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# Drug Court Guide

## Police Prosecutions Command

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## **Summary**

This Guide is designed to highlight current policy and procedures for prosecutors performing relieving duties or training at the Drug Court of NSW. This Guide provide uniformity between the operation of the different Drug Court locations across NSW. It contains information on:

- Court objectives
- Contact details
- Program details
- Duties description
- Transfer of matters to the Drug Court
- Arrest procedures
- Warrants
- Compulsory treatment order information

Definitions, links, and further information are contained in the appendices

# Document Control Sheet

## Document Properties

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1.2	Sept 2023	Sgt Chris Foley	Update; added Dubbo information
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# 1 Purpose

This Guide is a combination of both Drug Court and NSW Police Force policy, procedures, and practices currently documented and utilised at the four operational drug courts across NSW.

## 1.1 Scope

This guide covers all the information and administrative detail a prosecutor will require to perform relieving duties at the Drug Court of NSW, or to attend on training days.

## 1.2 Roles & responsibilities

Assistant Commissioner – PPLEC	Document Sponsor
Commander – Police Prosecutions Command	Document Owner
Supervisor – Drug Court Prosecutors	<ul style="list-style-type: none"> <li>• Manage reviews and updates of this document as needed</li> <li>• Communicate changes to Command office</li> </ul>
Command office – Police Prosecutions Command	<ul style="list-style-type: none"> <li>• Communicate changes to staff</li> <li>• Provide Governance Command with updates</li> </ul>
All PPC staff	<ul style="list-style-type: none"> <li>• Utilise this guide for best practice when attending the Drug Court of NSW</li> </ul>

# 2 Drug Courts

Drug Courts are specialist courts that deal with offenders who are dependent on drugs. Drug Courts aim to assist drug-dependent offenders to overcome both their drug dependence and their criminal offending.

The Drug Court of New South Wales (Parramatta) was the first Drug Court to be trialled and evaluated in Australia. The evaluations of the New South Wales (NSW) Bureau of Crime Statistics and Research have been published and can be found [here](#).

The Drug Court of NSW has since expanded, and three additional courts now exist, with Drug Courts now operating in the Hunter Area (March 2011), the Downing Centre area (February 2013), and Dubbo (2023).

## 2.1 How the Drug Court operates

The conduct of the Drug Court is governed by:

- the Drug Court Act 1998 (NSW) ('the Act')
- the Drug Court Regulation 2005 ('the Regulations')
- the past decisions of the Drug Court
- the current policies of the Drug Court

The Court has Local Court and District Court jurisdiction. The court operates from the Parramatta Court, Toronto Court, Downing Centre Complex, and Dubbo Court.

## **2.2 Objectives of the Drug Court**

Section 3 of the Act sets out the objectives the Drug Court seeks to achieve. These are:

- to reduce the drug dependency of eligible persons; and,
- to promote the re-integration of such drug dependent persons into the community; and,
- to reduce the need for such drug dependent persons to resort to criminal activity to support their drug dependencies.

This objective is achieved by establishing a scheme, under which drug dependent persons, who are charged with criminal offences, can be diverted into programs designed to eliminate, or at least reduce, their dependency on drugs. Reducing a person's dependency on drugs should reduce the person's need to resort to criminal activity to support that dependency and should also increase the person's ability to function as a law-abiding citizen.

## **2.3 The Drug Court team**

The Court works in collaboration with several other organisations. These include the Department of Corrective Services, including the Probation and Parole Service, and the Department of Health, through Justice Health and the Area Health Services. In addition, many residential rehabilitation services provide treatment for Drug Court participants. Officers of the Director of Public Prosecutions, a Police Prosecutor and the Legal Aid Commission also form part of the Drug Court team.

Part of the role of the Drug Court team is to oversee the progress of participants through the program and jointly formulate strategies to assist participants' rehabilitation. The team consists of the DPP solicitor, the Police Prosecutor, the Clinical Nurse Consultant, the Legal Aid solicitors, the Probation and Parole coordinator, the Registrar of the Court, and the Judge.

## **3 Contact details**

### **3.1 Parramatta**

The Parramatta Drug Court operates out of the Parramatta Court House and **sits each Monday to Thursday**. The court operates to a capacity of 170 participants. The Parramatta Drug Court Team is housed together in a nearby office block.

Parramatta Drug Court – Parramatta Court House (Court Room 6)

Ground Floor, 12 George Street, Parramatta New South Wales 2150

Telephone: (02) 8688 4525

Drug Court of New South Wales

PO Box 92 Parramatta New South Wales 2124

Police Prosecutor: 0408 169 120 / (02) 9685 8025 / Fax: (02) 9685 8080. #DRUGCRT

### **3.2 Hunter (Toronto)**

The Hunter Drug Court operates out of Toronto Court House and **sits each Monday and every alternate Tuesday**. The court operates to a capacity of 80 drug court participants. The Toronto Drug Court Team is housed within the Toronto Court house.

Hunter Drug Court – Toronto Court House (Court Room 2)

140 – 142 Carey Street, Toronto New South Wales 2283

Telephone: (02) 4935 8338

PO Box 994 Toronto New South Wales 2283

Police Prosecutor: 0413 489 794 / 0467 734 802 - 24/7. #HUNTERDRUGCRT

### **3.3 Sydney (Downing Centre)**

The Sydney Drug Court operates out of the Downing Centre Court Complex and **sits each Thursday**. The court operates to a capacity of 50 participants. The Sydney Drug Court Team is housed together in the office block adjacent to the Parramatta Drug Court Team collaborative space at Parramatta

Sydney Drug Court – Downing Centre Court House (Court Room 4)

Level 2 Downing Centre, 143 – 147 Liverpool Street, Sydney NSW 2000

Telephone: (02) 9287 7752

Police Prosecutor: 0429 899 958 (02) 96858025. #SYDNEYDRUGCOURT

### **3.4 Dubbo**

The Dubbo Drug Court operates out of Dubbo Court House and sits each Monday (and Tuesdays when numbers increase). The court operates to a capacity of 80 drug court participants. The Dubbo Drug Court Team is housed together in a nearby office block.

Dubbo Drug Court – Dubbo Court House (Court Room 4)

137 Brisbane Street, Dubbo NSW 2830

Telephone: (02) 6885 7683

PO Box 50 Dubbo NSW 2830

Police Prosecutor: 0400 507 007. #DUBBODRUGCOURT

### **3.5 Internal contacts**

For internal contact, information, or to arrange access to the drug court:

(MDL) address: -M-MDL-ADCPROSECUTORS

Shared Mail File (SMF): #ADCPROSECUTORS

'P' Drive - P:\Police Prosecutions Command\City & Specialist Courts\ADC Prosecutors

All forms mentioned in this document can be located under this network drive.



## **4 Administrative details**

Within the Police Prosecutions Command, the Hunter ADC PP is attached to the Lower Northern Sector, the Parramatta and Sydney ADC PP are attached to the Parramatta Sector, and the Dubbo ADC PP is attached to the Western Sector.

### **4.1 Roster**

The ADC PP is required to email the relevant roster officer and record their start and finish times daily. In the case of Parramatta and Sydney locations, it is sufficient for one prosecutor to email and record both prosecutors' rostered shift. Similarly, CMF should be completed daily.

### **4.2 Overtime**

If the ADC PP anticipates that overtime is likely to be incurred, the relevant Sector Manager is to be contacted immediately and approval should be sought. If the relevant Manager is not available and overtime is required, then the ADC PP should seek the approval from another available Manager. If overtime is incurred the overtime form should be completed and placed into the relevant sector's Daily Duty Roster folder on the P Drive prior to the completion of the shift.

### **4.3 On-call allowance**

In circumstances where approval has been given for an ADC PP to receive on-call allowance all phone calls (received and outgoing) are to be recorded in an official police notebook. At the end of the roster period an On Call Allowance Form should be completed and sent to the relevant Sector Manager for further approval.

### **4.4 Annual report**

The ADC PP may be required to submit an annual report to the AGJD. This requirement will be discussed at a drug court management meeting. Approval to publish an annual report should be sought via the relevant Sector Manager through to the Commander, Police Prosecutions Command.

## **5 The program – generally**

### **5.1 Eligibility and selection**

Policy 12 refers to the selection of participants (see Appendix 3).

Any Local or District Court must refer offenders who appear to meet the Drug Court eligibility criteria to the Drug Court.

Section 5 of the Act sets out the eligibility criteria:

1. Offences involving violent conduct or sexual assault, or strictly indictable supply drugs charges cannot be referred to the Drug Court, but all other offences can be,
2. The person has pleaded GUILTY or indicated an intention to plead guilty,
3. It is highly likely that, if convicted, the person would serve a sentence of full-time imprisonment,
4. The person appears to be dependent on the use of prohibited drugs,
5. The person lives in one of the following Local Government Areas:

- Bayside
- Canterbury-Bankstown
- City of Blacktown
- City of Campbelltown
- City of Cessnock
- City of Fairfield
- City of Hawkesbury
- City of Lake Macquarie
- City of Liverpool
- City of Maitland
- City of Newcastle
- City of Parramatta
- City of Penrith
- City of Randwick
- City of Sydney
- Cumberland
- Dubbo Regional
- Georges River
- Port Stephens
- The Hills Shire
- Waverley
- Woollahra

6. Be 18 years of age or over

7. Be willing to participate

A person is **not** eligible if he or she:

- is charged with an offence involving violent conduct; or,
- is charged with a sexual offence; or,
- is charged with a strictly indictable supply of prohibited drug; or,
- is suffering from a mental condition that could prevent or restrict participation in the program.

## 5.2 Referral steps

As the number of referrals each week may exceed the number of Drug Court Program places available, a ballot is held to determine who can be referred from the Local Court to the Drug Court. The steps for the referral process are:

1. An eligible offender may be identified on any day of the week, so the Judge or Magistrate at the referring Court should direct that the offender be “referred to Drug Court Ballot” and adjourn the matters, for mention only, to the next available ballot day. At this stage the matters remain at the referring court. Bail is dealt with in the usual way.
2. The relevant Drug Court registry must receive the offender’s details not later than the relevant cut off times:
  - Parramatta / Sydney: Wednesday at 12pm
  - Toronto / Dubbo: Friday at 12pm.
3. If the offender was SUCCESSFUL, the offender’s charges should be adjourned to the Drug Court at the location and on the day specified in the message of success. Bail is determined in the usual way.
4. If the offender was UNSUCCESSFUL in the ballot, then the matters remain in the Local Court to be dealt with.

### 5.3 Discretionary refusal

The DPP and / or the ADC PP may object to a person’s entry into a Drug Court program because of matters in the person’s antecedents. The Court will be concerned about evidence of a propensity for violence, or a propensity for dangerous conduct such as engaging in police pursuits, or the possession and use of prohibited firearms. The Court may require evidence to be presented about the likelihood of a person committing a violent or dangerous offence while on a program. In such a case a psychiatrist from the Corrections Health Service will be asked to express an opinion based on details of past offences or behaviour, and an examination of the participant. Other evidence may also be obtained.

**There is no right of appeal against a decision taken by the Drug Court to refuse entry to a program.**

### 5.4 Pre-screening

The Drug Court registry staff will place all potential participant details on the AGJD Computer as they received the information from the Local or District Court (under ballot nominations). The ADC PP is required to access this data and conduct pre-ballot screenings of potential applicants daily.

To gain access to the Drug Court Program a person must meet the criteria as set by the relevant Legislation and regulations (as outlined in section 3.1 above). These criteria should be used to examine the potential participant’s eligibility and suitability to come on program.

The ADC PP will complete the pre-screening process. To conduct the pre-screening of applicants the following documents should be obtained, reviewed, and provided to the following organisations:

Document	DPP	Legal Aid	CCMG
Instruction sheet	Y	Y	-
Referred facts	Y	Y	Y
Bail and traffic report	Y	Y	Y
Conviction history	Y	-	-

Interstate check with relevant facts	Y	Y	Y
Facts / event information re: appropriateness (e.g., mental health)	Y	-	-
Existing AVOs	Y	Y	Y
Outstanding warrants	Y	-	-
Copy of event / case under investigation	Y	-	-
Facts of any outstanding charges	Y	-	-
Evidence of residential address	Y	-	Y
Custodial history (from CCMG)	Y	-	-

The ADC PP will ensure that Legal Aid receives a copy of the pre-ballot applicant prior to 9am on Thursday morning for Parramatta and Sydney Drug Court, and Monday morning for Hunter and Dubbo Drug Courts. The pre-ballot process is determined prior to the team meeting on these respective days. The reviewed papers, with cover sheet, will be provided to the Judge. The ADC PP will tell the Judge the reasons why the referral should be excluded summarily from the ballot.

If an applicant is excluded from the ballot the details of that person should be recorded in the 'pre-ballot exclusion' word document. This list will be examined and monitored for any identified trends.

## 5.5 Screening

The ballot for Parramatta and Sydney Drug Courts is held at 1pm on Thursdays, and for Hunter and Dubbo Drug Courts at 1pm on Mondays. During the screening process the ADC PP may ask for further information from other police to assist in determining eligibility and/or appropriateness of Drug Court applicants for program entry. Following the completion of the screening process and any subsequent ballot, the ADC PP will supply each organisation their bundle of information (as outlined above). The ADC PP will complete a Blue Ballot Screening form. This Screening Form will include matters the ADC PP has identified as events of concern in the applicant's history to determine if they would be an appropriate person to participate on the program.

This form and the ADC PP appropriateness recommendations are to be included in the DPPs bundle as well as scanned and uploaded to the appropriate folder on the 'P' Drive.

## 5.6 Participant's drug court program

Each participant's Drug Court program is individually tailored to address his or her specific needs. The treatment options offered include abstinence, methadone and buprenorphine programs conducted in either the community or residential rehabilitation settings.

There are four fundamental aspects that are common to each Drug Court program:

- Evidence-based drug treatment.
- Social support and the development of living skills.
- Regular reports to the Court regarding participant progress; and

- Regular testing for drug use.

Each participant's program comprises three phases. Each phase has distinct goals that must be achieved before the participant graduates to the next phase of their program.

Phase 1 is the 'initiation' phase where participants are expected to reduce drug use, stabilise their physical health and cease criminal activity. In this phase, participants are required to undergo drug testing at least three times a week and to report back to the Drug Court once a week.

Phase 2 is the 'consolidation' phase where participants are expected to remain drug-free and crime-free and develop life and job skills. In this phase, testing for drug use is conducted twice weekly and report-back court appearances occur fortnightly.

Phase 3 is the 'reintegration' phase where participants are expected to gain or be ready to gain employment, and to be financially responsible. In Phase 3, drug testing is conducted twice weekly, and report-back court appearances are conducted monthly.

## **5.7 Rewards and sanctions**

Policy 4 deals with Rewards and Sanctions.

The Drug Court Act 1998 allows the Court to confer rewards on a participant when they maintain a satisfactory level of compliance with their Drug Court program. Sanctions may be imposed on the participant if they fail to comply with their program. Participants are informed of the types of behaviour that attract rewards and sanctions.

### **5.7.1 Rewards**

Behaviour giving rise to rewards may include:

- Satisfactorily complying with the program for a significant period,
- Demonstrating responsibility (e.g., Demonstration of trust in the Drug Court/Probation and Parole Officer by notifying of problems as they arise),
- Demonstrating stability (e.g., Addressing lifestyle and relationships, obtaining employment/training),
- Displaying an outstanding attitude to the program,
- Demonstrating initiative (e.g., by undertaking courses or study beyond what is required by the program),
- Satisfactorily completing components of the program,
- Any other conduct-warranting acknowledgement.

Rewards can include:

- Conferral of specified privileges such as being allowed to engage in employment in Phase 1
- A change in the frequency of counselling or other treatment,
- A decrease in the degree of supervision,
- A decrease in the frequency of testing for drugs,
- A decrease in the amount of any monetary penalty payable to the Drug Court,
- A change in the nature or frequency of the vocational and social services which the drug offender is required to attend.

### **5.7.2 Sanctions**

Behaviour giving rise to sanctions may include:

- Testing positive for prohibited drugs, other substances that have been prohibited by the program or not disclosed to the Probation and Parole Officer,
- Failing to provide a sample (urine, breath, or saliva) when requested by a person authorised to collect the sample,
- Failing to punctually attend all Drug Court sittings, treatment, counselling, personal development courses, educational courses, employment interviews, employment or other appointments as directed by the Drug Court, Probation and Parole or the participant's treatment provider,
- Failing to perform a specified component of the participant's program,
- Committing further offences,
- Failing to obey any reasonable direction of the Drug Court, the participant's Community Corrections officer of the participant's treatment provider,
- Any other failure to comply with the conditions in the participant's undertaking.

Sanctions can include:

- Withdrawal of privileges,
- An increase in the frequency of counselling or other treatment,
- An increase in the degree of supervision,
- An increase in the frequency of testing for drugs,
- A requirement that the drug offender pay a monetary penalty to the Drug Court,
- Imprisonment in a correctional centre,
- A change in the nature or frequency of the vocational and social services the offender is required to attend,
- Phase regression.

## **5.8 Appeals**

There is no automatic right for a person to enter a Drug Court program, and no appeal is allowed against a decision of the Drug Court to refuse to allow a person to enter a Drug Court program or against the initial sentence imposed. When a person is on a program there is no appeal against any decision taken by the Drug Court relating to the conditions of a program or the imposition of rewards or sanctions. However, appeals against a final sentence imposed after a sentence is terminated can be made.

## **6 The Drug Court team and meetings**

### **6.1 Team meetings**

Policy 1 deals with Team Meetings.

Prior to court sitting and in the absence of the participants, all members of the drug court team meet and discuss the participation, or lack thereof, of the participants in the list that day. The Judge will

decide based on that information when court commences sitting. This provides a consistent and unified front to the participant and is an integral part of the Program. Team meetings are conducted between 9am – 11am on each court sitting day, where the drug court team members exchange and collect information. At the team meeting the ADC PP is to perform the following duties:

- Complete checks on all Participants attending Court that day. This includes any Police involvements, TINS, events, charges, intel reports, and second-hand dealer activity the participants may have on the COPS system since their last appearance before the Court,
- Where appropriate (i.e., does not have the potential to compromise operational police activity), disclose any intelligence from Police regarding the participant,
- Record drug and alcohol screening results,
- Engage in legal discussions, when necessary,
- Promote NSWPF policies and corporate objectives,
- Engage in recommendations for participant rewards or sanctions.

## **6.2 Drug court policy making**

Policy 3 deals with Policy Formation.

The purpose of drug court policy making is to facilitate the formulation of policies by the Drug Court team. The Drug Court team will develop policies designed to ensure that the team acts in an appropriate and consistent manner when considering matters beyond the traditional scope of the criminal justice process. Key points include:

- No policy will intrude on a judicial function,
- Each policy will be reviewed regularly,
- The Drug Court team at policy and procedure meetings will decide policies,
- Policy and procedure meetings will be held regularly,
- The Drug Court team may invite interested persons to attend policy and procedure meetings,
- The public will have access to policies via the Drug Court website.

Management/Policy meetings are conducted monthly at all operational drug courts. The ADC PP is required to record the outcomes of the meetings and any issues or tasks identified should be actioned accordingly. A copy of the agenda and minutes can be found in the shared drive on the AGJD of the computer system.

## **6.3 Drug court ‘report backs’ and case review meetings**

### **6.3.1 Report backs**

A ‘report back’ is a short meeting between the participant and the judge during which the participant’s progress is reviewed. At a report back, the ADC PP is required to discuss with the court the participant’s progress. This includes (but is not limited to) the following:

- If any sanctions are to be imposed or removed
- If any participants should serve their sanctions
- If the participant should progress or regress

- If the participant should graduate or be terminated
- If the participant deserves a reward for recent program compliance
- Any alteration to the participant's program giving

### **6.3.2 Sanctions**

Case Review Meetings are held monthly or as otherwise directed by the Judge. The ADC PP will assist in the same manner as per cl 6.1 Team meetings.

## **7 Arrest procedures**

Policy 10 deals with offences committed by participants.

### **7.1 Pre-drug court program matters**

Participants may be wanted by police for offences that were committed before the commencement of the Drug Court Program. The ADC PP should, where possible and in consultation with the officer in charge, advise Legal Aid when this information becomes available.

Arrest for pre-program offences may jeopardise the progress of a participant's treatment plan. For this reason, it is appropriate for the Drug Court Team, in certain circumstances, to advocate that a participant NOT be arrested by police but be dealt with as outlined below. In all matters, however, the decision to arrest remains with the investigating police.

Upon notification by police that a participant is wanted or is to be charged, the ADC PP will notify Legal Aid of the details of the allegations, possible charges, and the OIC's details and location. Legal Aid will obtain instructions as to whether the participant wishes to be interviewed by the Police.

Where the participant does not wish to be interviewed, or wishes to record a refusal to be interviewed, Legal Aid will provide written confirmation of this to the ADC PP and the OIC in the matter.

In the above circumstances the ADC PP will contact the OIC and recommend that proceedings be initiated by way of Future CAN. The matter is to be listed at the relevant Local Court.

If this process is adopted the ADC PP will assist in arranging an appointment for the participant to attend the police station for service of the CAN. The ADC PP will ensure that Legal Aid is aware of this appointment. In some circumstances the ADC PP can serve a Future CAN, however this needs to be discussed with the ADC PP prior to the charge being generated.

### **7.2 Post-drug court program matters**

If the ADC PP becomes aware that a participant is wanted or has been charged with an offence that was allegedly committed whilst the participant was on the drug court program, the ADC PP may recommend to the police informant that the procedure outlined in cl 7.1 pre-drug court program matters are adopted. Before making any recommendations, the ADC PP should consider the seriousness of the alleged offence/s committed, the participant's current progress on program, s 99 LEPR, and the Bail Act 2013.

If a participant is currently on any specific bail conditions (such as 'no further offending', 'no alcohol', or 'no violence') and the ADC PP becomes aware that the Participant has been involved in a breach of such clauses, or involved in a serious matter that may preclude further participation the



program, the ADC PP may request that the charges be generated as a matter of priority or that the informant provide a partial brief at the earliest opportunity. This is to ensure that the crown case is prepared in case of a Risk / PTP hearing being set down due to such breaches.

## **8 Suspect Target Management Plan (STMP III)**

To be classified as an 'eligible person' for a drug court program, a person must be convicted of an offence and be 'highly likely' to receive a sentence of full-time imprisonment for that offence. This very same eligibility criterion makes the drug court program participant at a higher chance for identification and selection under the STMP.

It is the decision of the PAC/PD as to what extent the services of the ADC PP are used. The ADC PP prosecutor's role is primarily to act as a point of contact and a co-ordinator for drug court matters and represent the interest of the NSWPF in matters concerning drug court and drug court participants.

The success of the STMP in managing targeted offenders relies upon the effective partnership of focussed intelligence and investigations. The ADC PP can assist in a coordinated approach to the assessment, targeting, and management of repeat offenders. Some of the ways an ADC PP can assist includes:

- Sending a monthly report of current and active drug court participants to intelligence officers,
- Attending local tasking meetings when available,
- Establish and maintain strong working ties with Intel and Crime Management Teams within the relevant catchment,
- Assist in the delivery of any local Drug Court training needs,
- Representing the community's and Police interest regarding such matters as access to a drug court program, sanctions, rewards, termination, and graduation applications,
- Where appropriate, provide intelligence to police on current STMP activities,
- Assist in the co-ordination of pre-program and on-program offence management,
- Advise PACs/PDs of any new or active warrants for participants.

## **9 Transfers and information requests**

### **9.1 Transfer of local court matters**

If an applicant or participant has entered a Plea of guilty to a matter at the Local Court and requests to have it transferred to the Drug Court, it is the responsibility of the Legal Aid Commission to complete a written request indicating the charge details, the relevant Local Court where the matter is listed, the date of that appearance, and the next Drug Court appearance date. The ADC PP will complete a transfer request and email a copy to the relevant Local Court and Prosecutors and monitor the charges.

## 9.2 Post-drug court program matters

Drug court team members may request court documents or other material for the purposes of court. This request can be verbal or written, with relevant information to be provided in a timely manner. The ADC PP must ensure compliance with all NSW Police Force [Information Technology Policies & Procedures](#).

For information requests (other than ODPP) a standard request form should be used. This form is to be completed and a copy retained by the ADC PP office.

The Drug Court registry will also request by email copies of facts and other related charge management reports. These are to be provided in a timely manner.

There may at times be a need to request further information from Police (e.g., the brief of evidence). In such circumstances, the ADC PP should contact the police informants via email (using the relevant shard email) and ensure a copy of the request remains with the participant's file.

## 10 Completion of a Drug Court program

Policy 6 deals with completion or termination of a drug court program. A drug court program can be terminated when:

- the Court decides that the participant has substantially complied with the program; or,
- the participant applies to have it terminated; or,
- the Court decides that the participant is unlikely to make any further progress in the program; or,
- that further participation poses an unacceptable risk to the community that the offender will reoffend.

If appropriate, that sentence can be set aside and another sentence imposed in its place. In deciding the final sentence, the Court will take into consideration the nature of the offender's participation in the program, any sanctions that have been imposed, and any time spent in custody during the program.

The application to terminate for failing to comply with the program may be made by any member of the Drug Court team. The primary responsibility for identifying participants who should be considered for program termination lies with the solicitors from the ODPP and the ADC PP. A participant's legal representative, case manager, and treatment provider (if any) are to receive reasonable notice from the solicitor(s) from the ODPP or the ADC PP that the participant's program is to be considered for termination and are to be afforded the opportunity of making submissions to the court.

Unless the circumstances that have led to a program being considered for termination are admitted, information establishing those circumstances should be available in writing prior to the relevant meeting. If requested, the person providing the information should be available for questioning.

### 10.1 Warrants

Drug Court warrant matters should NOT be bail refused to the Local Court. In all execution of Drug Court warrants, the ADC PP will advise that the participant should be bail refused to the next available Drug Court sitting day and advise the registry so the matter can be added to the list accordingly.

If the Drug Court seeks assistance to execute a Drug Court warrant, the ADC PP will complete a station message pad to the last known address of the participant. The station message should be forwarded to the relevant PAC and a record of same retained.

Where the Drug Court Team has deemed that the warrant be marked “Urgent”, the ADC PP will contact the Operational Support Helpdesk on (02) 8835 7766 and confirm that the warrant has been received.

If a drug court participant is arrested due to a telephone message warrant request, but the warrant is not on COPS, the arresting police can contact the After Hours Warrants Support Section on E/N 27766.

## **10.2 Failed prosecutions**

The ADC PP should review all charges attached to each potential and current drug court participant. If a circumstance arises in which a charge should be withdrawn, full compliance with the NSWPF Withdrawal Policy must be observed. The ADC PP will monitor all failed prosecutions through CMFMS and acquit any failed prosecutions. Refer to the Police Prosecutions Command SOPs for more information.

## **10.3 Graduate procedure**

Policy 7 deals with program goals and measures.

The ADC PP is responsible for completing graduation checks on all potential graduates. These checks are conducted at the following:

- One month prior to graduation
- 2 weeks prior to graduation
- 1 week prior to graduation

Checks are made through COPS to ensure that the graduate has complied with the graduation criteria. The ADC PP will conduct a review of the referred charges for all graduates and will ascertain if it is appropriate to invite one or more police officers to the graduation ceremony. The Prosecutor will send the information and recommendation to the Drug Court Registrar who then, in consultation with the Drug Court Judge, endorses or refuses the recommendation. The Registrar will advise the ADC PP by email of the outcome.

## **10.4 Graduation ceremony**

If there is agreement by the ADC PP, Registrar, Judge, and Graduate that a police officer is to be invited to a graduation ceremony then the Drug Court Registry will write a letter of invitation to the relevant police officer. The ADC PP will be given a copy and will also send an internal email to inform the police officer of such invitation.

# **11 Training and education**

The ADC PP is required to assist in delivering training and education to Police Prosecutions Command and the NSWPF. This may include:

- Advice on new legislation, policy, and procedure; and,

- Delivering presentations (a suitable power point can be located on the 'P' Drive) at PAC/PD training days targeting General Duties, Proactive Teams, and police attached to Police Transport Command; and,
- Submit articles to Police Monthly and Police Issues and Practice Journals; and,
- Updating the Adult Drug Court Website; and,
- Provide orientation to PEP Trainees; and,
- Assist with the delivery and presentation at the Annual Drug Court Conference.

## **12 Compulsory drug treatment order**

The compulsory drug treatment program (CDTCC) is NOT a Drug Court Program. It is a program assisted and administered by the Drug Court of NSW (Parramatta).

The ADC PP is responsible for creating a warning for any person who is the subject of a Compulsory Drug Treatment Plan. The CDTCC Senior Clerk will supply a copy of the order once it is made by the Court. Upon receipt the ADC PP will create a warning by way of an intel report. The ADC PP should access the intelligence system with their relevant intelligence access. The warning should read, '**This person is subject to a Compulsory Drug Treatment Order – report all contact to the (relevant court) Drug Court Prosecutor on (Phone number) or (shared email)**'. The ADC PP will then be required self-verify the intelligence report via fast path INFEVA.

## Appendix 1 – Definitions

### *ADC PP*

Adult drug court police prosecutor

### *Case manager*

CCMG officer assigned to a participant

### *CCMG*

Community compliance monitoring group – previously known as probation and parole

### *Drug court program*

The conditions that a person has accepted under s 7(2)(d) of the Act

### *Drug court team*

The Drug Court Judge, Registrar, solicitor for Legal Aid, solicitor for the ODPP, ADC PP, CCMG coordinator, Nurse manager, and senior judge's associate who are attached to the Drug Court

### *Final sentence*

A sentence pursuant to s 12 of the Act

### *Graduation*

Successful completion of a drug court program

### *Participant*

A person accepted into a drug court program

## Appendix 2 – References

[Drug Court Act 1998 \(NSW\) \('the Act'\)](#)

[Drug Court Regulation 2020 \(NSW\) \('the Regulations'\)](#)

[Drug Court website](#)

[Past decisions of the Drug Court](#)

[Program structure](#)

[Policies of the Drug Court](#)

## **Appendix 3 – Forms and Documents**

Up to date information, forms, and links can be located on the [PPC Drug Court Intranet](#) page.

[Quick Guide – Drug Court procedures](#)

[Quick Guide – Compulsory Drug Treatment Correctional Centre \(CDTCC\)](#)

[Example – Drug court program undertaking](#)

## Endnote References

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<sup>i</sup> Policy format and name changed to comply with CET Memorandum D/2023/1307809.