

# Dodge County Impaired Driving Court Policy and Procedure Manual



**DODGE COUNTY**  

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**W I S C O N S I N**

**Guidelines and Program Information**

\*Revised September 2025

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# Introduction

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You are here because you have decided to empower yourself with tools to move forward towards positive change. Congratulations on taking the first step.

Dodge County Impaired Driving Court (IDC) is a five-phase intervention program for adults charged with a 3<sup>rd</sup> or 4<sup>th</sup> OWI offense related to alcohol and/or drug addiction and who are having difficulty maintaining sobriety. It is a collaborative effort between the Dodge County criminal justice system and our alcohol and drug treatment community. By working together, we seek to provide a variety of programs and supervision that support and help you maintain a drug and alcohol-free life.

This program's multifaceted approach utilizes a team concept made up of the Judge, IDC Case Manager, IDC Supervisor, Defense Attorney, District Attorney, Department of Corrections, law enforcement, and treatment professionals. It is a five-phase program, and the intensity of services decrease as participant's progress through the program.

In each phase, participants must comply with routine court appearances, case management appointments – including office and home visits, treatment requirements and random alcohol and drug testing. Intensive case management is a critical component to provide support and monitoring, assisting participants in reaching their goals.

Treatment for participants consists of the following: assessment and treatment planning, individual and/or group counseling for substance use and other issues, regular attendance at community self-help support meetings, and assistance with meeting individual participant needs, such as; education, life skills, parenting, financial and employment issues. Participants may seek AODA treatment outside of the Dodge County Health and Human Services Department; however, IDC reserves the right to require an alternative AODA treatment route if communication from the provider is unsatisfactory.

The average length of stay in the program is dependent on each participant's progress as they move through the five phases. Graduation **may** occur within fourteen months, but it could take longer based on the participant's treatment needs and compliance with program requirements.

IDC involves frequent court appearances, random drug testing, case management, community supervision, and alcohol and drug counseling including both individual and group sessions. All the staff working with IDC will assist you to be sure you understand what is expected of you and we encourage you to maintain consistent and open lines of communication with all parties. We are here to support and help you learn to live a sober life!

## Mission Statement

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To enhance public safety, improve lives, and reduce recidivism by addressing addictions of persons charged with or convicted of drug or alcohol related crimes through evidence-based treatment and case management.

## Program History

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Dodge County utilizes adult treatment court programs to reduce the negative impact of impaired driving and alcohol and drug addiction in the community. The Impaired Driving Court (IDC-formerly known as ATC-Alcohol Treatment Court) and Drug Treatment Court (DTC-formerly known as TAD-Treatment Alternative and Diversion Program) were established in 2015 and are modeled on the evidence-based national drug treatment court design, which has proven to advance public safety, reduce crime, and to improve the health of individuals and the community. Both programs promote recovery through a coordinated response to offenders who are dependent on drugs and alcohol. These goals are achieved through a team approach, and Dodge County continues to achieve success through the collaboration and cooperation of the Dodge County Circuit Court Judges, the Sheriff's Office and other law enforcement, the District Attorney's Office, the State Public Defender's Office, Dodge County Health and Human Services Department, the Wisconsin Department of Corrections and many other community stakeholders.

The IDC Program accepts offenders with nonviolent charges who are assessed to have a high probability to reoffend, have been charged with a 3<sup>rd</sup> or 4<sup>th</sup> OWI related offense, and who have a substance use disorder. Participants engage in integrated, evidence-based treatment and intensive case management services to address their addiction and individual issues such as mental health, employment, financial and family needs. Their progress toward sobriety and other program goals are strictly monitored through regular court appearances, case management meetings, and random drug testing.

Since 2015, Dodge County has contracted for case management services with JusticePoint, a Milwaukee based non-profit organization which provides evidence-based solutions to criminal justice system concerns. Program staff includes three case managers and one Program Director, who manage approximately 65-80 program participants a year. Dodge County Health and Human Services provides participants with a high level of care, and they are afforded counseling and treatment tailored to their individual needs.

Dodge County has continued to enhance services and make improvements to both programs to ensure participant accountability, and to provide participants with effective treatment and criminal justice programming to increase public safety. In 2015, the Wisconsin Association of Treatment Court Professionals developed treatment court standards to improve guidance to local courts in the planning and implementation of treatment courts. This has afforded the Dodge County programs the opportunity to make improvements in some areas to ensure adherence to these standards.

Both programs undergo continuous review through the Criminal Justice Collaborating Council (CJCC) formally adopted by Dodge County in 2014. The Dodge County CJCC has direct authority over both programs. The Council chairperson is currently Sherriff Dale Schmidt. The Wisconsin Department of Justice and the Wisconsin Department of Health Services, grant funders for these programs, also provide oversight, guidance and serve as resources. Program performance is continuously monitored, and this data is used to make specific program improvements and policy changes.

## Program Values

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*The work of our team contributes to community needs.* The Treatment Courts help improve family stability and identifies and addresses a range of underlying needs. The team provides a framework for addressing these needs and providing access to necessary services.

*Community values reflected in our team's decision making.* The Treatment Courts teams operate with values congruent to our community, promoting the ability for a person to be a self-sufficient and productive member of society.

## Goals and Objectives

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Dodge County Impaired Driving Court has the following primary goals:

- Reduce Recidivism among substance using defendants
- Provide an effective and accountable community-based alternative to incarceration
- Improve public safety
- Effectively manage limited criminal justice resources
- Enable all participants to sustain a substance free lifestyle and the ability to fulfil their life needs and goals.

The following ancillary goals and benefits are also achieved in pursuit of the primary goals:

- Reduce criminal justice costs through reduced reliance on incarceration for non-violent offenders
- Promote community awareness of Dodge County's substance abuse problem and community participation in solving it.

# Impaired Driving Court Team Members and Roles

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The team members for the Dodge County Impaired Driving Court includes the overseeing Judge, the IDC Program Director, IDC Case Managers, a District Attorney/Paralegal, a Defense Attorney, a Treatment Provider, a Community Corrections Officer, and a Law Enforcement Liaison. Each member of the team has a role and area of expertise that enhances the program effectiveness.

**Impaired Driving Court Judge:** Plays a continuous role in reviewing participant progress and responds to participant's positive efforts and noncompliance. The judge presides over IDC status hearings and team staffings and if actively involved in determining appropriate sanctions and incentives.

**Prosecutor:** District Attorney's Office makes the initial referral and assists in determining eligibility of each participant. Ensures community safety concerns are met by maintaining eligibility standards and will participate fully as a IDC team member.

**Defense Attorney:** Ensures the constitutional rights of participants are protected and will participate fully at a IDC team member.

**Coordinator:** Provides general oversight to the treatment court including grant reporting, budget detail, program support, funding solicitation, and community outreach. The coordinator participates fully as a IDC team member.

**Case Manager:** Provides comprehensive case management services for participants and participates fully as a IDC team member.

**Probation Agent:** Provides supervision on behalf of the Department of Corrections for participants and participates fully as a IDC team member.

**Law Enforcement Liaison:** Serves as a link between law enforcement agencies and the treatment court team in monitoring participants.

**Treatment Provider:** Provides evidence-based treatment services to participants, reports progress in treatment to the team, and advises on appropriate therapeutic behavior responses. The treatment provider participates fully as a IDC team member.

## Coordinating Committee

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The Criminal Justice Coordinating Council was established in 2014 to assist and guide the Dodge County Drug Treatment Court and Impaired Driving Court programs. The Council reviews the DTC and IDC grants and expenditures and assists with the development of the programs to help ensure the program mission is upheld. The principal mission of the Council is to improve the administration of justice and promote public safety through planning, research, education, and system-wide coordination of criminal justice initiatives. The voting members of the Council are:

- A Circuit Court Judge selected by the Dodge County Circuit Court Judges
- County Administrator
- Sheriff
- District Attorney
- State Public defender
- Department of Human Services Director
- Department of Corrections, Division of Community Services
- Member of Law Enforcement Committee or Human Services and Health Board as selected by the Chairperson of the Dodge County Board of Supervisors
- A representative of substance abuse treatment providers selected by a majority of the voting members of the Council
- A representative from a private social services agency selected by a majority of the voting members of the Council

## Program Entry Process

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### Referral Process

1. Referrals may be made by the District Attorney's office, probation agent, defense attorney, jail program coordinator, treatment professional or the defendant. Referrals can be made through Dodge County Health and Human Services website at: <http://www.co.dodge.wi.gov/government/departments-p-z/treatment-alternatives-and-diversion>
2. If the Defendant wishes to proceed, a formal criminogenic risk and needs assessment tool will be completed with a case manager. All assessment information will be presented to the Treatment Court Team for acceptance or denial to the program. If the Team approves defendant acceptance and the defendant agrees to participate, a plea and sentencing hearing will be scheduled to occur as soon as possible. The defendant will:
  - a. Enter a plea of guilty or no contest to the relevant charges.
  - b. Voluntarily agree to participate in the Dodge County Impaired Driving Court Program and recommended services based on the completed assessment.
  - c. Appear for regular court status hearings.
  - d. Submit to drug and alcohol testing on a random basis.

- e. Attend scheduled AODA sessions, case management and probation meetings.

**Note:** Entry into the program is the decision of the Treatment Court Team. A defendant does not have a “right” to admission. The decision is made prior to admission to the program.

## Eligibility Criteria

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This program is designed to serve both high risk/high need individuals who have significant substance abuse problems. To be eligible to participate in IDC, a defendant must meet the following criteria:

- 18 years of age or older.
- Dodge County resident upon admission and for the duration of the program.
  - “Residence” is defined as a home, condominium, residential hotel, or a mobile home on a fixed site within Dodge County. A car, motorized vehicle, or emergency or temporary shelters are not considered county residence.
- Found guilty of 3<sup>rd</sup> or 4<sup>th</sup> offense OWI, PAC, or RCS
- Cannot be a violent offender based on Federal definition grant and adopted by Dodge County.
- Be evaluated as having a substance use disorder using a validated substance use disorder screening, assessment, or diagnostic tool such as, TCU II and COMPAS Risk/Needs assessment.
- Be evaluated as medium to high criminogenic risk and need using the ORAS CST validated risk and needs assessment tool. A professional override in risk assessment score may occur if someone does not meet the predetermined risk level on the ORAS CST. Alternative screens such as the Impaired Driver Assessment and TCU 5 Drug Screen will be utilized to supplement the risk score and determine eligibility.
- Approval from District Attorney’s office to offer the program.
- If probation is deemed appropriate by the courts, you must remain on probation. Being revoked from probation, whether voluntarily or involuntarily, will result in termination from the program.
- Voluntarily agree to participate in the Dodge County Impaired Driving Court program.
- Cannot have an open criminal case with a sentence that conflicts with Dodge County Impaired Driving Court Program.
- Convicted of a mandatory exclusionary charge in which program admission is barred regardless of the age of the conviction.
- Repeat participation is at the discretion of the Treatment Court Team and is subject to program capacity.

**Note:** “Violent Offender” means a person to whom the following applies:

- The person has been charged with or convicted of an offense in a pending case and, during the course of the offense, the person carried, possessed, or used a dangerous weapon, the person used force against another person, or a person died or suffered serious bodily harm.
- The person has one or more prior convictions for a felony involving the use or attempted use of force against another person with the intent to cause death.

**Mandatory Excluding Convictions which bar program admission:**

- 940.01 – First Degree Intentional Homicide
- 940.02 – First-Degree Reckless Homicide
- 940.03 – Felony Murder
- 940.04 – Abortion (Exception Under 940.04(5) – See Statute)
- 940.05 – Second-Degree Intentional Homicide
- 940.06 – Second-Degree Reckless Injury
- 940.07 – Homicide Resulting from Negligent Control of Vicious Animal
- 940.08 – Homicide by Negligent Handling of Dangerous Weapon, Explosives or Fire
- 940.09 – Homicide by Intoxicated Use of Vehicle or Firearm
- 940.10 – Homicide by Negligent Operation of a Vehicle
- 940.11 – Mutilating or Hiding a Corpse
- 940.12 – Assisting Suicide
- 940.19 – Battery; Substantial Battery; Aggravated Battery
- 940.195 – Battery to an Unborn Child; Substantial Battery to an Unborn Child; Aggravated Battery to an Unborn Child
- 940.20 – Battery: Special Circumstances
- 940.201 – Battery or Threat to a Witness
- 940.203 – Battery or Threat to Department of Revenue Employee
- 940.207 – Battery or Threat to DSPS or DWD Employee
- 940.208 – Battery to Certain Employees of Counties, Cities, Villages, or Towns
- 940.21 – Mayhem
- 940.22 – Sexual Exploitation by Therapist; Duty to Report
- 940.225 – Sexual Assault
- 940.235 – Strangulation and Suffocation
- 940.24 – Injury by Negligent Handling of Dangerous Weapon, Explosives or Fire
- 940.302 – Human Trafficking
- 940.305 – Taking Hostages
- 940.31 – Kidnapping
- 941.20 – Endangering Safety by Use of Dangerous Weapon
- 941.296 – Use or Possession of a Handgun and an Armor-Piercing Bullet During Crime
- 941.30 – Recklessly Endangering Safety
- 941.32 – Administering Dangerous or Stupefying Drug
- 941.375 – Throwing or Discharging Bodily Fluids at Public Safety Workers
- 943.32 – Robbery – Use of Force
- 946.03 – Sedition
- 946.43 – Assault by Prisoners
- 948.02 – Sexual Assault of a Child
- 948.025 – Engaging in Repeated Acts of Sexual Assault of Same Child
- 948.04 – Causing Mental Harm to a Child
- 948.05 – Sexual Exploitation of a Child

948.051 – Trafficking of a Child  
948.055 – Causing a Child to View or Listen to Sexual Activity  
948.06 – Incest with a Child  
948.07 – Child Enticement  
948.075 – Use of a Computer to Facilitate a Child Sex Crime  
948.08 – Soliciting a Child for Prostitution  
948.081 – Patronizing a Child  
948.085 – Sexual Assault of a Child Placed in Substitute Care  
948.095 – Sexual Assault of a Child by School Staff Person or a Person Who Works  
or Volunteers with Children  
948.10 – Exposing Genitals, Pubic Area, or Intimate Parts  
948.12 – Possession of Child Pornography  
948.23 – Concealing or Not Reporting Death of a Child; Not Reporting  
Disappearance of a Child  
948.30 – Abduction of Another’s Child; Constructive Custody  
948.51(3)(b) – Hazing – Great Bodily Harm to Another  
948.51(3)(c) – Hazing – Death to Another

**Charges/Convictions Warranting Review Before Admission Into the Program - Felony**

346.04(3) – Felony Fleeing  
940.23 – Reckless Injury  
940.25 – Injury by Intoxicated Use of a Vehicle  
940.285 – Abuse of Individuals at Risk  
940.29 – Abuse of Residents of Penal Facilities  
940.295 – Abuse and Neglect of Patients and Residents  
940.30 – False Imprisonment  
940.32 – Stalking  
940.43 – Intimidation of Witnesses; Felony  
940.45 – Intimidation of Victims; Felony  
941.01(1) – Negligent Operation of a Vehicle  
941.12 – Interfering with Firefighting  
941.21 – Disarming a Police Officer  
941.24 – Possession of Switchblade Knife  
941.26/941.27 – Machine Guns/Other Weapons  
941.28 – Possession of Short-Barreled Shotgun or Short-Barreled Rifle  
941.29 – Possession of a Firearm  
941.291 – Possession of Body Armor  
941.295(1) – Possession of Electronic Weapon  
941.31 – Possession of Explosives  
941.31(2)(b) – Possession of Improvised Explosives  
941.325 – Placing Foreign Objects in Edibles  
941.327 – Tampering with Household Products  
941.37 – Obstructing Emergency or Rescue Personnel  
941.38(2) – Criminal Gang Member Solicitation of a Child  
943.02 – Arson of Buildings; Damage of Property by Explosives  
943.03 – Arson of Property Other than Building  
943.04 – Arson with Intent to Defraud  
943.06 – Molotov Cocktails  
943.10, 943.10(2)(a), 943.10(2)(b), 943.10(2)(c), 943.10(2)(d), 943.10(2)(e) – Burglary, Aggravated  
(Victim Present at any Point of Burglary)  
943.20(1)a & (3)d(5) – Theft of Firearm  
943.20(1)a & (3)e – Theft from Person  
943.20(1)(c) – Theft of Firearm

943.32 – Robbery – Threat of Force  
946.415 – Failure to Comply with Officers Arrest  
947.015 – Bomb Scares  
948.03 – Physical Abuse of a Child  
948.20 – Abandonment of Child  
948.21 – Neglecting a Child  
948.51 – Hazing  
948.605(2)(a) – Possess Firearm in School Zone (Felony and Misdemeanor)  
951.02 – Mistreating Animals  
951.06 – Use of Poisonous and Controlled Substances  
951.095 – Harassment of Police and Fire Animals  
951.097 – Harassment of Service Animals  
951.08 – Instigating Fights between Animals  
951.09 – Shooting at Cage or Staked Animals  
961.41(1) – Distribution of a Controlled Substance While Armed  
961.41(1m) – Possession of a Controlled Substance with Intent to Distribute While Armed

**Charges/Convictions Warranting Review Before Admission Into the Program - Misdemeanor**

940.19(1) – Misdemeanor Battery  
940.225 – 4th Degree Sexual Assault  
941.23 – Carrying a Concealed Weapon  
940.42 – Intimidation of Witnesses; Misdemeanor  
940.44 – Intimidation of Victims; Misdemeanor  
944.17 – Sexual Gratification  
944.20 – Lewd and Lascivious Behavior  
946.41 – Resisting an Officer  
948.55 – Leaving/Storing a Loaded Firearm within the Reach of a Child  
948.605 – Gun Free School Zones  
948.605(2)(a) – Possess Firearm in School Zone (Felony and Misdemeanor)  
948.61 – Dangerous Weapons other than Firearms on School Premises  
951.02 – Mistreating Animals  
951.095 – Harassment of Police and Fire Animals  
951.097 – Harassment of Service Dogs  
941.20(1) – Endangering Safety by Use of a Dangerous Weapon  
943.50(1m)(d) – Retail Theft (Modifier/Enhancer – While Armed)  
947.01 – Disorderly Conduct While Armed  
951.08 – Instigating Fights Between Caged Animals  
951.09 – Shooting at Caged or Staked Animals

**Note:** This is not an all-inclusive list and is at the discretion of the Dodge County District Attorney's Office to include or exclude a specific offense.

**Eligibility Determination Process:**

Referrals are submitted to the District Attorney's Office who then determines:

- If candidate meets eligibility requirements for residency.
- If candidate has no exclusionary convictions or current charges.
- If the District Attorney's office will consider the candidate into IDC (if the candidate meets the appropriate risk/need level).

If the candidate satisfies the above criteria:

- The DA Paralegal will complete a referral form and attach CCAP History and Criminal Complaint to send to the DTC/IDC Program Coordinator.
- The coordinator will log the referral and assign it to a Case Manager.
- The Case Manger will schedule a risk/needs assessment with the candidate.
- Following the assessment, the referral will be staffed by the Case Manager and the Coordinator.
- The coordinator will notify the District Attorney, DA Paralegal, and the Defense Attorney or the candidate (if he/she does not have a Defense Attorney) as to whether the candidate is eligible for program admission.
- The case will be placed on the weekly Admission Tracking Log (sent to the team with court reports).
- The assigned DA/ADA will make an IDC Sentencing Offer.
- If the candidate agrees to enter IDC the DA Paralegal will inform the Case Manager, who will attend sentencing hearing and schedule initial intake appointment.

## Pre-Admission Conduct Charged After Program Admission

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In circumstances where a participant is charged with a crime that occurred prior to admission into drug court but is charged after the participant is referred to or admitted into drug court, it may affect the participant's eligibility or continued participation. The team will gather information as to the nature of the charge, the status of the proceedings, and consider the eligibility criteria to determine how the pending charges may impact the participant's eligibility. This may result in termination or administrative discharge. If a participant is facing termination, the procedure and participant's rights are the same as a participant facing removal for noncompliance.

## Program Fees

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Each participant is required to pay \$50 to take part in the program. Participants are expected to set up a payment plan and make every effort to pay the program fee and other costs associated with their case.

## Phase Structure Overview

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The Impaired Driving Court Program uses a five-phase format designed to transition the participant from alcohol and drug dependence to successful recovery. The program is designed to address the individual participants' needs or "drivers" of criminal behavior with a goal of sobriety and recovery. Phase structure defines the minimum requirements that need to be met to advance to the next phase; however, individual requirements may

be moved to a different phase or added to meet participant's needs. In such cases, the participant will be notified in advance and will be given a reasonable time to comply. Each phase of the program has specific elements and program criteria that must be completed prior to moving to the next phase. Advancement to the next phase is based on the participant's compliance with program requirements, demonstrated progress in phase goals and the number of days sober in their current phase. In each phase, participants must comply with routine court appearances, case management appointments, treatment requirements, and alcohol and drug testing.

Sobriety is monitored by random drug and alcohol testing throughout the 5 phases. Intensive case management is a critical component to provide support and monitoring so that participants can reach their goals. IDC is designed as a 14-18 month program, but participants should expect to be in the program longer if setbacks prevent them from being promoted to subsequent phases.

Treatment for participants consists of assessment and treatment planning, individual and/or group counseling for alcohol, drug use and other substance abuse issues, regular attendance at community self-help support meetings, and assistance with education, life skills, parenting, financial and employment issues.

Additional programming and interventions may be required or recommended for individuals based on their needs as determined the initial assessments. A cognitive intervention program, Thinking for a Change or Moral Reconation Therapy, may be required for treatment court participants per the discretion of the IDC Team (see description below). Other programming or interventions that may be recommended are mental health treatment, job skills training, parenting classes, etc. These programs are based on the individual recovery and case plan.

Positive reinforcement is provided for compliance in the program. Sanctions and therapeutic interventions are imposed in response to non-compliance.

### **Sobriety Date**

A participant's sobriety date is marked by their first negative drug test, submitted to the case manager at the Dodge County Human Services site, or another provider as approved by the team. An established sobriety date is integral to the participant phasing up in the program and ultimately to graduation from Impaired Driving Court.

A sobriety date can be adjusted by the Impaired Driving Court Judge, and should the participant miss a drug test or have a positive drug test for any non-prescribed substance or provide an invalid sample. Readjustment of the sobriety date is done according to the drug testing policy guidelines.

### **Thinking for a Change (T4C) and Moral Reconation Therapy (MRT)**

Thinking for a Change (T4C) is a cognitive-behavioral therapy (CBT) program that includes cognitive restructuring, social skills development, and the development of problem-solving skills designed to address the cognitive, social, and emotional needs of justice-involved individuals. T4C is comprised of 25 lessons that build upon each other. Sessions will last between one and two hours two times per week in person or virtually.

Case managers will work with their clients to schedule T4C once they are stabilized in treatment.

Moral Reconciliation Therapy (MRT) fosters moral development in treatment-resistant clients through education, group and individual counseling, and structured exercises. Moral reasoning is how people make decisions about what they should or should not do in a given situation. If judgments about right and wrong are made from low levels of moral reasoning, then counseling, job-skills training, and punishment will have little long-lasting impact on behavior. MRT addresses beliefs and reasoning. It is designed to alter how clients think and make judgments about what is right and wrong.

All participants who are enrolled in the Dodge County Treatment Court programs after May 2018 are required to complete one of the CBT groups listed above prior to graduation unless determined otherwise by the team. T4C and MRT could also be used in response to multiple violations when participant behaviors/choices/actions are demonstrating a need for an intervention.

## **Phase Descriptions and Goals**

### **Phase 1 – Stabilization: (60 days)**

This Phase is designed to evaluate, closely monitor, and ‘stabilize’ participants. Participants will need a period-of-time to become accustomed to the requirements of a treatment Court but must be closely monitored. Participants must enroll in treatment during this phase and must have their initial appointment with their treatment provider. Those already in treatment at the time they begin the program could advance early if all other requirements are met. Community Support is introduced to participants during this phase. Participants must have 15 days sobriety to advance to Phase 2.

### **Phase 2 - Engage in Treatment-Continue Recovery: (90 days)**

This Phase is designed to closely monitor participants’ progress and sobriety while they are beginning treatment. Participants in Phase 2 are required to make Community Support a larger and regular part of their life, and must obtain a sponsor. They are also required to begin looking for work and to perform Community Service if not employed. Community Service is intended for participants to give back to the community, develop positive work habits and to engage participants in non-using activities with non-using people. Participants must have 30 days sobriety to advance to Phase 3.

### **Phase 3 - Continuation of Treatment-Establish Community Support: (90 days)**

This Phase is designed to continue close (but decreasing) monitoring of participants while they work toward completing treatment. Participants must continue looking for work and complete community service if not employed. They are also required to increase involvement in Community Support once treatment is completed as well as maintain regular contact with their sponsor. Emphasis is placed on increasing sources of community support. Participants must have 45 days sobriety to advance to Phase 4.

### **Phase 4 - Completion of Treatment-Maintenance of Recovery-Solidify Support: (90 days)**

This Phase is designed to monitor participants at a decreasing level following completion of treatment, establishment of longer term sobriety and overall program compliance. Participants are expected to utilize their sources of community support to maintain sobriety more than program monitoring. Planning for long term sobriety is finalized and presented to the Treatment Court. Participants must have 60 days sobriety to advance to Phase 5.

### **Phase 5 - Maintenance of Recovery and Support-Program Exit: (90 days)**

The final Phase is designed to offer minimal monitoring and supervision while ensuring participants are utilizing their sources of community support. Long term sobriety planning is reviewed and revised where appropriate. Participants must participate in a Pre-Graduation Exit Interview (including a program evaluation) prior to graduating. Participants must have 90 days sobriety to graduate.

Please Note: To advance in each phase you must complete a presentation to the court. *(A sample outline will be provided to you)*

	<b>Phase 1</b> <b>60 days</b> -Stabilization	<b>Phase 2</b> <b>90 days</b> -Engage in Treatment- Continue Recovery	<b>Phase 3</b> <b>90 days</b> -Continuation of Treatment-Establish Community Support	<b>Phase 4</b> <b>90 days</b> -Completion of Treatment-Maintenance of Recovery-Solidify Support	<b>Phase 5</b> <b>90 days</b> -Maintenance of Recovery and Support- Program Exit
<b>Phase time does not begin until participants establish a Sobriety Date by submitting a negative alcohol and drug screen.</b>					
Court	Weekly	Every 2 weeks (more as needed)	Every 3 weeks (more as needed)	Every 3-4 weeks (more as needed)	Every 4 weeks (more as needed)
Supervision & Monitoring Requirements	Case Manager Weekly & Probation Agent as required  Soberlink &/or Random Drug Testing	Case Manager every 1-2 wks Probation Agent as required  Soberlink &/or Random Drug Testing	Case Manager every 2-3 wks Probation Agent as required  Soberlink &/or Random Drug Testing	Case Manager every 3-4 wks Probation Agent as required  Random Drug Testing	Case Manager every 4 weeks Probation Agent as required  Random Drug Testing
Treatment Requirements	Scheduled & Complete Treatment Intake Assessment with DCHS or Private Provider	Continue Recommended Treatment Programming	Continue Recommended Treatment Programming  If Applicable: Begin T4C or MRT	Begin Aftercare/Relapse Prevention  If Applicable: Continue T4C or MRT	Attend Aftercare/Relapse Prevention Programming  If Applicable: Complete T4C or MRT
Employment, , Community Support, Community Service, Other	Obtain Health Insurance  Begin Search for Employment  Attend Victim Impact panel if not previously attended (Must be attended within 120 days)  If Applicable:  SR22 Insurance  IID Requirements  Start Process for DL or Occupational DL	Attend Victim Impact panel if not previously attended (Must be attended within 120 days)  Obtain and Maintain employment  4 Hours of Community Service/Week if not Working  1 Support Meeting per week  Obtain Sponsor and Meet Weekly  Establish Payment Plan	Maintain Employment  4 Hours of Community service if not Working  1 Support Meeting per Week  Weekly Contact with Sponsor  Remain Compliant with Payment Plan	Maintain Employment  8 Hours of Community Service if not Working  1 Support Meeting per Week  Weekly Contact with Sponsor  Remain Compliant with Payment Plan	8 Hours of Community Service if not Working  1 Support Meeting per Week  Weekly Contact with Sponsor  Remain Compliant with Payment Plan  Pre-Graduation Exit Survey and Letter
Sobriety	15 days Sobriety to Advance	30 days Sobriety to Advance	45 days Sobriety to Advance	60 days Sobriety to Advance	90 Days Sobriety to Advance

\* Phase structure defines the minimum requirements that need to be met in order to advance to the next phase; however individual requirements may be moved to a different phase or added to meet participant's needs. In ch cases, the participant will be notified in advance and will be given a reasonable time to comply

## Graduation Criteria

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IDC graduation is a very important event. The participant's friends, family, treatment providers, etc. will be invited to attend a special ceremony as the IDC Judge and Team recognize the participant for their accomplishments.

### **Graduation Eligibility Requirements:**

- 90 Continuous days of sobriety
- Successful completion of AODA treatment
- Successful completion of CBT Programming such as the T4C or MRT if required
- Employed, enrolled in education program, or compliant with community service hours
- Stable, sober living arrangements
- Engaged with a sponsor and compliant with community meetings and positive support network
- Up to date on all program fees and court costs
- Graduation letter completed

## Incentives and Sanctions

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**Treatment/Therapeutic Responses:** The Dodge County Treatment Court Programs utilize evidence-based principles of effective behavior modification to ensure participant accountability and to encourage compliance and progress in treatment and programming. Behavior response guidelines are employed to recognize prosocial behavior, monitor treatment and program progress, and to address program non-compliance.

**Incentives** are utilized to encourage participants' prosocial behavior and to recognize their accomplishments and successes. Incentives can include, but are not limited to:

- Verbal praise
- Applause/Special Recognition in court
- Gift Cards
- Certificates of recognition and/or completion
- Fishbowl Drawings
- Advancement to the next Court phase
- Program fee reduction
- Early dismissal from court
- Case called at beginning of docket
- Travel Permission

**Sanctions** are responses to non-compliant behavior and may include, but are not limited to:

- Verbal warning by the Judge
- Verbal or written apologies to Judge and team
- An essay writing assignment or workbook
- Increased drug testing
- Increased attendance at Court sessions
- Increased case management meeting
- Delayed phase advancement
- Reset sobriety date
- Community service assignments
- Curfew
- No contact order
- Warrant for arrest
- Team Intervention
- Jail time
- Termination from the program

## Drug and Alcohol Testing Procedure

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All treatment court participants will be subject to random urine collection for drug screening. The reliability of drug testing is dependent on the integrity and accuracy of the collection process along with the chain of custody of the sample. Staff realizes that urine collection and drug testing can be an invasive procedure. Strict adherence to the following collection protocols will ensure reliability and validity of all drug test results.

**Participant Preparation:** Because selection for testing is done on a random basis. All program participants must appear in the office ready to provide a urine sample for testing at every scheduled appointment. If the participant has new use or knowledge that the collected sample will be positive for any prohibited substances, they must inform the collector before the sample is given.

**Standard Direct Observation Procedure:**

- a) Individuals conducting the observed collection must be of the same gender.
- b) The collector will complete the Chain of Custody Form (CCF) and explain collection procedure to the donor.
- c) The donor will be instructed to remove any unnecessary outer layer clothing (e.g. jacket, hat, etc.) and to leave any briefcase, purse, or other personal accessories with the removed clothing.
- d) The collector will direct the donor to empty his or her pockets onto the desk in the drug testing office. Donor's personal items will remain in the drug testing office for the duration of the specimen collection.
- e) The donor will wash and dry their hands under the observation of the collector.

- f) The urine collection kit will be opened, and the donor will be instructed to provide a minimum of 30 ml of urine. Provided urine should be first catch (from initial urine stream).
- g) The collector and donor will enter the collection area. The donor will be instructed to raise their shirt above the waist, just above the navel; and lower clothing and underpants to mid-thigh and show the collector, by turning around, that they are not in possession of a prosthetic or other device designed to carry “clean” urine and/or urine substitutes.
- h) If the donor is found to be in possession of a prosthetic or other device designed to carry “clean” urine or urine substitutes, the collection process will be suspended. The collector will thoroughly document the circumstances surrounding the event and contact the program coordinator.
- i) If the donor does not have a device, they will be permitted to return clothing to its proper position and proceed with the observed collection. The donor will be instructed to hold the collection cup with one hand. The collector must watch the urine stream go from the donor’s body into the collection container. The collector must maintain visual contact with the urine sample until the donor gives the specimen to them. Once the collector has possession of the specimen, the specimen will be capped, the donor will be permitted to wash their hands, and both the donor and collector will exit the collection area to complete the CCF.

\*For donor’s who are using a urine cap for an observed collection, both hands should be in front of the body and visible to the collector. The collector will transfer the specimen to the specimen cup in the client’s presence.

- j) The temperature of specimen will be observed by the collector and if the temperature is in range (90-100 F), a tamper evident seal, initialed and dated by the donor will be placed over the cap and affixed to the sides of the collection cup.
- k) If the sample is valid according to the reading of the temperature and adulteration strips and an Instant Read 10 Panel Cup is used, the test results will then be read by the collector for the presence or absence of identified chemical substances in the urine sample.
- l) If the sample is valid according to the reading of the temperature and adulteration strips and a Standard Non-Instant Cup is used, the specimen will be capped and sealed to be read by laboratory staff.
- m) Participant will sign and date the CCF and the sample will be sealed and mailed to the laboratory for testing.

**Challenges to accuracy of test results:** Under no circumstance will a participant be allowed to submit a “new” urine sample based on a claim of technical error. All collected samples are sent to an outside contracted laboratory (OptionsLab Inc.) where the test results are read. If a participant wishes to challenge the accuracy of a test result, they must do so within 5 business days of receiving the results from the lab. The collector will

notify the lab to run a confirmation test, and the confirmed results will be provided to the donor.

**Missed tests:** Under no circumstances will a missed test be tolerated. No one will be allowed to test on an alternate day unless prior approval by the Treatment Court Team is given.

- Missed tests will be treated as “positives” and sanctioned accordingly.
- Make-up tests should only be granted if there is a documented medical situation in which that documentation is presented to the team.
- If a participant misses a test, he/she will be instructed to report the next business day at 8:00AM to produce a sample for collection.

**Refusal to test:** The following circumstances are considered a refusal to test:

- Noncompliance with any of the steps listed in the Standard Procedure or those listed in the Observed Collection Procedure.
- Leaving the test site prior to providing a sample of sufficient sample volume unless permission given by case manager.
- Failure to arrive at the collection site as instructed by case manager following a refusal.
- Discovery of a prosthetic device during an observed collection.
- Inability to produce a sufficient urine sample after 2 attempts, unless donor can provide documentation from a physician of a condition an existing condition that would explain patient’s inability to produce 30 ml under condition of collection process.

If one of these circumstances occurs, the collector will terminate the collection process and document the occurrence. The Participant will be instructed to report the next business day at 8:00AM to produce a sample for collection.

**Insufficient sample quantity:** For Options Lab, Inc. to conduct drugs-of-abuse testing, a donor needs to provide at least 30 mL of urine.

- If the sample volume is not adequate, the donor will be informed they must try again. The participant will be allowed to try once more within 45 minutes of the first attempt. The participant will be allowed to wait in the first-floor reception area and instructed to only consume a small amount of fluids. They will not be permitted to leave the building and return to provide the specimen.
- When the donor is ready to try again, they will be given a new specimen collection container. The new sample cannot be added to the previous sample to obtain an adequate amount. If the participant leaves the drug testing waiting area for any reason before providing a sample, a “refusal” will be documented and reported to the Court.
- If a donor is not able to provide an adequate sample volume upon the second attempt or chooses not to provide a second sample, the test should be considered a “refusal”. The client will have to return at 8:00AM the following day to provide a urine sample.

**Dilute samples:** Urine sample test results are confirmed to be dilute when too much water of fluid is consumed prior to providing a sample. Participants must be mindful not to overconsume fluids prior to their drug test. 3 dilute tests in a phase will result in a reset of a participant's sobriety date.

<p style="text-align: center;"><b>OVER-THE-COUNTER MEDICATIONS AND FOODS TO AVOID WHILE BEING URINE/BREATH/SCRAM TESTED</b></p>
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**It is the participant's responsibility to limit exposure to the below list of products. It is the participant's responsibility to read labels or inquire of a pharmacist or assigned case manager before using/consuming the following products. Use of the products detailed below will NOT be allowed as an excuse for a positive drug, breathalyzer or SCRAM test.**

**When in doubt, do not use or consume:**

1. **Cough and Other Liquid Medications:** Alcohol containing cough/cold syrups such as Nyquil. Other cough syrup brands containing ethyl alcohol. All prescription and over-the-counter medications must be reviewed with your case manager before use. Non-alcohol containing cough/cold remedies are readily available at most pharmacies and major retail stores.
2. **Non-Alcoholic Beer/Wine:** Although legally considered non-alcoholic, NA beers (Sharps, O'Doul's) contain a residual amount of alcohol that may result in a positive test result for alcohol, if consumed.
3. **Food and Other Ingestible Products:** There are numerous other consumable products that contain ethyl alcohol. Flavoring extracts such as vanilla or almond extract, and liquid herbal extracts (such as Ginkgo Biloba), could result in a positive screen for alcohol or its breakdown products. Communion wine, food cooked with wine and flambé dishes (alcohol poured over a food and ignited such as cherries jubilee, baked Alaska) must be avoided.
4. **Mouthwash and Breath Strips:** Most mouthwashes (Listermint, Cepacol, etc.) and other breath cleansing products contain ethyl alcohol. The use of mouthwashes containing ethyl alcohol may produce a positive test result. Non-alcohol breath fresheners are readily available and are an acceptable alternative.
5. **Hygiene Products:** After shaves, colognes, hairsprays, mousse, astringents, bug sprays (Off) and some body washes contain ethyl alcohol. While it is unlikely that limited use of these products would result in a positive test for alcohol, excessive, unnecessary or repeated use of these products could affect test results. Participants must use these products sparingly to avoid reaching detection levels.
6. **Solvents and Lacquers:** Many solvents, lacquers and surface preparation products contain ethyl alcohol. Both excessive inhalation of vapors, and topical exposure to such products, can potentially cause a positive test result for alcohol. Frequency of use and duration of exposure to such products must be kept to a minimum. There are alternatives to nearly any item containing ethyl alcohol. A positive test result will not be excused by reference to use of an alcohol-based solvent. If a participant is employed where contact with such products cannot be avoided, this must be discussed with the case manager.

7. **Poppy Seeds:** It is possible to test positive for opiates after having consumed poppy seeds. Poppy seeds contain trace amounts of opium, which like heroin, is derived from the poppy plant. Research measuring the amount of seeds necessary to produce a positive result is varied. To avoid this issue, participants must avoid consuming poppy seeds.
8. **CBD, Hemp, and THC Variants:** The use of any products containing CBD, Hemp, THC and its variants (Delta 8, Delta 10, THC-0, THCP, etc.) must be avoided regardless of their legal/over the counter status. Many cannabinoid-related products that are commercially available contain compounds and metabolites that will produce a positive drug screen for THC.

**SECOND HAND MARIJUANA SMOKE**

A positive test result due to the passive inhalation of second-hand marijuana smoke is not feasible given the conditions necessary to produce the 20 ng/ml level at which the Dodge County DTC/IDC/TAP Testing Program tests. In various studies on passive inhalation, positive results have occurred where individuals were exposed to the smoke of 4-16 marijuana cigarettes in an extremely small, sealed, unventilated area for one hour a day over the course of several days. The conditions were extremely uncomfortable, causing watering of the eyes and irritation to the mucous membrane of the nose and throat. The few positive test results were detected at the 20 ng/ml level which is the most sensitive testing level.

The only study where the results were detectable at the 50 or 100 ng/ml level were a product of hour long exposure in the above sealed conditions to 16 cigarettes over 6 consecutive days. It is highly unlikely that the extreme conditions necessary to produce ANY positive test (even at the lowest 20 ng/ml level) could be encountered in a real-life situation without, at least, the tacit consent of the participant. **Accordingly, it is the participant's responsibility to remove themselves from these situations.**

I, \_\_\_\_\_ (FULL name) on \_\_\_\_\_ (Date) acknowledge that my case manager thoroughly reviewed the above procedures for drug testing. I understand and agree to comply with all above procedures as an active participant of a Dodge County Treatment Court program in accordance with my Court- ordered conditions of release. I understand that failing to sign this document will be reported to the Court.

Witness: \_\_\_\_\_ (Case Manager) \_\_\_\_\_ (Date)

# Medical Professional Disclosure and Prescription Drug Policy

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IDC participants will be provided with a Physician Disclosure Form which notifies any medical, mental health or dental practitioner whom they have visited for medical treatment of the following information:

- I am a participant in the Dodge County IDC program.
- I am required to disclose that I have an addiction to chemical substances.
- Unless absolutely medically necessary in the treatment of an illness or injury, I am NOT to be prescribed a medication in the benzodiazepine or narcotics class, or any other type of medication that may result in addiction or interfere with the treatment of my addiction.
- I must request that my practitioner write on my medical file that I am a participant in the IDC, sign and date the file.
- I must request a copy of this entry from my practitioner and will present it to my case manager at my next scheduled contact. I must also request a letter from my physician should I be prescribed a benzodiazepine or a narcotic medication.

## **Use of Prescribed Medications**

Participants will not be prohibited from utilizing prescribed medications when medically necessary as deemed by a physician. Participants must follow the following guidelines:

- Participants must provide documentation of medications to their case manager with the pharmacy information printout or prescription bottle. The case manager will verify the prescription is in the donor's name, what is being prescribed, and the dosage. Refills will also need to be verified. Participants must select one pharmacy to use while in the program and cannot use multiple pharmacies.
- A participant must take all medications as prescribed and only for the condition for which it is prescribed. For example, if a pain medication was prescribed for a hand injury, it cannot be used later for a tooth ache. Once the presenting issue is resolved, the participant must dispose of unused medication. Unused medication cannot be used at a later time, even if it is for the reoccurrence of a similar medical issue. In these circumstances, the participant must consult with a physician for treatment.
- Should a physician deem the use of a benzodiazepine or narcotic medication be medically necessary, the team can grant a waiver. A waiver request must include documentation from the participant's physician outlining the diagnosis that requires the prescribed medication of abuse including alternatives were discussed and found inadequate.

## **Medication Assisted Treatment**

- Medications used to treat addictions may be approved by the team and must be verified and monitored by the case manager.

- Use of prohibited drugs while on MAT will result in a sanction.
- Medical Procedures, Surgeries and Chronic Pain
- Participants must inform their case manager of any scheduled medical procedures or surgeries in advance. A letter from the physician must be provided should the procedure or surgery cause the participant to be unable to fulfill the requirements of the program. The letter should include the date and time of surgery, medications required, and physician's contact information. The participant will be excused from program requirements based on the physician's recommendation. To follow up, the participant must provide verification of the procedure and prescriptions at the next case management meeting.
- Any prescriptions prescribed for pain management must be verified as medically necessary by the prescribing physician in accordance with the guidelines above. A participant with chronic pain will need to cooperate with the case manager and provide a valid pain management plan from the treating physician. The case manager will work with the participant and physician to explore alternatives to narcotic pain medication if it is appropriate.

## Impaired Driving Court Team Staffing Meetings

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Prior to each weekly court session, the Dodge County Impaired Driving Court Team reviews the progress of those participants scheduled to appear in court that week. The case manager prepares a staffing report that details the progress of participants in the program. The team reaches a professional consensus whenever possible. In the event a consensus cannot be reached, the Impaired Driving Court Judge has the final decision-making authority on what action will be taken.

## Impaired Driving Court Status Hearings

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Court status hearings are used to review participant compliance or noncompliance with their drug court obligations as well as to administer incentives and sanctions as an acknowledgement of their behaviors. Status hearings are open to the public and occur on the record. The frequency of the status hearing depends on the participant's status and phase in the program. Failure to appear may result in a warrant for the participant's arrest and detention in jail until they can appear for court. Participants are encouraged to participate, ask questions regarding their status, and be honest.

## Termination Criteria and Procedures

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Termination from the Dodge County Treatment Court Programs will occur should a participant voluntarily withdraw. Termination may also occur if a new charge is filed against the participant, while in treatment court, alleging an offense that is ineligible for the program. The team will consider the participant's circumstances on a case-by-case basis and determine if continued participation is appropriate and compatible with the new

charge. Noncompliance with the Dodge County Policies and Procedures may justify termination from the program. Termination from IDC occurs after graduated sanctions have been imposed and the participant continues to disregard the rules or orders of IDC. Conduct that may result in termination may include, but is not limited to the following:

- Commission of a criminal act and/or a new criminal charge
- Failure to progress in the program after repeated interventions or services were imposed
- Forging any program documentation
- Falsifying or tampering with drug tests
- Demonstrating behavior that endangers public safety
- Displaying conduct that jeopardizes the safety or sobriety of other participants.
- Dishonesty
- Absconding from the program and failure to make contact for 30 days
- Acts or threats of violence to other participants or IDC team members
- Evidence indicating a participant is involved in gang activity, drug dealing, or offering/selling drugs to other participants
- Refusal to complete treatment recommendations
- Refusal to sign or withdrawal of their Ex Parte Communication or Release of Confidential Information form
- Revocation by the Department of Corrections
- Voluntary revocation of probation

### **Procedure for Termination**

1. Any member of the Impaired Driving Court Team can make a motion for termination.
  - a. The motion for termination must occur during a staffing meeting preceding court.
2. Any team member may inform the Impaired Driving Court Coordinator of their intention to make a motion prior to staffing.
  - a. Advanced notice as to a potential motion for termination by any team member to the Impaired Driving Court Coordinator will be anonymous if requested.
  - b. Advanced notice regarding a potential motion for termination may allow for summary information regarding the participant's engagement in the program to be provided to the team at staffing and/or help ensure adequate time for team discussion.
3. The Impaired Driving Court Team shall evaluate the motion during staffing. However, the final decision of whether to proceed to termination will be the decision of District Attorney's Office.
  - a. If termination is deemed appropriate, an off the record termination meeting will be scheduled with the participant and the team. At this meeting, the participant will be given the opportunity to justify or deny their actions and speak with the team regarding their participation in the program. The participant will be afforded the right to be represented by counsel. The IDC Judge is not present nor votes at the termination meeting.

- b. Each team member will vote on whether the participant should remain in the program or be terminated. If majority support for termination exists, the termination recommendation will be made to the IDC Judge and a Termination hearing will be scheduled. There may be limited circumstances when the District Attorney's Office proceeds to termination without the majority support, if this occurs, the DA's Office will inform the court that the team is not in agreement with the decision.
4. The participant is brought before the IDC Judge in open court and on the record. The participant will be afforded the right to be represented by counsel. After hearing the allegations that warranted the recommendation for termination by the IDC team, and the participant's response to those allegations, the IDC Judge will make a ruling. The ruling will be based on participant behavior(s) and program policies as to whether grounds for termination exist. A participant's rights are set forth in the "Participant Rights" section.
5. At the hearing, if the Judge makes a ruling that grounds exist to terminate the participant, they will cease participation in the program immediately and be scheduled for a hearing in front of their original sentencing Judge. If the Judge rules that the participant should not be terminated, he or she will then continue in the IDC program, subject to any appropriate sanctions deemed necessary to address their behavior.
6. The Department of Corrections may still revoke a participant from probation, even if the team or the court decide not to terminate the participant from IDC. In these circumstances, the team and the court will make a case-by-case determination on whether the participant may continue in the IDC program.

## Administrative Discharge

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Administrative discharge may occur when a participant is unable to complete drug treatment court either through no fault of their own or because of conduct or circumstances outside of drug court that make continued participation in drug court impossible or for reasons contrary to the public's interest. For example, administrative discharge may occur if a participant becomes medically incapacitated. The motion for administrative discharge shall come from the District Attorney's Office, but the assigned Assistant District Attorney or District Attorney should take input from team members in making this decision. If the court decides to administratively discharge a participant, the participant's case may return to the original sentencing court for final resolution.

## Voluntary Withdrawal

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Impaired Driving Court is a voluntary program. If a participant seeks to withdraw from the program, they should notify their probation agent and case manager of their intent to withdraw from IDC. The participant must verbally state to the IDC Judge that they are withdrawing their participation in the program. By voluntarily withdrawing from IDC, a

participant may return to the original sentencing court for final case resolution and may face consequences regarding his or her probation.

## Participant Code of Conduct

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As a Dodge County Impaired Driving Court participant, your behavior reflects directly on yourself and the program. It is important that you conduct yourself in a way that is respectful of the program, other participants, team members, and other program partners. The following behaviors are unacceptable and failure to follow the code of conduct may result in sanctions, up to and including termination:

- Behaving in a violent or threatening way toward program staff, fellow participants, or treatment providers. Program staff includes drug court team members and other agencies and their employees who provide services to drug court participants.
- Engaging in verbal abuse of program staff, fellow participants, or treatment providers. This includes the use of profane or disrespectful language.
- Not engaging or being an active participant in treatment, case management appointments, or probation meetings. This includes behaviors that distract others, including side talk, falling asleep, leaving without permission, or other disruptive activity.
- Racial or ethnic slurs, name-calling, or anything related are prohibited.
- Engaging in, condoning, facilitating, or collaborating in any form of abusive behavior or discrimination based on race, ethnicity, national origin, color, sex, sexual orientation, age, marital status, religion, or mental or physical ability is unacceptable.

## Fraternization

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If issues arise, the Treatment Court team reserves the ability to limit a participant's contact with another participant. Transportation arrangements between participants and any contact outside of treatment or support meetings/activities requires case manager and probation agent notification.

## Participant Rights

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**Counsel-** Although the IDC process is greatly collaborative, participants still have the right to consult with a lawyer with whom they have attorney-client privilege. The adversary counsel must not be a part of the team discussing the participant's progress. The drug court defense attorney is NOT a participant's adversary counsel.

**Right to Counsel and Procedure for Obtaining Counsel-** A participant who invokes their right to counsel will be referred to the State Public Defender for services. If not eligible for services through the State Public Defender, the participant may hire their own attorney or ask the Judge for court-appointed counsel.

**Confidentiality-** In the program, participants will engage in treatment and therapy that, for some, may be deeply personal. When discussing progress with the rest of the team, treatment providers will only be sharing those things necessary to determine appropriate next steps.

**Self- Advocacy-** The IDC team will meet regularly to discuss participant progress, and the judge will decide what next steps are appropriate based largely on the information offered by team members. Participants will always be given the opportunity to tell the judge information they feel is important, explain any noncompliance, and correct any misrepresentations should they occur.

**Due Process-** What much of the IDC process aims to move away from the traditional adversarial court process, a participant does not give up all their due process rights by entering the program.

### Rights Regarding Allegations of Noncompliance

If a participant faces an allegation of noncompliance for the purposes of a sanction, the following procedure applies:

- 1) The participant will be required to provide a written or verbal statement on the record regarding the alleged violation. In the written or verbal statement, the participant must admit or deny the alleged violation.
  - a. If the participant admits, they waive their right to have a hearing to determine if the violation occurred. The IDC Judge will determine the appropriate sanction to impose without a hearing.
  - b. If the participant denies, they must state whether they believe evidence exists that the noncompliance allegation is false.
  - c. If the participant denies and fails to identify evidence that the noncompliance allegation is false, the participant will waive their right to a hearing to contest the allegation. The IDC Judge will determine the appropriate sanction to impose without a hearing.
- 2) Noncompliance Denial Hearing- The IDC Judge will conduct a noncompliance hearing if the participant alleges that evidence exists that the noncompliance allegation is false.
  - a. Rights
    - i. The right to the assistance of counsel
    - ii. The right to deny the allegations
    - iii. The right to oral argument
    - iv. The right to submit documentary evidence
    - v. The right to waive the hearing
  - b. Procedure
    - i. The IDC Judge shall weigh the arguments and submitted documents.

- ii. The rules of evidence, other than Chapter 905, do not apply including hearsay and authenticity rules.
  - iii. The participant has the burden of proof to establish, by a preponderance of the evidence, that the allegation is false.
- 3) Sanctions- Participants do not have a right to counsel or a hearing to address the type of sanction the IDC Judge imposes.

## Rights When Facing Termination from the Program

If a participant is facing termination from IDC, they have the following rights:

- 1) Notice. Notice of a termination hearing shall be provided to the participant including:
  - a. The date, time, and place of the hearing
  - b. The conduct, rule, or condition the participant is alleged to have violated
  - c. A list of potential evidence to be considered at the hearing which may include”
    - i. Documents
    - ii. Physical evidence
    - iii. Results of breathalyzer or other drug testing
    - iv. Statements by the participant
    - v. Police reports regarding the allegation
    - vi. Photographs
    - vii. Witness statements
- 2) Participant Rights. The participant rights at the hearing include any of the following:
  - a. The right to deny the allegations
  - b. The right to be heard and present witnesses
  - c. The right to present documentary evidence
  - d. The right to question witnesses
  - e. The right to the assistance of counsel
  - f. The right to waive the hearing
- 3) Procedure.
  - a. The IDC Judge shall weigh the credibility of the witnesses.
  - b. The IDC Judge may accept hearsay evidence.
  - c. The rules of evidence other than Chapter 905, do not apply.
  - d. The District Attorney has the burden of proof to establish, by a preponderance of the evidence, that the participant violated the rules or conditions of IDC.

## Grievance Policy & Procedure

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Each participant has a right to utilize the Grievance Policy should a participant have a complaint or feel that his or her rights were violated. The procedure is as follows:

### Step 1: Verbal Discussion

The participant must request a meeting to discuss the matter with the Drug Treatment Court Coordinator as soon as possible after the incident occurs (within 5 days). If the participant is not satisfied with the decision or solution of the Impaired Driving Court Coordinator, the participant may proceed to Step 2.

### Step 2: Written Complaint to Treatment Court Judge

If the participant did not achieve a resolution in Step 1, they must put the complaint in writing within 5 days following Step 1 and turn the written complaint into the Impaired Driving Court Judge. The Impaired Driving Court Judge will make a formal written decision within 14 business days; this decision is final and will be sent to the participant and the Impaired Driving Court Coordinator.