



**Technical Assistance (TA) Summary Report**  
**Whatcom County Adult Drug Court**  
**Bellingham, WA**  
**Non-BJA Grantee: On Demand TA**



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**Background and Overview:**

An NADCP TA review process was conducted with the Whatcom County Adult Drug Court on February 21-22, 2019 by Dr. Shannon Carey and Adrian Johnson of NPC Research. This report summarizes the key findings of the review process.

**Summary of Best Practices:**

Listed below are the practices that align with the 10 Key Components of Drug Court and NADCP's Adult Best Practice Standards (Volume I 2013, Volume II 2015) that have been implemented by the Whatcom County Adult Drug Court. These best practices are based on research demonstrating that programs that engage in these practices have more positive outcomes, as measured by reduced recidivism and greater cost savings, than programs that do not follow the Best Practice Standards. Congratulations on your program's achievements in these areas! A full set of practices that is utilized by this program is included as an attachment with this report.

1. A prosecuting attorney and a defense attorney are part of the drug court team.
2. The drug court works with two or fewer treatment agencies.
3. The drug court offers mental health treatment.
4. Program provides (or partners with service providers who provide) participants with legally prescribed psychotropic or addiction medication (MAT).
5. The minimum length of the drug court program is twelve months or more.
6. Drug test results are back in two days or less.
7. In the first phase of drug court, drug tests are collected at least two times per week.
8. Participants are expected to have ninety days or more of negative drug tests immediately prior to graduation.
9. Sanctions are imposed immediately after non-compliant behavior (e.g., drug court will impose sanctions in advance of a client's regularly scheduled court hearing).
10. Team members are given a written copy of the incentive and sanction guidelines.
11. Judge spends an average of three minutes or greater per participant during status review hearings.
12. Program has incentives for graduation, including avoiding a criminal record, avoiding incarceration, or receiving a substantially reduced sentence.



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13. The judge's term with the program is as least two years (or indefinite) and she was voluntarily assigned to the drug court.

**Program Commendations:**

- 1) **The program specifically requested technical assistance to help with implementing best practices.** The entire team is commended for their dedication to meet drug court best practice standards. Requesting assistance can be a daunting task, given the uncertainty of how the process may unfold, but the program is lauded for taking this step to improve. Ongoing training is vitally important for well-established programs to avoid being “stuck” in their mode of practice while more research is performed in the field and new best practices are emerging. The effort the program is going through to seek feedback speaks volumes, and there is great reason to be optimistic that the program will use this review as an opportunity to evolve and improve.
- 2) **Team member dedication to the program.** During the site visit, all team members voiced their support for and investment in the program. They were receptive to feedback on how to improve practices related to their specific role and to the program as a whole. Team members spoke openly and honestly in their interviews about the strengths of the program, changes that should be made, and the challenges the team and program have faced over the years. The TA providers noted that despite the difficulties the program has encountered, all team members are still actively participating in the drug court. It is encouraging that despite some significant obstacles (many of which were outside of the team’s control), they continue to show their support and investment in the program by showing up to staffing and court sessions, as well as participating in the technical assistance site visit.
- 3) **The drug court judge’s knowledge and skills are a true asset to the program.** The judge displayed a strong and impressive understanding of drug court best practices. Her past experience presiding over the Lummi Nation Healing to Wellness Court Program has proven beneficial in this role. She was able to express great empathy and connect with participants during the observed court session. She will be a key part of the program’s success going forward. The judge is encouraged to consider implementing some of the



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cultural aspects she followed when presiding over a tribal court into the Whatcom County Drug Court. Drug courts are non-traditional settings and frequently reflect the personality of the judge presiding over them. Introducing different cultural aspects into the drug court program (within the confines of court rules and procedures) that may assist with relationship building can be beneficial for all participants.

- 4) **The program utilizes creative incentives.** For phase advancement, the court provides etched stones to participants with various recovery slogans or messages of support. The program also has creative protocols in place for graduation, where the participant is able to shred their original charge papers from the prosecutor's office. This is a no-cost method that creatively symbolizes the participant exiting the program and leaving past criminal activity behind. It is a simple idea that can be easily recreated and will be shared by the TA providers with other programs at future technical assistance site visits.
  
- 5) **The drug court prosecutor is addressing program entry concerns.** During the site visit, the prosecutor shared new documentation with the TA providers that aims to address issues around eligibility criteria (providing a more defined set of eligible charges as well as guidelines and criteria). The prosecutor has also recently made changes in the eligibility review protocols in the DA's office that have shortened arrest to entry times, including reducing the length of time to approval and providing a "fast track" to certain participants that are easily determined to be eligible for the program. The prosecutor's office is commended for taking this first step. While additional details and procedures need to be agreed upon, the program now has a starting point to begin discussions at future policy meetings.

**Priority Recommendations:**

The following section lists several areas that are not currently aligned with best practices. These are areas that could benefit from enhancements and ongoing action planning. A full set of practices and whether or not they are utilized by this program is included as an attachment to this report. Additional recommendations are listed at the end of this report.

- 1) **Restructure program eligibility guidelines.** The process for determining eligibility for the Whatcom County Adult Drug Court has changed significantly over time. Previously,



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every individual potentially eligible for the drug court was reviewed by the elected prosecutor, with eligibility being determined on a case-by-case basis. This resulted in inconsistency and a lack of understanding by the team on the first step of the admission process. But recent changes in leadership have led to changes in the procedures for determining eligibility. Team members noted that the process has improved in certain areas, including more referrals being received overall. However, a general understanding of the eligibility process is still unclear, and therefore still seems inconsistent (at times) to much of the team.

As a result, and given that the prosecutor already had a draft of the criteria at the time of the visit, it is recommended that the program establish *clear, objective, written* legal eligibility criteria for potential participants within the next 30 days, if this has not already been accomplished. This will help the program in several areas, including increasing capacity (as legal screening will take less time and more individuals will be eligible) and avoiding inadvertent exclusion of certain groups or individuals. Exclusion is especially important for the program to be aware of, as a tribal population exists within the county, and several federally recognized tribes are within/near Whatcom County. Issues around exclusion/civil rights may create significant liabilities that will affect the program's progress and overall mission.

The first step in this process is for the team to determine basic legal criteria that will qualify/disqualify potential participants. Legal criteria should include current charges, age, residency, pending legal issues outside of the county/state, and prior violent or sex offenses. If prior offenses are going to be considered as disqualifying criteria, they must be specific charges and agreed upon in writing by the team. Determinations of an individual being a "violent offender" based on prior experience or history with them is an inherently subjective measure and should not be utilized (and again, it may trigger civil rights issues that the program must avoid). Certain offenses such as drug dealing or possession of firearms should not necessarily exclude potential participants. These charges should be discussed (and a policy established) by the team with a focus specifically on their ability to properly monitor and supervise the individual, while also ensuring the safety of all team members. Some programs may have disqualifying criteria around drug dealing, weapons charges, or violent offenses due to a lack of political support within the area, as well as federal funding restrictions or guidelines. But if no



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such constraints exist, there is no reason to exclude individuals with these types of charges as long as the team can agree that proper supervision can be conducted and safety of team members and other participants is ensured. Also, *all* team members must be ready to potentially make compromises on this recommendation. One suggestion is for the team to implement policies that the entire team can agree on and then revisit the policy guideline, including an analysis of data indicators (e.g., successes/challenges with certain types of crimes) at six-month intervals to determine if the policy should be refined or expanded.

- 2) **Remove certain disqualifying criteria from current eligibility guidelines.** Criteria such as extensive failure to appear, amount of restitution payments, history of eluding, history of DUIs, and prior failure in the drug court should *not* be used as disqualifying criteria. In fact, these are the individuals that the drug court *should* be targeting, as they tend to have the highest needs and pose the highest risk for reoffending. If individuals or agencies within Whatcom County are not supportive of this idea, it is crucial that team members communicate that the drug court provides clear accountability and utilizes the most comprehensive approach to supervising high-risk, high-need individuals while they are residing in the community and participating in the drug court.
- 3) **The program should implement the use of validated, standardized screening tools to determine participant eligibility.** An additional validated screening tool (*after* legal screening has occurred) that is conducted by a case manager or other trained personnel will provide guidance to all team members concerning a participant's risk and need, appropriate supervision level, potential case direction, and needs of the individual, their family, and/or their children. These instruments are vastly more reliable than using subjective criteria or professional judgment alone. Validated and standardized risk and need *assessments* should also be completed by personnel trained in the use of the tool(s). These tools should identify clinical and criminogenic needs and result in an appropriate referral to services and a case plan that fits the assessed risks and needs.

Suggestions for screening and assessment tools can be found at [NDCI.org](http://NDCI.org) ("Selecting and Using Risk and Need Assessments" Fact Sheet, December 2015).



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**4) Evaluate options for selecting one (or no more than two) primary treatment agencies and require the treatment providers to follow evidence-based practices.** Drug courts that offer a range of services along the continuum of care have significantly better outcomes than programs that do not. It is important to ensure that the treatment and services available fit with the risk and need levels of all the participants. An assessment of current treatment services is highly encouraged, and it is recommended that the program develop a plan of action going forward. This includes completing a thorough selection process for a designated treatment provider(s). NADCP has developed a Treatment Provider Request for Proposals (RFP) that can assist the program in this regard. It will help set clear expectations for the treatment services of drug court participants, including the delivery of evidence-based curriculum and oversight by the drug court program.

It is critical that the program ensure treatment services are evidence-based and delivered with fidelity, and that there is an MOU between the court and treatment with signed agreement to required services. In setting expectations with the treatment provider(s), the program should require specific benchmarks and information (written and verbal), including updates on treatment plan objectives or goals, homework assignments, skills that the participant is working on, and specific updates on a participant's progress. Programs should *not* accept a treatment update that only includes attendance and/or a general summary of the participant ("they are doing well", "things are ok", "they are struggling", etc.). Specific items that can be shared include:

- treatment/case plans and associated notes
- what goals have been established; what goals or steps are they currently working on
- recent changes or updated goals within the plan, which should be occurring at least every 90 days
- homework assignments/lesson plans they've completed
- their current step or phase in treatment and what they need to do to move forward
- barriers to overall progress.



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There should also be ongoing observation and oversight of treatment provider services. There can be some parameters established around this (such as male team members not attending female trauma groups, or judges not observing treatment groups), but observation of treatment services is an acceptable and highly-encouraged practice. Interested team members should also pursue any and all cross-training opportunities available to them (specifically learning about treatment modalities). This will assist the team in monitoring quality assurance of individualized treatment plans and ensure that the essential motivation, insight, and skills are being delivered with fidelity to the participants.

Raising the level and expectations of treatment may also alleviate the use of jail as a detox setting while participants await treatment beds. The use of long-term treatment can be clinically appropriate; however, programs may tend to overly rely on this level of treatment when outpatient and in-community services are unavailable or not effective. The overuse can also result from a lack of escalating or alternative services available as well (i.e., there are no available interventions between outpatient and residential treatment levels). Selecting a provider through an RFP process can provide the program an opportunity to encourage expanded services through the local providers.

- 5) **Discontinue use of the current incentives and sanctions grid.** The program is currently using a fixed sanctioning grid (specific behaviors always lead to specific sanctions), though the program can make exceptions on a case-by-case basis for certain infractions, such as driving without a license. Exceptions may be appropriate in certain cases, but it is very confusing for participants (given that the grid is shared directly with them) and results in the team appearing unfair. The team must always consider the appearance of fair treatment for similar infractions and the importance of repeatedly communicating the rationale behind decisions regarding levied sanctions. The current sanction grid makes that extremely difficult.

Therefore, the team should establish sanction and incentive *guidelines*. Sample guidelines were shared with the team during the site visit. The guidelines should be utilized as soon as possible. These guidelines should be printed and shared with the team but should not be shared with participants (participants should receive a list of potential incentives and sanctions they might receive, but not the guidelines on how the team will use those incentives and sanctions). The team is encouraged to take every



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opportunity to explain (in court, during appointments, etc.) that incentives and sanctions are individualized based on participants and their circumstances. In court, the judge should clearly explain the behavior that led to a sanction and the behavior the team would like the participant to engage in instead, both for the benefit of the participant in front of the judge and for the participants who are observing. Consistency in explaining sanctions and incentives, even when they differ across participants, will enhance the perception of fairness for participants and provide a better learning experience.

The team should also remember that sanctioning guidelines should be considered a starting point for team discussion during staffing sessions, rather than hard and fast rules. The benefit of having these guidelines is to help the team in maintaining some consistency across participants for specific behaviors while also serving as a reminder of the various sanction and incentive options available to the team so they do not fall into habits of using the same type of sanctions (e.g., jail) for everyone that may be ineffective for some participants.

- 6) Participate in training on the effective use of incentives and sanctions and increase the range of incentives and sanctions available.** The program is currently sanctioning participants to jail for almost all relapses/substance use. Jail also appears to be the most frequently used sanction overall by the team. This is not clinically effective, and research has shown that overuse of jail can actually increase the incidence of new violations and re-arrests. The program needs to establish a fuller continuum of responses/sanctions.

Related to incentives, the program should also discontinue their “person of the week” selection. The current process is to have a participant who is doing well selected based on team member recommendations during the staffing session that day. As this process can be somewhat subjective, the program is instead encouraged to place the names of all participants who have met all basic program requirements since their last court session in the fishbowl. The criteria should include submitting and providing clean drug tests, making all appointments, arriving to court on time, and attending all treatment sessions as directed. Everyone meeting these criteria should be recognized at the beginning of the court session (some programs call this the “A-team”). The drawing can then be held each week at the beginning of court (letting the participants or their





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children draw the name) and starting the process anew each subsequent week. Fishbowl rewards can also consist of several items that allow the participant to choose what they like or prefer. Lotteries and drawings are not a preferred reward mechanism if participants in the program have a known gambling addiction.

While the program does well with incentives, other ideas to consider include items that are standardized such as sobriety coins for 1 day, 30 days, 90 days clean, etc. The team should also utilize incentives that can be given at the team or judge's discretion such as tokens or candy. Some programs even hand out fortune cookies with recovery phrases in them. The program should also continue to utilize tangible incentives, such as cards or certificates at phase advancement and intangible rewards, such as praise, leaving court early, or approving travel outside of the jurisdiction.

### **Additional Observations/Recommendations:**

- 1) Set up recurring policy committee meetings to address the recommendations contained in this report.** Research and best practice standards transform over time, teams experience turnover, resources change, patterns in substance abuse fluctuate, and most importantly, predicting behavior within the criminal justice population is nearly impossible. A regular meeting time for the team to make important policy decisions can be a helpful course of action for an established program.

It is important that policy discussions take place separately from staffing sessions to ensure the focus of staffing is on the participants while the focus of policy meetings is solely on broader programmatic issues and potential policy changes. If important topics arise in staffing sessions, the team is encouraged to compile them in a shared document (sometimes referred to as the "parking lot" document) to form an agenda for later policy discussions rather than addressing policy issues in staffing sessions.

The program is encouraged to use this current evaluation and report as an agenda for the next policy committee meeting. Team members should agree not to discuss case-specific issues that arise, or only use them as examples of why a policy is needed. The meeting should not attempt to address all of the information in this report, but instead focus on one item at a time. The first meeting, or the first portion of one, could be spent



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discussing how to prioritize the recommendations. Some teams find it useful to categorize the work by areas of “low hanging fruit” and “tough but worthwhile.” The first category will consist of policy and practice changes that are relatively easy to reach and there is full buy-in. By quickly addressing these items, teams feel a sense of success and reward. The second category of items are composed of work that will require memorandums of understanding, restructuring and fuller conversations, and perhaps these larger items can be broken into smaller steps. Policy meetings should address one to two outstanding agenda items at a time and be set out in advance to ensure attendance by all team members and agency stakeholders.

Once the items outlined in this report are tackled, the coordinator should continue to reach out to team members to identify priority topics that form the policy meeting agenda. Policy meetings should occur as often as time permits, but at least one hour monthly is recommended in order to consistently make progress addressing the recommendations made in this report. The initial focus should be on the priority recommendations contained in this report.

- 2) Pursue grant funding to address program needs.** During the site visit, some team members expressed interest (and also some hesitation) in pursuing federal grant funds for the drug court. The team is highly encouraged to pursue any grant opportunities available to them to help improve the program. The areas in which they are struggling and/or need assistance match up with many of the federal grant funders’ stated objectives. This includes increasing program capacity, decreasing case manager/supervision caseloads by hiring additional staff members, seeking additional treatment funding, increased drug testing, housing assistance, and training for team members. Some examples and links have been provided below for the program's consideration.

Grant funding for program enhancements can be found from federal and state sources as well as foundations.

- SAMHSA: <https://www.samhsa.gov/grants>
- BJA: [https://www.bja.gov/ProgramDetails.aspx?Program\\_ID=58](https://www.bja.gov/ProgramDetails.aspx?Program_ID=58)
- National Drug Court Institute (for BJA funded technical assistance): <https://www.ndci.org/resources/training/ta/>



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- Center for Court Innovation (for BJA funded technical assistance):  
<http://www.courtinnovation.org/expert-assistance/drug-court-assistance>

- 3) Continue to retain (do not terminate) participants that receive new possession charges.** Participants that are caught possessing drugs or alcohol are most likely to be successful if they are retained in the program, which responds to the infraction and continues or increases intensive monitoring. Establish the policy of conducting a reassessment and responding to the need that precipitated the arrest, such as increasing treatment supports and adding skill-building classes. All team members expressed an interest in changing this policy during the site visit. Team members noted that many times the policy seemed arbitrary, as it was dependent on whether a participant happened to have illegal substances on them at the time of arrest. Given the consensus on this topic, this can be an easy recommendation to address and a good starting point for the program in implementing new written policies.
- 4) Identify alternatives to AA/NA groups and decrease frequency of meetings, especially early in the program.** Referrals to these groups is not prohibited when alternatives are available. But it does violate the First Amendment if participants are forced to engage in religious activity (including AA/NA) over their own objections. Therefore, it is vital that the program identify self-help group alternatives (either online or in the community) or find other support activities for individuals to engage in if/when they request it. Some programs (for example in Clark County, WA) require “pro-social” activities instead of self-help groups. The pro-social activities are essentially any events that are verifiable, sober, and meaningful to the participants (and include church activities, self-help groups, volunteer time, physical activity programs, time with family or children, sober outings with friends, etc.).

Additionally, the program is encouraged to discontinue the substantial self –help meeting requirements early in the program. Best practices show that Phase 1 should be short in duration (30-45 days, which helps participants not get “stuck” in Phase 1 for several months) and primarily focused on stability and establishing basic routines (showing up for appointments, taking drug tests, attending court). Once a sustained period of stability and sobriety has been established, community support groups can then be implemented, typically around Phase 2 or 3. Attendance should start at 1-2



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times per week and gradually increase until the participant reaches the final phase of the program.

- 5) **Do not regularly rotate team members.** Team members that are invested in and committed to the drug court program should remain assigned indefinitely. It takes most team members a minimum of a year to become comfortable with all the different operational aspects of a drug court program. It is also important to know that participants often struggle when there are constant changes to program staff. Training is also difficult to obtain, and knowledge is lost anytime a trained team member is replaced. While there may be circumstances that require rotation (ineffectiveness of team member, turnover), it is recommended that regular rotations not be used. Instead, having staff members “shadow” their colleagues in drug court staffing and court sessions can be very beneficial. It establishes backup personnel in the event of absences or vacations and primes them to join the team in the event of turnover or increased program caseloads. This is of particular importance for the judge’s role, as having a backup in place (that participants have met and are familiar with) can greatly ease the transition of a judge leaving the program.

**Specific TA Recommendations:**

- Technical assistance on the admission/entry process
- Full Incentives and Sanctions training
- Training on best practices in treatment
- Team member roles/role clarification training
- Attendance at the National Drug Court Conference



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**Best Practices Table:**

A table with a list of research-based best practices and whether or not this program has implemented each practice is included as an attachment to this report. Your team should review this list both to understand and appreciate those best practices that have been successfully implemented (to ensure the program continues to engage in those practices) and to determine whether there are any practices not described in this report where the program may want to make improvements in the future.

**Recommended Next Steps:**

The results of this TA review can be used for many purposes, including 1) improvement of program structure and practices for better participant outcomes (the primary purpose), 2) grant applications to demonstrate program needs or illustrate the program's capabilities, 3) requesting resources from boards of county commissioners or other local groups, and 4) requesting training and TA from the National Drug Court Institute or other TA providers.

- Distribute copies of the report** to all members of your team, advisory group, and other key individuals involved with your program.
- Set up a meeting** with your team and steering committee, etc., to discuss the report's findings and recommendations. Ask all members of the group to **read the report** prior to the meeting and **bring ideas and questions**.
- During the meeting(s), **review each recommendation**, discuss any questions that arise from the group.
- Contact Anne Caron ([acaron@ndci.org](mailto:acaron@ndci.org)), NDCI Adult Technical Assistance Project Director, to develop next steps.