


NH DEPARTMENT OF CORRECTIONS POLICY AND PROCEDURE DIRECTIVE Pursuant to RSA21-H:8 (III) Internal Practices and Procedures	CHAPTER <u>Field Services</u> STATEMENT NUMBER <u>852</u>
SUBJECT: <b>ADULT DRUG COURT PROGRAMS</b>  PROPONENT: <u>Director</u> <i>Position/Title</i> <u>Field Services (603) 271-5652</u> <i>Office Phone #</i>	EFFECTIVE DATE <u>12/1/2021</u>  REVIEW DATE <u>12/1/2024</u>  SUPERSEDES PPD# <u>N/A</u>  DATED <u>4/1/2021</u>
ISSUING OFFICER:   <i>Helen E. Hanks, Commissioner</i>	DIRECTOR'S INITIALS <u>R.O.</u> DATE _____  APPENDIX ATTACHED: YES _____ NO _____
REFERENCE NO: See reference section on last page of PPD.	

- (a) **PURPOSE:**  
 To provide guidance for New Hampshire Department of Corrections (NHDOC) Chief Probation/ Parole Officers (CPPOs) and Probation/Parole Officers (PPOs) in performing their duties pertaining to the supervision of probationers and parolees that are participants New Hampshire Drug Court Programs.
- (b) **APPLICABILITY:**  
 To all CPPOs and PPOs.
- (c) **POLICY:**  
 It is the policy of the NHDOC Division of Field Services to provide community supervision to probationers/parolees that are participants of any New Hampshire Drug Court Program, pursuant to RSA 504-A:12 and in accordance with PPD 856 *Adult Probation/Parole Violations* and PPD 879 *Supervision of Offenders*.
- (d) **PROCEDURE:**
- (1) PPOs will be assigned to each New Hampshire Drug Court Program, and to the respective Drug Court treatment teams.
    - a. The number of assigned PPOs will be based on the National Association for Drug Court Professionals (NADCP) research and best practices in regards to caseload sizes, coupled with the probationer/parolee's Ohio Risk Assessment Score (ORAS).
  - (2) NADCP research and best practices indicate:
    - a. Intensive Risk (according to ORAS assessment): 20 participants to 1 PPO.
    - b. High to Moderate Risk (according to ORAS assessment): 50 participants to 1 PPO.
    - c. Program operations should be closely monitored when PPO's caseloads exceed 30 active participants per officer.
  - (3) **PPO Supervision Caseloads**

- a. When supervision caseloads exceed thirty (30) active participants per PPO, program operations are monitored carefully to ensure PPOs can evaluate participant performance accurately, share significant observations with team members, and complete other PPO duties as assigned.
- b. Supervision caseloads should not exceed fifty (50) active participants per PPO.
- (4) NHDOC shall assign PPOs to individual Drug Courts, at the discretion of the supervising Chief PPO of the applicable District Office, as follows:
  - a. Pursuant to NH RSA 504-A:11, the Commissioner shall assign probation and parole officers to each New Hampshire Drug Court Program consistent with the workload formulas and based on available funding. If the number of participants referred by NH Drug Court Programs to be supervised by a NHDOC PPO exceeds the number of currently funded PPOs, the referral will be declined until such time as the NHDOC budget and field services caseload permits an addition.
  - b. Any individual New Hampshire Drug Court Program with an active caseload of 10 or more probationers/parolees shall be assigned one (1) designated PPO to supervise that specific caseload, typically in population dense counties.
  - c. Drug Court participant assignment in geographically rural areas may be split between multiple PPOs, based on population, location, and the workload and associated demands placed on PPOs.
- (5) PPOs will not perform tasks outside of the scope of their regular NHDOC duties, or assume duties that should be performed by Drug Court staff with Judicial resources, including, but not limited to:
  - a. Placing electronic monitoring devices on probationers/parolees ordered by the Drug Court or County;
  - b. Collecting urine samples for the random color-coded urine screens, ordered by Drug Court;
  - c. Excessive office or field contacts, beyond the scope of what the ORAS assessment requires, pursuant to PPD 879 *Supervision of Offenders*; and,
  - d. Entering data/statistics into electronic databases outside of the NHDOC's electronic client record. PPOs involved in Drug Court case can share relevant NHDOC ECR notes with drug court case managers so they may incorporate them into the judiciary's electronic tracking systems.
- (6) PPOs will monitor Drug Court Program participants during office visits and in the community through home visits. PPOs will be responsible for ensuring ORAS risk assessments are conducted on Drug Court program participants in accordance with PPD 879 *Supervision of Offenders*.
- (7) PPOs will participate in a collaborative team approach with other Drug Court Team members to monitor, review, and recommend courses of action on each individual Drug Court participant. *See Attachment 1 Ten Key Components of Adult Drug Courts.*
- (8) If the Drug Court requires training for PPOs specific to the Drug Court programs, it will be provided by the Judiciary through the Drug Court.
- (9) PPOs will keep notes in the NHDOC electronic client record (ECR) to ensure accurate record keeping on Drug Court participants, and share relevant information from that system via email to the Drug Court Case Manager to include in their system.
- (10) PPOs will be mindful that Drug Court Programs are an alternative to incarceration, and participants should be promoted in their recovery and assisted to reintegrate as successful members in the community.
- (11) Confidentiality
  - a. 42 CFR 2 and State licensing requires that participant identity and privacy be protected; that releases must be signed; and, that information received under those releases may not be re-released.
  - b. In accordance with the HIPAA Laws, participants will be asked to sign two Consents for Disclosure of Confidential Substance Abuse Information, one for the treatment provider and one for the case managers. This disclosure of information is for the sole purpose of

hearings and reports concerning the participant's specific drug court case and is a mandatory requirement of Drug Court.

- c. The PPO is responsible for monitoring the status of the participants' progress with treatment and compliance with the Drug Court terms of supervision, while maintaining federal and state requirements of confidentiality.
  1. Pursuant to CFR 42 §2.35 confidential information about a patient may be disclosed to those individuals within the criminal justice system who have made participation in the program a condition of the disposition of any criminal proceedings against the patient or of the patient's parole or other release from custody if:
    - (i) The disclosure is made only to those individuals within the criminal justice system who have a need for the information in connection with their duty to monitor the patient's progress (*e.g.*, a prosecuting attorney who is withholding charges against the patient, a court granting pretrial or post-trial release, probation or parole officers responsible for supervision of the patient); and
    - (ii) The patient has signed a written consent meeting the requirements of § 2.31 (except paragraph (a)(6) of this section which is inconsistent with the revocation provisions of paragraph (c) of this section) and the requirements of paragraphs (b) and (c) of this section.
  2. Duration of consent. The written consent must state the period during which it remains in effect. This period must be reasonable, taking into account:
    - (i) The anticipated length of the treatment;
    - (ii) The type of criminal proceeding involved, the need for the information in connection with the final disposition of that proceeding, and when the final disposition will occur; and
    - (iii) Such other factors as the part 2 program, the patient, and the individual(s) within the criminal justice system who will receive the disclosure consider pertinent.
  3. Revocation of consent. The written consent must state that it is revocable upon the passage of a specified amount of time or the occurrence of a specified, ascertainable event. The time or occurrence upon which consent becomes revocable may be no later than the final disposition of the conditional release or other action in connection with which consent was given.
  4. Restrictions on re-disclosure and use. An individual within the criminal justice system who receives patient information under this section may re-disclose and use it only to carry out that individual's official duties with regard to the patient's conditional release or other action in connection with which the consent was given.

(12) PPO Participation in Drug Court.

- a. The PPO attends weekly staffing, court and scheduled policy meetings.
- b. The PPO is responsible for testifying in legal proceedings as required.
- c. The PPO will assist the Drug Court Team in determining appropriate sanctions and incentives for participants, and implements incentives and sanctions for the participants utilizing the input from the Drug Court Team, unless immediate action is required based on a public safety risk.
- d. PPOs will make referrals to the program for probationers and parolees that he or she believes would be appropriate for and benefit from the program.

(13) PPOs will adhere to monitoring the Drug Court Participants through the program requirements adopted from New Hampshire Adult Drug Court Policies and Procedures.

(14) Phases

- a. Drug Court is an 18-24-month intervention program divided into multiple phases. A participant must successfully complete each phase before transitioning to the next phase.
- b. The Drug Court phases include the following components:
  1. Recovery and Self-Assessment.
  2. Evaluate / Formulate Long-term Recovery and assistance free life goals.

3. Reinforce a Sober and legal lifestyle.
4. Aftercare.
- c. As a Drug Court participant progresses through the phases of Drug Court, the PPO may re-assess the risk level under ORAS, pursuant to PPD 879 *Supervision of Offenders*.
- (15) Drug Court Program Rules. Drug Court participants are required to abide by the Drug Court rules found in New Hampshire Adult Drug Court Policies & Procedures, Superior Court of New Hampshire Drug Offender Program; and, PPOs shall enforce those rules that correspond to the requirements of the participant's particular probation or parole terms and conditions.
- (16) Fraternization. Drug Court participants are required to abide by the Drug Court rules; and, PPOs shall enforce those rules that correspond to the requirements of the participant's particular probation or parole terms and conditions, at the PPO's discretion and based on the documented risk to public safety.
- (17) Sanctions, Incentives, and Therapeutic adjustments. PPOs engage as a member of the Drug Court team to incentivize, support, and sanction participants; but ultimately it is the PPO's job to ensure community safety and enforce the rules and guidelines of the NHDOC, and the terms and conditions of each participant's probation or parole, pursuant to RSA 21-H.
- (18) New Offenses.
  - a. If a participant is arrested and charged with new offenses she or he may be subject to termination from Drug Court, and potential repercussions based on the terms of his or her probation or parole.
  - b. If the participant is incarcerated pending the resolution of those charges and drug court termination has not been decided, the participant will be transported to the next available Drug Court hearing for a status conference. However, the participant will not participate in regular Drug Court hearings so long as he or she is incarcerated pending the resolution of new charges.
  - c. If a participant is released on bail, he or she shall be required to continue in the Drug Court program.
- (19) Termination from Drug Court.
  - a. Warrants, new arrests, or a significant violation of a treatment plan that poses a risk to public safety, may result in termination from the Drug Court program.
  - b. If a Drug Court participant violates the terms of his or her probation or parole, the PPO shall notify the Drug Court, and take whatever other actions are necessary to protect public safety, pursuant to PPD 879 *Supervision of Offenders*.
  - c. Drug Court participants can be subject to termination from Drug Court for other violations, as described in the New Hampshire Adult Drug Court Policies & Procedures, Superior Court of New Hampshire Drug Offender Program.
  - d. The final decision to terminate a Drug Treatment Court participant from Drug Court will be at the discretion of a Judge after an evidentiary hearing on whether the participant should be terminated. Participants will have the right to representation at this hearing.
- (20) Search and Arrest Requirements.
  - a. Drug Court participants are required to abide by the Drug Court rules; and, PPOs shall enforce those rules that correspond to the requirements of the participant's particular probation or parole terms and conditions, at the PPO's discretion, and in accordance with community safety.
  - b. As a participant in Drug Treatment Court and while on probation or parole, participants may have their person, vehicle, and/or place of residence searched by any PPO for the presence of narcotics, drugs or other contraband at any time of the day or night, pursuant to NHDOC standards laid out in PPD 865 *Arrest Procedures* and 878 *Searches, Handcuffing, and Transporting Offenders*.
- (21) Completion/Graduation/Rite of Passage Ceremony
  - a. PPOs are welcome and encouraged to participate in ceremonies to congratulate Drug Court participants on their success.
- (22) Annulment
  - a. Pursuant to RSA 490-G:2, any Drug Court participant who successfully completes the

- program may file for early annulment of their charge one year after the completion of all supervision by NHDOC.
- b. PPOs may handle the annulment investigations pursuant to PPD 857 *Annulment/Pardon Investigations*.
- (23) Aftercare.
- a. After the completion of all phases of the Drug Court program, the participant must follow all aftercare recommendations and complete a plan that outlines appropriate activities during aftercare.
  - b. Most of the time, a Drug Court participant will remain on probation or parole, after the completion of Drug Court, and will continue to be supervised according to ORAS assessments and PPD 879 *Supervision of Offenders*.
- (24) Urine Sample Collection and Testing
- a. Drug Court participants who are also on probation or parole are required to participate in the urine screens requested and paid for by the Drug Court, as well as any required by his or her PPO, under the terms and conditions of his or her probation or parole.
- (25) Absconding. Drug Court participants are required to abide by the Drug Court rules; and, PPOs shall enforce those rules that correspond to the requirements of the participant's particular probation or parole terms and conditions. If a Drug Court participant absconds, after 30 days the PPO shall file a Violation of Probation or Parole (VOP) and place the case in "Fugitive status" in the ECR. Ultimately, it is the PPO's job to ensure community safety and enforce the rules and guidelines of the NHDOC.
- (26) Overnight / Furlough Criteria.
- a. During the Drug Court program, participants may request to stay outside of their approved residence and or out of state. They must comply with the policies of Drug Court, and receive authorization from the PPO, in accordance with the terms and conditions of his or her probation or parole, and based on public safety considerations.
- (27) Transitional Housing, Halfway House, Sober House; Overnight Requests.
- a. If participant is living at a Transitional Housing unit, other restrictions may apply based on that program's rules.
  - b. The supervising PPO and treatment team must agree on any Drug Court requests to participate, including overnight stays outside of the originating county.
- (28) Restitution
- a. If a Drug Court participant has fines or restitutions through their criminal court conviction, he or she shall meet with the PPO upon acceptance into Drug Court.
  - b. Supervising PPO shall set up a payment plan at their discretion, based on assessing participant's phase, ability to pay and employment status.
  - c. Restitution will be handled according to RSA 651:63 and PPD 851 *Field Services Collection Procedure*.

#### REFERENCES:

New Hampshire Adult Drug Court Policies & Procedures, Superior Court of New Hampshire Drug Offender Program (<https://www.courts.state.nh.us/drugcourts/docs/Drug-Court-Policy-Procedure.pdf>)

<https://www.courts.state.nh.us/drugcourts/NHofficeDOP.htm>

National committee of experts for the Office of Justice Programs, Drug Courts Program Office (National Association of Drug Court Professionals, 1997).

Adult Drug Court Best Practices Standards Volume II Text Revision, National Association of Drug Court Professionals

"How Many is Too Many? Addressing Caseload Sizes in Specialty Courts," by Kevin Baldwin, Ph.D. National Association for Drug Court Professionals (NADCP)

Standards for Adult Probation and Parole Field Services  
Third Edition Standards

Other:

CFR 42 §2.35 Disclosures to elements of the criminal justice system which have referred patient.

RSA 490-G:2

RSA 504-A:11

RSA 504-A:12

RSA 651:63

PPD 851 *Field Services Collection Procedure*

PPD 856 *Adult Probation/Parole Violations*

PPD 857 *Annulment/Pardon Investigations*

PPD 865 *Arrest Procedures*

PPD 878 *Searches, Handcuffing, and Transporting Offenders*

PPD 879 *Supervision of Offenders*

ATTACHMENTS:

Attachment 1 *Ten Key Components of Adult Drug Courts*

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