

# POLICY AND PROCEDURES FOR PROSECUTING ATTORNEY

**DRUG COURT PROSECUTING ATTORNEY:** As a member of the Callaway County Drug Court Team the Prosecuting Attorney will review all potential Diversion and Post Plea participants for eligibility, actively participate in staffing of cases, and interact in a **non-adversarial manner** to address revocations, pleas and application of sanctions and incentives as they apply to the participant. **(Defendants shall not be asked to testify, or act as an informant in any case as long as they are Drug Court participants!)**

## **I. Referral procedures**

- A.** All initial referrals will be reviewed by the assigned Drug Court Prosecuting Attorney.
  - 1. Insure the charge meets the guidelines to participate or can be amended to meet the guidelines.
  - 2. Insure referral includes which program the defendant is assigned. (ie Diversion or Post Plea)
  - 3. Insure the defendant is a Callaway county resident
- B.** The Drug Court Prosecuting Attorney will sign off or reject the initial referral.
  - 1. If rejected the file will be returned to the original Assistant Prosecuting Attorney marked denied with an explanation as to why the referral was denied.
  - 2. If accepted a copy of the referral face sheet and a copy of the notice of referral will be sent to the defense attorney and the Drug Court Administrator.
- C.** The Defense Attorney will return the Notice of Referral form to the Drug Court Administrator noting their desire to participate or not.
  - 1. If the defendant is not interested the Drug Court Prosecutor will be notified immediately and set the case for normal prosecution.
  - 2. If the defendant is interested the Drug Court Prosecutor will be notified and the assessment process will begin.

## **II. Assessment process**

- A.** The Drug Court Administrator is responsible for conducting the Assessment for all Diversion and Post Plea referrals and will advise the Drug Court Prosecutor when the case is placed on the Drug Court Docket.

## **III. Acceptance or Denial**

- A.** The Drug Court Prosecutor will be advised when a new case is placed on the docket for acceptance or denial.
- B.** During the Team Staffing a presentation of the assessment will be made and each team member will have an opportunity to voice their opinion.
- C.** The Drug Court Judge will have the final decision as to the defendant being accepted or denied Drug Court.
- D.** If the defendant is denied Drug Court the criminal preceding will continue as normal.
- E.** If the defendant is accepted the criminal case preceding will be stopped until the defendant graduates nor is terminated.

## **IV. Graduation**

- A.** When a Diversion defendant is scheduled for graduation the Drug Court Prosecuting Attorney will file a nolle prosequi notice.
- B.** When a Post Plea defendant is scheduled for graduation the Drug Court Prosecuting Attorney will review the case and prepare any paperwork necessary to comply with the plea agreement.

## **V. Termination**

- A.** When a Diversion defendant is terminated the Drug Court Judge will assign them the next available court date in the division they were assigned.
  - 1. The Drug Court Prosecuting Attorney will notify the prosecuting attorney assigned to the case and the criminal preceding will continue.
- B.** When A Post Plea defendant is terminated the Drug Court Judge will assign them the next available court date in the division they pled.
  - 1. The Drug Court Prosecuting Attorney will notify the prosecuting attorney assigned to the case and the criminal preceding will continue.

Callaway County Drug Court Initial eligibility  
Determination form

Accused: \_\_\_\_\_

Charge (s): \_\_\_\_\_

SSN:     \_\_\_\_/\_\_\_\_/\_\_\_\_

Case Number: \_\_\_\_\_

DOB:     \_\_\_\_\_

Qualifying characteristics – Considerations for eligibility  
(Check all that apply)

- \_\_\_\_\_ Applicant is charged with any of the following offenses:  
Possession or attempt to possess a Controlled Substance  
Fraudulent Prescription  
Possession of narcotic paraphernalia  
Non –drug, Non-violent crime with indication of drug use
- \_\_\_\_\_ Applicant admits to police that he/she is a drug user at the time of arrest
- \_\_\_\_\_ Applicant tests positive for drug use at the time of arrest or while under bond supervision
- \_\_\_\_\_ Applicant's family, friends, attorney, employer, etc. state that he/she is a drug user

Disqualifying characteristics

- \_\_\_\_\_ Applicant is not a Callaway County resident
- \_\_\_\_\_ Applicant is charged with a violent offense, or displayed a weapon during offense
- \_\_\_\_\_ Applicant is charged with trafficking drugs
- \_\_\_\_\_ Applicant is currently under felony probation or parole supervision
- \_\_\_\_\_ Applicant has been found guilty of murder, voluntary or involuntary manslaughter
- \_\_\_\_\_ Applicant has been found guilty of any sexual offense
- \_\_\_\_\_ Applicant has history of assaultive or violent behavior
- \_\_\_\_\_ Applicant has a pending criminal case that is not being considered for Drug Court
- \_\_\_\_\_ Applicant is being considered even though he/she has an above noted       disqualifying  
characteristic because: \_\_\_\_\_
- \_\_\_\_\_
- \_\_\_\_\_

Referral Type

- \_\_\_\_\_ Diversion
- \_\_\_\_\_ Post Plea Diversion (Will withdraw Plea upon successful completion)
- \_\_\_\_\_ Post Plea probation
- Recommendation if successful: \_\_\_\_\_
- Recommendation if unsuccessful: \_\_\_\_\_

Drug Court Prosecutors approval: \_\_\_\_\_ Date: \_\_\_\_\_

Please fax completed form to Drug Court Administrator.     (573) 886-4247