of the participant in reaching their goals. Working with professionals, the participants along with their family gain the insight and tools to make the necessary positive changes to enhance their own recovery.

The program goals include:

- Assisting individuals and families in understanding and accepting the problem as an addiction.
- Provide direction and support in learning positive self-care techniques.
- Guide individuals in becoming positively involved as a member of their family and their community.
- Help establish an outside system supportive of freedom from the use of alcohol and other drugs.
- Provide a full continuum of care that reaches out to help participants and their families in need of solutions.

Project Turnabout treatment counselors will maintain contact and communicate participant progress at the weekly drug court team meetings:

- Weekly contact with staff and facilities providing other treatment services to drug court participants (e.g., inpatient, halfway house, mental health professionals).
- Contact with physicians or other medical personnel who are prescribing medications for use by a drug court participant.

The probation agent and treatment counselor oftentimes have mutual interest in how referrals to other services and supports are contributing to the success of the client in reaching their goals. In the SCDC the treatment counselor will have the following responsibilities to maintain contact and communicate participant progress at the weekly drug court team meetings:

- Weekly contact with staff and facilities providing other treatment services to drug court participants (e.g., inpatient, halfway house).
- Regular, weekly contact with counseling services provided to drug court participants.
- Contact with physicians or other medical personnel who are prescribing medications for use by a drug court participant.

#### Probation Supervision:

There are five key functions provided by the supervising agent: assessment, planning, linking, monitoring and advocacy. Assessment is the initial and ongoing process of determining client needs, wants, strengths and resources. This information is then used in the planning process where goals and strategies are developed. A major responsibility of the probation agent is to link participants with the services and resources they need in order to reach their goals.

Probation agents work closely with treatment providers, family members, employers and social service agencies to implement the team approach to each participant's recovery. While primarily concerned with drug and alcohol use, the drug court also considers underlying issues which would impair an individual's success in treatment and may compromise compliance with program requirements. It is the probation agent's role to make referrals for these and other needs:

- Skills testing and an educational assessment
- Job training and job-readiness training
- School or other educational services
- Job placement services
- Family counseling
- Life skills classes
- Public assistance/Medicaid

Once these linkages are made then the responsibility shifts to monitoring in order to see if the person is receiving and benefiting from the service. In the event a participant is being denied access to a service for which they are eligible, the agent then takes on an advocacy role for the participant.

Field supervision or making home visits is an important element. It is constructive to visit participants in their home situations to assess lifestyles, living arrangements and recovery. In the early phases of the program the agent will have at least two contacts weekly with participants. Random drug testing can also be conducted during field visits.

Cognitive skills programming is an evidence-based practice that has been incorporated into the programming for the offender population. The drug court probation agent will refer participants to, and may co-facilitate "Thinking for a Change" classes for drug court participants.

Probation supervision fees: Probation Agents will follow their own agencies guidelines for the assessment and collection of probation supervision fees from drug court participants.

### **ALCOHOL AND DRUG TESTING**

Drug testing is designed to deter future usage, to identify participants who are maintaining their abstinence and those who have relapsed and to guide the court when making treatment and sanction decisions.

1. Drug court participants will be drug tested as phase requirements indicate or when there is a suspicion of drug use. Random drug testing will occur at the treatment program, by the probation agent, at the county jail, during knock and chats.
2. Drug testing will be completed by saliva or by urine. All positive drug screens will be confirmed by a urinalysis, unless there is an admission. Missed and adulterated tests are considered positive tests and will be sanctioned.
3. Policies and procedures for collecting and processing drug tests will be followed according to each county's or agency's already established protocols.
4. A drug testing call-in line will be established and participants will be assigned an individualized personal identifier. Each participant will be required to call the drug testing line on a daily basis and if they are specified to submit to testing code they need to report to the jail during the hours specified by the facility for testing. If a participant tests positive at the jail, they will be held and brought before the drug court judge for a hearing.
5. Tests will be randomly sent to a lab (every 6-8 weeks) to test for other substances not included in the 5 or 6 panel field tests which will be normally be administered.
6. EtG testing will be suspended pending the resolution of energy drinks and related positive tests.

### **SANCTIONS AND INCENTIVES**

Drug Court policy addresses a coordinated strategy to govern drug court responses to compliance. This strategy, commonly referred to as "sanctions and incentives," is a fundamental part of any drug court program. In applying incentives and sanctions, the ultimate goal is not punishment; it is to change behavior. Because addiction is a chronic condition, it is recognized that relapse is common and is part of the recovery process, particularly in the first several months following a participant's admission into the program. The early stages of treatment will focus on strategies to identify situations that stimulate cravings and relapse and help the participant develop skills to cope with these situations.

Although drug courts recognize that addicts have a propensity to relapse, *continuing use is not condoned*. The drug court will impose appropriate responses for continuing drug or alcohol use, and responses will increase in severity for continued failure to abstain.

A participant's progress is measured not only by abstinence and compliance with treatment, but also with overall compliance with court rules. While cessation of drug use is the definitive goal, it is a long term goal and can often seem overwhelming. Therefore, incremental progress, such as showing up at court, arriving at treatment on time, attending and participating in the treatment sessions, cooperating with staff, and submitting to regular drug testing will be recognized.

Small rewards for incremental successes such as grocery or gas certificates have an important effect on a participant's sense of accomplishment. The coordinator will, as funding allows, purchase a variety of incentives and maintain a tracking system of who has received monetary incentives. The incentives will be kept in a file drawer in the Drug Court Coordinator's office.

All participants who meet sobriety milestones (30-60-90, 6 months, 9 months, one year) will be a reward determined by the drug court team.

**Sanctions must be predictable, controlled and consistent.**

Participant's ability to perceive fairness in sanctions and incentives is extremely important. A matrix or continuum of responses is in Appendix D. Whether this matrix is absolute or flexible is at the local court's discretion. If courts choose a more flexible matrix, the judge should articulate why different people are receiving different responses. A list of possible incentives and sanctions is included in the participant handbook and will be explained to them during orientation.

A drug court program violation is not the same as a probation violation. The participant drug court agreement states: I understand that by participating in the SCDC program that I give up my right to a violation hearing if I am taken into custody for a period of time no longer than 72 hours (excluding weekends and holidays) for a violation of a condition of the SCDC, and this will NOT be considered a violation of probation.

**Sanctions should be imposed as close to the behavior as possible.**

Sanctions need not be painful, humiliating or injurious, but they must be of sufficient intensity, and they must be delivered as soon as possible after every infraction. Undesirable behavior must be reliably detected and sanctioned at every instance; otherwise the participant is effectively placed on an intermittent schedule and the perception of fairness is at risk. Confirmation drug testing is an important tool in resolving discrepancies and helping disrupt the user's denial.

**Separate Judicial and Treatment Responses**

Participants should perceive a difference between treatment responses and judicial/program responses to avoid negative associations with treatment. For example, a relapsing participant might require residential treatment, but this should be described and understood as a treatment response and not a punishment. To maintain the distinction, the participant should simultaneously receive a program sanction, such as community service or increased court contacts.

<b>RESPONSES TO BEHAVIOR</b>	
<b>ACHIEVEMENTS</b>	<b>REWARDS</b>
<ul style="list-style-type: none"> <li>• Attending court appearances</li> <li>• Negative drug test results</li> <li>• Attendance and participation in treatment</li> <li>• Attendance and participation in support meetings</li> <li>• Obtaining educational goals (GED, etc.)</li> <li>• Job Promotion</li> <li>• Compliance with treatment plan</li> <li>• Assist other participants with transportation, child care, etc. so they can attend their drug court required meetings</li> <li>• Obtain stable and appropriate housing</li> <li>• Obtain and maintain employment</li> <li>• Current with child support payments</li> <li>• Complete parenting classes</li> <li>• Positive community involvement</li> <li>• Meeting sobriety milestones</li> </ul>	<ul style="list-style-type: none"> <li>• Recognition by the Judge</li> <li>• Courtroom recognition</li> <li>• Certificates of achievement</li> <li>• Later curfew</li> <li>• Phase advancement</li> <li>• Fee reduction</li> <li>• Gift certificates-coupons to local establishments (gas, fast food, restaurants, grocery store, movie passes, haircuts, car repairs, video rental, etc.)</li> <li>• Lunch with the Judge or other team member</li> <li>• Medical/dental assistance vouchers</li> <li>• Fishbowl drawing</li> <li>• Sports tickets</li> <li>• Transportation vouchers to treatment, probation and court</li> <li>• Job placement assistance</li> <li>• Scholarships</li> <li>• Books</li> <li>• Accelerated Phase advancement</li> <li>• Gas cards</li> <li>• Key chains or medallions</li> </ul>
<b>CHOICES</b>	<b>CONSEQUENCES</b>
<ul style="list-style-type: none"> <li>• Dishonesty</li> <li>• Missed court appearances</li> <li>• Missed appointment with probation officer</li> <li>• Missed support meetings</li> <li>• Violation of court order</li> <li>• Positive or missed drug test</li> <li>• Tampered drug test</li> <li>• Missed treatment</li> <li>• Inappropriate behavior at treatment facility</li> <li>• New arrest</li> <li>• Failure to perform sanctions</li> <li>• Noncompliance with treatment plan</li> </ul>	<ul style="list-style-type: none"> <li>• Verbal reprimand from the Judge</li> <li>• Increased court appearances</li> <li>• Increased drug testing</li> <li>• Phase demotion</li> <li>• Essay presented to Judge</li> <li>• Additional community work service hours</li> <li>• Jail or holding cell</li> <li>• Termination from the program</li> <li>• Electronic monitoring</li> <li>• Increase time in Phase</li> </ul>

### **ANCILLARY SERVICES**

Ancillary services include all of the community based organizations and other entities that are able to provide supportive services and address the recovery support needs of participants and their families. Some examples include:

Many local business and foundations may be able to provide incentives for the program participants such as gift certificates, coupons for sporting or entertainment events, or assist a family in paying for necessities such as electricity or water bills.

## ETHICS AND CONFIDENTIALITY

Drug courts alter the traditional relationships between justice system officials and treatment providers. Participants may waive certain rights in order to enter a drug court program; however, the fundamental rights of each participant to representation and due process should not be jeopardized.

Eligible participants must be given the opportunity to consult with an attorney prior to entering the program. Participants should be clearly informed of the requirements of the program including possible sanctions they may be exposed to for noncompliance. While the drug court team may make recommendations regarding participant placement, sanctions, incentives, etc., all judicial decisions remain the responsibility of the judge.

Two Federal laws and a set of regulations guarantee the strict confidentiality of information about persons – including participants – receiving alcohol and drug abuse assessment and treatment services. The legal citations for these laws and regulations are 42 U.S.C. SS 290dd-3 and 42 C.F.R. Part 2. These laws and regulations are designed to protect patients' privacy rights in order to attract people into treatment. These regulations state that information cannot be disclosed without written consent of the participant. However, federal laws do not protect any information regarding suspected child abuse or neglect from being reported.

The following is a statement adopted by the SCDC planning team regarding ethics and statements of clients:

***The primary purpose of this program is treatment. Therefore, any statements made by anyone participating in the SCDC Adult Drug Court program shall not be used against him or her in any subsequent adversarial proceeding. However, statements made by a participant in the SCDC drug court program which pertain to child abuse or neglect may be used against the participant in a subsequent adversarial proceeding(s). Also, any unsolicited, spontaneous statements made by the participant in open court, which refers to unrelated criminal activity and which are not related to the participant's participation in the SCDC, may be admissible in other criminal proceedings and such admissibility shall be determined in an evidentiary hearing according to the Rules of Evidence.***

## Appendix A

### MEMORANDUM OF UNDERSTANDING LINCOLN, LYON & REDWOOD COUNTIES And LOWER SIOUX INDIAN COMMUNITY SOUTHWEST AREA COMMUNITY DRUG COURT

#### **Intent of Project:**

The Lincoln, Lyon, Redwood Counties and the Lower Sioux Indian Community have developed the Southwest Area Community Drug Court (SCDC) with the intention to create efficiencies and maximize resources in order to more effectively address the increasing numbers of alcohol and other drug (AOD) offenders coming into Minnesota courts, including the increase in methamphetamine offenders. All parties involved concur that a more effective treatment alternative is needed to cope with the problem. The purpose is to channel non-violent defendants into a comprehensive program of drug treatment and rehabilitation services. The SCDC will begin operations in the Lyon and Redwood counties government centers located in Marshall and Redwood Falls respectively, and will serve the participating three county areas including the Lower Sioux Indian Community. The Fifth Judicial District requested and received a \$350,000 grant for the operation of the SCDC from the federal Department of Justice - Bureau of Justice Assistance; and these funds are to be expended by August 31, 2012.

#### **PROGRAM GOALS AND OBJECTIVES:**

##### **The primary objectives of the SCDC are to:**

- Minimize duplication of efforts and ensure greater coordination among all court supervised drug treatment programs in the pilot project area.
- Maximize coordination and sharing of scarce treatment resources
- Strengthen efforts to obtain state and federal funding
- Facilitate development of coordinated and long-range plans for financing drug court operations
- Develop and test an operational model for multi-county drug court programs

##### **Although individual Drug Court Programs will vary, the goals common to all are to:**

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

All programs are intended to reflect the unique needs and operational environments of the local jurisdictions. However, it is also clear that there is a need for overall uniformity as to basic program components and operational procedures and principles. Therefore, this document is an attempt to outline the minimum roles needed in order to implement the program.

The following section outlines the duties each party agrees to perform as part of the SCDC Project subject to the availability of adequate departmental and outside resources:

##### **Fifth Judicial District Administration**

- Provide a district court judge or judges, on a part-time basis, to lead the Drug Court Program who will also cooperate in referring eligible defendants to the Drug Court, when appropriate.

- Provide a multi-county coordinator to administer the overall project
- Provide necessary court administration staff necessary for court operations
- Provide necessary equipment to manage the court's operations.
- Develop operational standards and policies and an evaluation instrument
- Assist in the training and application of a web-based software program for data collection and report generation.

### **Minnesota Department of Corrections**

- Provide corrections agent(s) to staff the Drug Court.
- Screen drug court referrals, to include risk assessment factors and provide pre-trial supervision as requested
- Provide community supervision and drug testing.
- Agree to designate a representative to serve on the SCDC steering committee to oversee the development and implementation of the program.

### **Lincoln County, Lyon County, Redwood County and Lower Sioux Indian Community**

- Agree to designate a representative to serve on a SCDC steering committee to oversee the development and implementation of the program.
- Support the agencies listed below in developing the SCDC program

#### County Attorney

- Provide a county attorney or assistant county attorney, on a part-time basis, to attend SCDC team staffings and court hearings.
- Screen offenders and make appropriate referrals for participation in the SCDC program.
- Protect the rights of victims of offenders involved in SCDC.

#### County Sheriff

- Provide transportation for eligible Drug Court defendants from the jail to Court.
- Provide housing and transportation for SCDC participants ordered into custody as part of the program.
- Provide a location for interviews, for the various agency representatives involved in the screening process of defendants awaiting drug court arraignment.
- Provide officers to “conduct knock and chats” with participants.

#### County Social Services:

- Upon request, conduct chemical use evaluations and make public funding determinations in an expedited manner for individuals being considered for drug court participation.
- Monitor the performance of the Drug Court treatment provider as established by contract.

### **Local Law Enforcement Agencies**

- Provide officers to “conduct knock and chats” with participants.
- Allow officers to participate in drug court team and steering committee meetings as time permits



## **DUTIES AND EXPECTATIONS OF PARTIES:**

Drug Courts are built upon a unique partnership between the criminal justice system and the drug treatment community, one which structures treatment interventions around the authority and personal involvement of a single Drug Court Judge.

### **All involved parties agree to:**

1. Cooperate with efforts to establish a qualified drug court program which meets minimum standards for state funding.
2. Assign staff and alternates as necessary, to be dedicated to the Drug Court Team based on personal interest in the program, interpersonal skills, motivation and professional abilities. Whenever feasible, staff assignments to the Drug Court should be for a minimum of one year to ensure stability and continuity of day to day operations and to strengthen collaborative relationships between the key professionals.
3. Allow drug court assigned staff to participate in orientation and mandatory training in the Drug Court concept and the day-to-day operations.
4. Agree to make appropriate adjustments to internal policies, practices and procedures to ensure successful day-to-day operations of the program.
5. Agree to assist in the collection of data for the Drug Court Program.

## **FISCAL MANAGEMENT**

### **Fiscal Agent**

The Fifth Judicial District will serve as the primary fiscal agent for any multi-county expenses reimbursable through multi-county problem solving courts grants. Upon review and approval by the multi-county steering committee, all participating counties agree to allow the Fifth Judicial District to serve as the signatory on any multi-county drug court contracts made with outside vendors.

### **Documentation and Audits**

Documentation deemed acceptable to support activities for services reimbursable under the multi-county grant shall be maintained and made available upon request. Each court should establish, document and determine record retention requirements in compliance with applicable governmental or jurisdictional rules and regulations. The use of public funds distributed by the MN Supreme Court is subject to state audit and must be used in accordance with state law. Each individual drug court is responsible for proper use of public funds allotted to it.

## **INDEMNIFICATION AND INSURANCE**

Each party shall be liable for its own acts to the extent provided by law. To the extent permitted by law, the parties agree to indemnify, hold harmless, and defend the other, its officers and employees against any and all liability, loss, cost, damages, expense, claims or actions, including attorney's fees which the other, its officers and employees may hereafter sustain, incur, or be required to pay, arising out of or by reason of any act or omission of the party, its agents, or employees, in the execution, performance, or failure to adequately perform its obligations pursuant to this Agreement. It is understood and agreed that the parties' liability shall be limited by the provisions of the Municipal Tort claims Act, Minn. ch. 466 or applicable law.

Each party to this agreement shall obtain and maintain such workers compensation insurance, automobile and general liability insurance for bodily injury, personal injury and property damage for the officials, the employees and third parties in the performance of duties arising from this Agreement as appropriate.

## **SEVERABILITY**

The provisions of this Agreement are severable. If any part of this Agreement is rendered void, invalid, or unenforceable, such rendering shall not affect the validity and enforceability of the remainder of this agreement unless the part or parts that are void, invalid or otherwise unenforceable substantially impair the value of the entire Agreement with respect to any of the parties.

## **COMMITMENT AND WITHDRAWAL**

Each Participating Board shall have the right to annually review its participation and any financial commitment when and if there is a change in the existing funding mechanisms and legislation as it relates to the mission of this Agreement. 1) Other than in-kind services of county representatives, no county funds may be expended, pledged, contracted for or spent without approval of the county board. 2) Withdrawal from this agreement shall become effective upon 30 days written notice of the withdrawal to the county auditors/administrators and to the 5<sup>th</sup> Judicial District Administration at the addresses listed below. No new liability shall be assumed or assessed against a withdrawing member after the date of withdrawal.

## **LEGAL ADDRESSES OF PARTICIPATING ENTITIES**

Lincoln County  
319 N. Rebecca  
PO Box 29  
Ivanhoe, MN 56142

Lyon County  
607 West Main Street  
Marshall, MN 56258

Redwood County  
250 So. Jefferson  
PO Box 130  
Redwood Falls, MN 56283-0130

Fifth Judicial District  
Administration  
410 So. 5<sup>th</sup> Street  
PO Box 3366  
Mankato, MN 56002-3366

Lower Sioux Indian Community  
39458 Res. Highway 1  
PO Box 308  
Morton, MN 56270

## **DISPOSITION OF PROPERTY AND FUNDS**

At such time as this Agreement is terminated, all property owned pursuant to this Agreement shall be distributed to the parties to this Agreement. The distribution of assets and surplus money originating from sources other than the parties to this Agreement shall be made according to the terms pursuant to which the assets or money initially were received.

## **EFFECTIVE DATE**

This Agreement shall be in full force and effect when all parties have executed this Agreement and shall continue in force until either terminated or changed by law, agreement of the parties, or in the event all Counties that are parties to this Agreement withdraw.

IN WITNESS THEREOF, the parties have caused their duly authorized representatives to execute this Agreement.

**LYON COUNTY PLANNING TEAM MEMBERS**

**As of August 24, 2009**

**\* Indicates Steering Committee Member**

<b>NAME</b>	<b>Address</b>	<b>Phone</b>	<b>Fax</b>	<b>Email Address</b>
Dr. Timothy Beyer Psychiatrist	University Psychiatry Associates 1104 E. College Drive Marshall, MN 56258	507-337-2923		<a href="mailto:Timothy.beyer@mckennan.org">Timothy.beyer@mckennan.org</a> <a href="mailto:Kim.Culligan@averamarshall.org">Kim.Culligan@averamarshall.org</a>
Karen Bierman* Court Administrator	Fifth Judicial District Lyon County Courthouse 607 W. Main Street Marshall, MN 56258	507-537-6739		<a href="mailto:Karen.bierman@courts.state.mn.us">Karen.bierman@courts.state.mn.us</a>
Hon. Leland Bush* District Court Judge	Fifth Judicial District Lyon County Courthouse 607 W. Main Street Marshall, MN 56258	507-537-6758	507-532-3411	<a href="mailto:Leland.bush@courts.state.mn.us">Leland.bush@courts.state.mn.us</a>
Paula Curry Sergeant	Marshall Police Department 611 West Main Street Marshall, MN 56258	507-537-7000	507-829-6542	<a href="mailto:Paula.curry@marshallmn.com">Paula.curry@marshallmn.com</a>
Eve DeBaere Corrections Agent	MN Department of Corrections 601 Hwy. 59 North Marshall, MN 56258	507-537-6918 ext. 108		<a href="mailto:Eve.k.debaere@state.mn.us">Eve.k.debaere@state.mn.us</a>
Hon. Michelle Dietrich* District Court Judge	Fifth Judicial District Lyon County Courthouse 607 W. Main Street Marshall, MN 56258	507-537-6741		<a href="mailto:Michelle.dietrich@courts.state.mn.us">Michelle.dietrich@courts.state.mn.us</a>
Rick Forde Program Director	Project Turnabout 1220 Birch Street Marshall, MN 56258	507-532-3008	507-532-3058	<a href="mailto:rforde@projectturnabout.org">rforde@projectturnabout.org</a>
Kurt Hoehne Corrections Agent	MN Department of Corrections 601 Hwy. 59 North Marshall, MN 56258	507-537-6918 ext. 105		<a href="mailto:Kurt.hoehne@state.mn.us">Kurt.hoehne@state.mn.us</a>
Rick Maes* County Attorney	Lyon County Attorney's Office 607 W. Main Street Marshall, MN 56258	507-537-6755	507-537-7495	<a href="mailto:Rickmaes@co.lyon.mn.us">Rickmaes@co.lyon.mn.us</a>
Mark Mather* Sheriff	Lyon County Sheriff's Dept. 611 W. Main Street PO Box 28 Marshall, MN 56258	507- 537-7666	507-537-7428	<a href="mailto:markmather@co.lyon.mn.us">markmather@co.lyon.mn.us</a>
Cecil Naatz* Public Defender	Office of Public Defender 601 Jewett Street Marshall, MN 56258	507-537-6062	507-537-6857	<a href="mailto:Cecil.naatz@state.mn.us">Cecil.naatz@state.mn.us</a>
Brad Odegard* District Supervisor	MN Department of Corrections 601 Hwy. 59 North Marshall, MN 56258	507-537-6918 ext. 106	507-537-7111	<a href="mailto:Brad.odegard@state.mn.us">Brad.odegard@state.mn.us</a>
Brenda Pautsch* Drug Court Manager	Fifth Judicial District 410 So. 5 <sup>th</sup> Street, PO Box 3366 Mankato, MN 56002-3366	507-388-5204 ext. 253; cell: 507-995-2366	507-388-5397	<a href="mailto:Brenda.pautsch@courts.state.mn.us">Brenda.pautsch@courts.state.mn.us</a>
Scott Radloff LSW/Rule 25 Assessor	Lincoln-Lyon-Murray Human Services 607 W. Main Street Marshall, MN 56258	507-537-1207	507-537-6088	<a href="mailto:sjr@llmhs.com">sjr@llmhs.com</a>

Eric Wallen Sergeant	Lyon County Sheriff's Dept. 611 W. Main Street, PO Box 28 Marshall, MN 56258	507-537-7666	507-537-7428	<a href="mailto:ericwallen@co.lyon.mn.us">ericwallen@co.lyon.mn.us</a>
Tricia Zimmer Asst. County Attorney	Lyon County Attorney's Office 607 W. Main Street Marshall, MN 56258	507-537-6755	507-537-6495	<a href="mailto:triciazimmer@co.lyon.mn.us">triciazimmer@co.lyon.mn.us</a>
County Commissioner*	Lyon County			

**REDWOOD COUNTY PLANNING TEAM MEMBERS**

As of August 24, 2009

\*Indicates Steering Committee Member

NAME	Address	Phone	Fax	Email Address
Patty Amberg* Court Administrator	Redwood County PO Box 130 Redwood Falls, MN 56283	507-637-4018	507-637-4070	<a href="mailto:Patty.amberg@courts.state.mn.us">Patty.amberg@courts.state.mn.us</a>
Lori Anderson Corrections Agent	MN Department of Corrections 267 E. 2 <sup>nd</sup> Street PO Box 130 Redwood Falls, MN 56283	507-637-4047		<a href="mailto:lori.anderson@state.mn.us">lori.anderson@state.mn.us</a>
Joel Bill Narcotics Agent	Redwood County Sheriff's Dept. 303 E. 3 <sup>rd</sup> Street Redwood Falls, MN 56283	507-637-4600	507-637-4007	<a href="mailto:Joel_b@co.redwood.mn.us">Joel_b@co.redwood.mn.us</a>
Mark Dressen	Redwood Falls Police Department			<a href="mailto:Mark.dressen@ci.redwood-falls.mn.us">Mark.dressen@ci.redwood-falls.mn.us</a>
Rick Forde Program Director	Project Turnabout 1220 Birch Street Marshall, MN 56258	507-532-3008	507-532-3058	<a href="mailto:rforde@projectturnabout.org">rforde@projectturnabout.org</a>
Duane Frank Corrections Agent	MN Department of Corrections 267 E. 2 <sup>nd</sup> Street PO Box 130 Redwood Falls, MN 56283	507-637-4047		<a href="mailto:Duane.d.frank@state.mn.us">Duane.d.frank@state.mn.us</a>
Roman George* District Supervisor	Corrections Dept - Courthouse 325 Sibley Ave No Litchfield, MN 55355	320-373-6963		<a href="mailto:Roman.george@state.mn.us">Roman.george@state.mn.us</a>
Scott Gilsrud	Redwood County Human Services			<a href="mailto:Scott_g@co.redwood.mn.us">Scott_g@co.redwood.mn.us</a>
Randy Hanson* Sheriff	Redwood County Sheriff's Dept.	507-637-4036	507-637-4007	<a href="mailto:randy_h@co.redwood.mn.us">randy_h@co.redwood.mn.us</a>
Hon. George Harrelson* Senior District Court Judge	PO Box 242 Marshall, MN 56258	507-829-9373	507-537-0766	<a href="mailto:George.harrelson@courts.state.mn.us">George.harrelson@courts.state.mn.us</a> <a href="mailto:georgeharrelson@ymail.com">georgeharrelson@ymail.com</a>
Robert Johnson Corrections Agent	MN Department of Corrections 267 E. 2 <sup>nd</sup> Street PO Box 130 Redwood Falls, MN 56283	507-637-4047 ext. 102	507-637-4070	<a href="mailto:Robert.johnson@state.mn.us">Robert.johnson@state.mn.us</a>
Nancy Knutson Treatment Counselor	Project Turnabout Redwood Falls, MN 56283	507-637-8783	507-637-8783	<a href="mailto:nknutson@projectturnabout.org">nknutson@projectturnabout.org</a>

Mahlon Mace*	Redwood County PO Box 130 Redwood Falls, MN 56283	507-995-2366		mahlon.mace@courts.state.mn.us
Kurtis Parlin Law Clerk	Redwood County PO Box 130 Redwood Falls, MN 56283	507-637-4018	507-637-4070	<a href="mailto:Kurtis.parlin@courts.state.mn.us">Kurtis.parlin@courts.state.mn.us</a>
Brenda Pautsch* Drug Court Manager	Fifth Judicial District 410 So. 5 <sup>th</sup> Street, PO Box 3366 Mankato, MN 56002-3366	507-388-5204 ext. 253; cell: 507-995-2366	507-388-5397	<a href="mailto:Brenda.pautsch@courts.state.mn.us">Brenda.pautsch@courts.state.mn.us</a>
Hon. David Peterson* District Court Judge	Redwood County Courthouse PO Box 130 Redwood Falls, MN 56283	507-637-4018	507-637-4070	<a href="mailto:David.peterson@courts.state.mn.us">David.peterson@courts.state.mn.us</a>
Patrick Rohland* County Attorney	Redwood County Attorney's Office 220 So. Jefferson, PO Box 130 Redwood Falls, MN 56283	507-637-4010	507-637-4012	<a href="mailto:Patrick@co.redwood.mn.us">Patrick@co.redwood.mn.us</a>
Andrew Schmidt* Police Chief	Lower Sioux Indian Community 39458 Res. Highway 1 PO Box 308 Morton, MN 56270	507-697-6185 ext. 2530 Cell: 507-430-0699	507-697-8617	<a href="mailto:aschmidt@lowersioux.com">aschmidt@lowersioux.com</a>
Thomas VanHorn* Public Defender	1101 SE First Street PO Box N Fairfax, MN 55332	507-426-7339	507-426-8311	<a href="mailto:thomasvanhorn@yahoo.com">thomasvanhorn@yahoo.com</a>

## APPENDIX B

### GOALS AND OBJECTIVES

At program start up data gathering will begin in order to complete an outcome evaluation after 18 months of drug court implementation. The following goals and objectives will be the target of the initial evaluation. A process evaluation which will be based on the Ten Key Components will consist of independent observation of the drug court team staffings and court hearings, and surveys of drug court team members, steering committee members and participants every six months. A cost-benefit analysis will be completed at the end of the third year of operation, tentatively 2012.

#### **GOAL 1: REDUCE CRIME.**

Objective A: Participation in drug court compared to traditional court processing reduces the number of re-arrests for participants.

Performance Measures:

1. Percentage of active and terminated drug court participants and comparison group members that recidivate within two years after drug court entry.

#### **GOAL 2. REDUCE SUBSTANCE ABUSE.**

Objective A: Reduction in the number of positive UA tests of drug court participants.

Performance measures:

1. Percentage of positive UAs over 12 months in the program.
2. Number and percentage of drug related re-arrests for drug court participants (active and terminated) and comparison group members who had at least 24 months of data from their drug court entry date.

Objective B: Drug court participants follow the program through graduation.

Performance Measures:

1. Time spent in the program
2. Time between drug court arrest and drug court entry
3. Time in program until graduation
4. Time in program until termination

#### **GOAL 3: REDUCE SYSTEM COSTS.**

Objective A: Drug court candidates and participants spend less time in jail than individuals in the traditional court process.

Performance Measures:

1. Number of jail days served by participants and a comparison group prior to sentencing.
2. Number of jail days served by participants and a comparison group 24 months after program entry.

Objective B: The children of drug court participants spend fewer days in out of home care than those of other drug-involved offenders.

Performance Measures:

1. Number of days children spend in out of home placement
2. Number of children in out of home placement who are returned to their parents as compared to other drug involved parents.

**GOAL 4: IMPROVED LIFE CIRCUMSTANCES OF OFFENDERS.**

Participants are physically and financially self-sufficient by the time they graduate from the program.

Performance Measures:

1. Percentage of participants and comparison group who have steady employment
2. Percentage of participants and comparison group who have their high school diploma or GED
3. Percentage of participants who have safe and appropriate housing.

**PROCESS EVALUATION**

Objective:

Implement National Drug Institute's 10 key components and standards adopted by the Minnesota Judicial Branch.

Performance Measures:

1. Drug courts integrate alcohol and other drug treatment services with justice system case processing.
2. Drug courts must utilize a comprehensive and inclusive collaborative planning process.
3. Using a non-adversarial approach, prosecution and defense counsel promote public safety while protecting participants' due process rights.
4. Eligible participants are identified early and promptly placed in the drug court program.
5. Drug courts provide access to a continuum of alcohol, drug, and other related treatment and rehabilitation services.
6. Abstinence is monitored by frequent alcohol and other drug testing.
7. A coordinated strategy governs drug court responses to participants' compliance.
8. Ongoing judicial interaction with each drug court participant is essential.
9. Monitoring and evaluation measure the achievement of program goals and gauge effectiveness.
10. Continuing interdisciplinary education promotes effective drug court planning, implementation and operations.
11. Forging partnerships among drug courts, public agencies, and community-based organizations generates local support and enhances drug court program effectiveness.

## APPENDIX C

### VIOLENT OFFENSES FOR DRUG COURT

The Southwest Community Drug Court is funded with funds from the Bureau of Justice Administration. This funding source prohibits the treatment of Violent Offenders in the Drug Court. The definition of Violent Offenders can be determined by the Drug Court Team. The Drug Court Team has established that it is in all members' and prospective participants' best interests to establish a schedule of violations of Minnesota law which will be considered to be disqualifying offenses for participation in Southwest Community Drug Court. The list is as hereinafter provided:

#### **FELONY VIOLATIONS OF THE FOLLOWING MINNESOTA STATUTES:**

Minn. Stat. § <a href="#">518B.01, subdivision 14</a>	Violation of Domestic Abuse Order for Protection
Minn. Stat. § <a href="#">518B.01, subdivision 22</a>	Violation of Domestic Abuse No Contact Order
Minn. Stat. § 609.165	Felon in Possession of a Firearm
Minn. Stat. § <a href="#">609.185</a>	First Degree Murder
Minn. Stat. § <a href="#">609.19</a>	Second Degree Murder;
Minn. Stat. § 609.195	Third Degree Murder
Minn. Stat. § 609.20	First Degree Manslaughter
Minn. Stat. § 609.205	Second Degree Manslaughter
Minn. Stat. § 609.21	Criminal Vehicular Homicide
Minn. Stat. § <a href="#">609.221</a>	First Degree Assault
Minn. Stat. § <a href="#">609.222</a>	Second Degree Assault
Minn. Stat. § <a href="#">609.223</a>	Third Degree Assault
Minn. Stat. § <a href="#">609.2231</a>	Fourth Degree Assault
Minn. Stat. § <a href="#">609.224</a>	Fifth Degree Assault
Minn. Stat. § <a href="#">609.2242</a>	Domestic Assault
Minn. Stat. § <a href="#">609.2247</a>	Domestic Assault by Strangulation
Minn. Stat. § 609.228	Bodily Harm Caused by Drug Distribution
Minn. Stat. § 609.235	Use of Drugs to Injure or Facilitate Crime
Minn. Stat. § 609.24	Simple Robbery
Minn. Stat. § 609.245	Aggravated Robbery
Minn. Stat. § 609.25	Kidnapping
Minn. Stat. § 609.2661	Murder of an Unborn Child – First Degree
Minn. Stat. § 609.2662	Murder of an Unborn Child – Second Degree
Minn. Stat. § 609.2663	Murder of an Unborn Child – Third Degree
Minn. Stat. § 609.2664	Manslaughter of an Unborn Child – First Degree
Minn. Stat. § 609.2665	Manslaughter of an Unborn Child – Second Degree
Minn. Stat. § 609.267	Assault of an Unborn Child – First Degree
Minn. Stat. § 609.2671	Assault of an Unborn Child – Second Degree
Minn. Stat. § 609.268	Injury/Death of Unborn Child During Crime
Minn. Stat. § <a href="#">609.342</a>	First Degree Criminal Sexual Conduct
Minn. Stat. § <a href="#">609.343</a>	Second Degree Criminal Sexual Conduct
Minn. Stat. § <a href="#">609.344</a>	Third Degree Criminal Sexual Conduct
Minn. Stat. § <a href="#">609.345</a>	Fourth Degree Criminal Sexual Conduct
Minn. Stat. § <a href="#">609.377</a>	Malicious Punishment of a Child
Minn. Stat. § 609.498, subdivision 1	Tampering with a Witness
Minn. Stat. § 609.561	First Degree Arson
Minn. Stat. § 609.562	Second Degree Arson
Minn. Stat. § 609.582, subdivision 1	First Degree Burglary/Commit Crime



Minn. Stat. § 609.66, subd. 1e	Drive By Shooting
Minn. Stat. § 609.687	Adulteration
Minn. Stat. § <a href="#">609.748, subdivision 6</a>	Violation of Harassment Restraining Order
Minn. Stat. § <a href="#">609.749</a>	Harassment/Stalking)
Minn. Stat. § <a href="#">609.78</a> , subdivision 2	Interference with an Emergency Call
Minn. Stat. § 624.713	Ineligible Person in Possession of a Firearm

All similar laws of other states, the United States, the District of Columbia, tribal lands, and United States territories.

-----  
The definition of a Violent Offender is provided for in the *FY-2009 Resource Guide for Drug Court Applicants, Drug Court Discretionary Grant Program*, at Page 3, and states as follows:

**Violent Offender:** *for the purpose of BJA-funded adult, family, and tribal drug courts, a person who either:*

1. *Is charged with or convicted of an offense that is punishable by a term of imprisonment exceeding one year, during the course of which:*
  - A. *The person carried, possessed, or used a firearm or another dangerous weapon; and*
  - B. *There occurred the use of force against the person of another; or*
  - C. *There occurred the death of, or serious bodily injury to, any person, without regard to whether any of the circumstances described above is an element of the offense or conduct of which or for which the person is charged or convicted; or*
2. *Has one or more prior convictions of a felony crime of violence involving the use or attempted use of force against a person with the intent to cause death or serious bodily harm.*

*This definition is further explained by Appendix A: Frequently Asked Questions beginning on Page 29, dealing with adult drug court, which is attached hereto for reference.*

## Appendices

### Appendix A: Frequently Asked Questions

#### Adult Drug Courts

1. **Is an offender eligible for the drug court program if he or she has previously been convicted of a misdemeanor offense related to threatened or actual use of force or use, possession, or carrying of a firearm or another dangerous weapon?**

The statute's definition of violent offender specifically limits prior offenses, punishable by a term of imprisonment exceeding one year, that cause a person to be categorized as a "violent offender" to felony crimes of violence. If a person has a prior misdemeanor conviction, even though threatened or actual use of force or use, possession, or carrying of a firearm or another dangerous weapon occurred during the offense, the person is not a violent offender according to the statute. Therefore, the offender is eligible for the drug court program as long as his or her current offense does not fall within the violent offender definition.

2. **Is an offender eligible for the drug court program if he or she has a prior felony arrest (but not conviction) for an offense related to threatened or actual use of force or use, possession, or carrying of a firearm or another dangerous weapon?**

The statute's definition of violent offender specifically limits prior offenses, punishable by a term of imprisonment exceeding one year, that cause a person to be categorized as a "violent offender" to felony crimes of violence. Prior felony arrests are not included in this definition. If a person has a prior felony arrest, even though it involved threatened or actual use of force or

use, possession, or carrying of a firearm or another dangerous weapon, the person is not a violent offender according to the statute. Therefore, the offender is eligible for the drug court program as long as his or her current offense does not fall within the violent offender definition.

**3. Does the definition of violent offender include persons who legally use, possess, or carry a firearm or another dangerous weapon?**

OP and BSA interprets the definition of violent offender as being restricted to persons who illegally use, possess, or carry a firearm or another dangerous weapon. Therefore, offenders are not precluded from participation in a drug court for either using a legally licensed firearm or dangerous weapon in a legally justifiable way, such as in circumstances of self-defense, or possessing or carrying an otherwise legally licensed firearm or dangerous weapon.

**4. If a drug court client is charged with a violent crime, as defined by the statute, while in the program, must he or she be removed from the program? Does it matter if the new charge is a misdemeanor or a felony?**

Any new charge for a violent offense, as defined by the statute, whether a misdemeanor or a felony, prohibits the client from further or continued participation in the BJA-funded program. If and only if the violent charges are dropped or the client is found not guilty can the client reenter the program.

**5. Is an offender eligible for the drug court program if a charge that would qualify as a violent offense according to the definition above is dropped or reduced to a nonviolent offense?**

If a charge is dropped or reduced to a nonviolent offense, the offender is eligible for the drug court program. Charges that have been dropped cannot be considered when assessing whether an offender falls under the violent offender definition. Reduced charges are subject to the violent offender definition. Therefore, if the reduced charge does not qualify as a violent offense, then the offender is eligible.

## **OUTCOME EVALUATION**