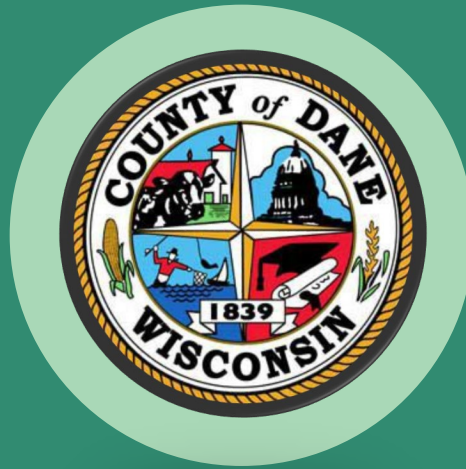


Dane County District Attorney's Office



Deferred Prosecution Opioid Diversion Program (DPP-O)

Policy and Procedures Manual

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DANE COUNTY OPIOID DIVERSION PROGRAM (DPP-O)

Mission Statement

It is the fundamental goal of the Opioid Diversion Program to reduce recidivism, address treatment and responsivity needs, and reduce the use of incarceration for substance use-motivated offenses. The Deferred Prosecution Opioid Diversion Program (DPP-O), like all of DPP, is committed to the protection and safety of the public while motivating each participant to change destructive behaviors that led to their original offense(s). We do this by connecting individuals to the best wraparound services that focus on mental and physical health in support of each participant in achieving recovery from substance use. DPP-O fully utilizes a wide spectrum of community resources to facilitate the completion of participant DPA requirements that are uniquely tailored to each individual.

The mission incorporates these values:

- Each participant will be treated with respect.
- Services provided are ethical, efficient, and culturally sensitive.
- Each participant is viewed as having worth, value, and potential.
- Each participant's recovery is of the highest priority.
- Participant responsibility and accountability are emphasized.

DPP-O operates within the larger Deferred Prosecution Program (DPP) in the Dane County District Attorney's Office. In 2013, the Dane County District Attorney's Office, along with the Dane County Criminal Justice Council and Specialty Drug Court, looked at the numbers of opioid-related deaths that were occurring in Dane County over several years and decided to apply for the Byrne Memorial Justice Assistance Diversion Grant (JAG) through the Wisconsin Office of Justice Assistance (OJA). The goal had been to identify where such a program would be most effective, hence creating a fast track through Deferred Prosecution to get opioid-addicted Participants into a structure and services as quickly as possible.

One Substance Abuse Counselor was hired in 2013 and stayed in that OJA Grant through its completion in December 2016. When the grant position ended, the counselor was given a permanent county-funded position to continue the work. A new grant was applied for through the Wisconsin Department of Justice (DOJ) Treatment Alternatives and Diversion (TAD) funding and began in January 2017. A second DPP-O staff was hired to work under this new 5-year grant, starting in August 2017. After the 2017 grant, the permanent county-funded position was transitioned to a general population DPP position, and one DPP-O Substance Abuse Counselor has been operating in the TAD grant-funded position since late 2022.

DPP-O is a voluntary program that offers pretrial diversion (both pre- and post-charge) for individuals who have been referred to the DA's Office for charges of Possession of Narcotic Drugs, Possession of Drug Paraphernalia, and other opioid-related charges. In 2022, this was expanded to include referrals for individuals facing similar methamphetamine-related charges. DPP-O participants must meet with a DPP-O Substance Abuse Counselor weekly, attend substance use treatment, attend ancillary services based on identified needs, and submit to

random drug tests. DPP-O participants who successfully complete Deferred Prosecution Agreement (DPA) requirements avoid the issuance of formal charges (if referred pre-charge) or have charges dismissed or reduced (if referred post-charge).

DPP-O EQUITY AND INCLUSION POLICY

As part of the Dane County District Attorney's [Equity and Inclusion Plan](#), DPP-O operates in the parameters of criminal justice reform by offering all eligible participants this diversion option to avoid adjudication or a criminal conviction.

Many individuals have historically experienced discrimination or reduced social opportunities due to race, ethnicity, gender and sexual orientation, physical or mental disability status, religion, and socioeconomic status. DPP-O is committed to ensuring all participants Pre-charge and Post-charge referrals receive the same opportunities, for participating in and successfully completing this diversion program. Pre-charge referrals are informed and receive multiple outreach efforts by staff, as this avoids issuing formal charges.

This process encompasses the employment of nondiscriminatory eligibility criteria, screening and assessment tools (normed to all populations), providing equity-based services, flexible appointment availability, and ongoing review of practices to ensure equitable operations. Furthermore, all program fees have been eliminated, removing any financial barriers.

Additionally, all participants have equal access to treatment levels of care available based on their assessed needs. Many factors help determine needs, including but not limited to history and current drug use patterns, participant social history and culture, past and current trauma, gender identity, past and present mental health-related issues, learning abilities, and cognitive functioning, as well as both treatment and criminal-charge motivation. Upon entry into DPP-O, and based on assessment data, every participant receives a Deferred Prosecution Agreement, which addresses each person's life functioning areas. Additional attention is given to housing, employment, transportation, education, and other basic needs, as well as helping make connections to services for those needs.

Program connections have long been secured, with providers continuing to serve underserved populations. Efforts are also made to connect participants to insurance for treatment if they don't have it, and assessments can be facilitated at no cost through available source(s) within the county.

All participants are informed of structured sanction protocols and measured incentives throughout their contract period. A significant incentive is available for each participant to complete their DPP-O DPA early based on consistent progress through program requirements and sobriety.

As part of the District Attorney's Office, DPP-O Staff are included in presentations and training in explicit and implicit racial and cultural bias. All trainings, whether DA's Office sponsored or beyond, are well documented and monitored continuously. Additionally, DPP-O Staff continue close collaborations with equity-based initiatives in Dane County, including the Dane County African American Opiate Coalition and the Racial Equity and Social Justice Initiative Core Team.

Program evaluation of DPP-O with UW Population Health Institute is ongoing with the collection of additional substance use information (via SOAQs/SAQMs), regular and consistent review of CORE entries, collection and review of satisfaction surveys, monthly meetings, and

reports of program implementation and outcomes. All of these tools and efforts assist in identifying issues where disparities may exist.

DPP-O STAFF AND STRUCTURE

The DPP-O program is overseen by a multidisciplinary team consisting of the Dane County DA's Office staff and others involved in its administration and operation:

- The Deferred Prosecution Program (DPP) Director – Melvin Juette
- DPP-O Certified Substance Abuse Counselor – Molly Kannegiesser
- DA's Office Assistants (2)
- Dane County District Attorney, Deputy District Attorneys, Assistant District Attorneys, and Paralegals
- The Dane County Community Justice Council

The roles and responsibilities of the DA's Office staff and other collaborative team members:

- The **DPP Director** addresses participant compliance when issues arise.
- The **DPP-O Certified Substance Abuse Counselor** determines participant eligibility, monitors program capacity, and provides all of DPP-O's day-to-day operations, including reviewing referrals, arranging screenings/assessments and intake, and providing all case management and participant oversight activities throughout the program.
- The **DA's Office Assistants** assist with identifying potential participants, scheduling initial intake appointments, and processing back-to-court proceedings.
- The **Deputy District Attorneys, Assistant District Attorneys, and Paralegals** identify and refer potential participants to the DPP Office Manager or the DPP-O Certified Substance Abuse Counselor.
- The **Dane County District Attorney** provides high-level oversight and assists with addressing system-level barriers when they arise.
- The collective **Defense Counsel** commonly refers to DPP-O and educates clients on the benefits of entering and engaging in DPP-O.
- The numerous **Treatment Providers** develop clinical treatment plans and solutions for providing treatment to DPP-O participants and communicate with the Substance Abuse Counselor regarding progress and adherence.
- The **Dane County Community Justice Council (CJC)** serves as the DPP-O advisory board, receiving frequent updates from reports and staff presentations, and DA's Office staff attend all meetings.

ELIGIBILITY AND EXPECTATIONS

Eligibility:

A DPP-O potential participant:

- Accepts meaningful responsibility - admittance for offense behavior, and if Post-charge, accepts responsibility for which guilty plea was entered.
- Agrees to participate voluntarily in the program and sign an individualized Deferred Prosecution Agreement (DPA) based on needs identified.
- Is 17 years of age or older at the time of the offense.
- Has an opioid or methamphetamine use disorder or related criminal behaviors.
- Is charged or referred by the District Attorney's Office for a crime that occurred in Dane County, Wisconsin.
- Is willing to comply with DPP-O's rigorous programming as shown in program expectations below.
- Fits the target population - screened at low criminal risk and high need on a validated criminal risk assessment. However, this is not required.

A DPP-O potential participant does not have:

- Current supervisions in Dane County or any other State, County, or Ordinance.
- Pending or open criminal matters filed or under review.
- Criminal convictions within the past 5 years; however, this can be allowed under certain circumstances with the Director's review.
- Prior probation, parole, extended supervision, or DPP participation within the past 5 years.
- A violent crime associated with DPP-O eligible charge.

Program Expectations:

- Meeting weekly with the DPP-O Substance Abuse Counselor until further directed.
- Compliance with rigorous drug testing that includes submitting saliva and/or urinalysis as directed by the Counselor.
- If unemployed, obtain employment or participate in employment programs as directed.
- Completing written and other assignments as assigned by the Counselor.
- Fully complying with Substance Abuse Counseling/Treatment as directed.
- Complying with other programming when need indicated (mental health, psychiatric/psychological treatment, HSED/GED, OWI compliance, etc.).
- Community service when required.
- Restitution, if so, ordered via the plea agreement.
- Deferred Prosecution Agreement duration between 9-15 months.

REFERRAL PROCESS

Pre-Charge Referral Process:

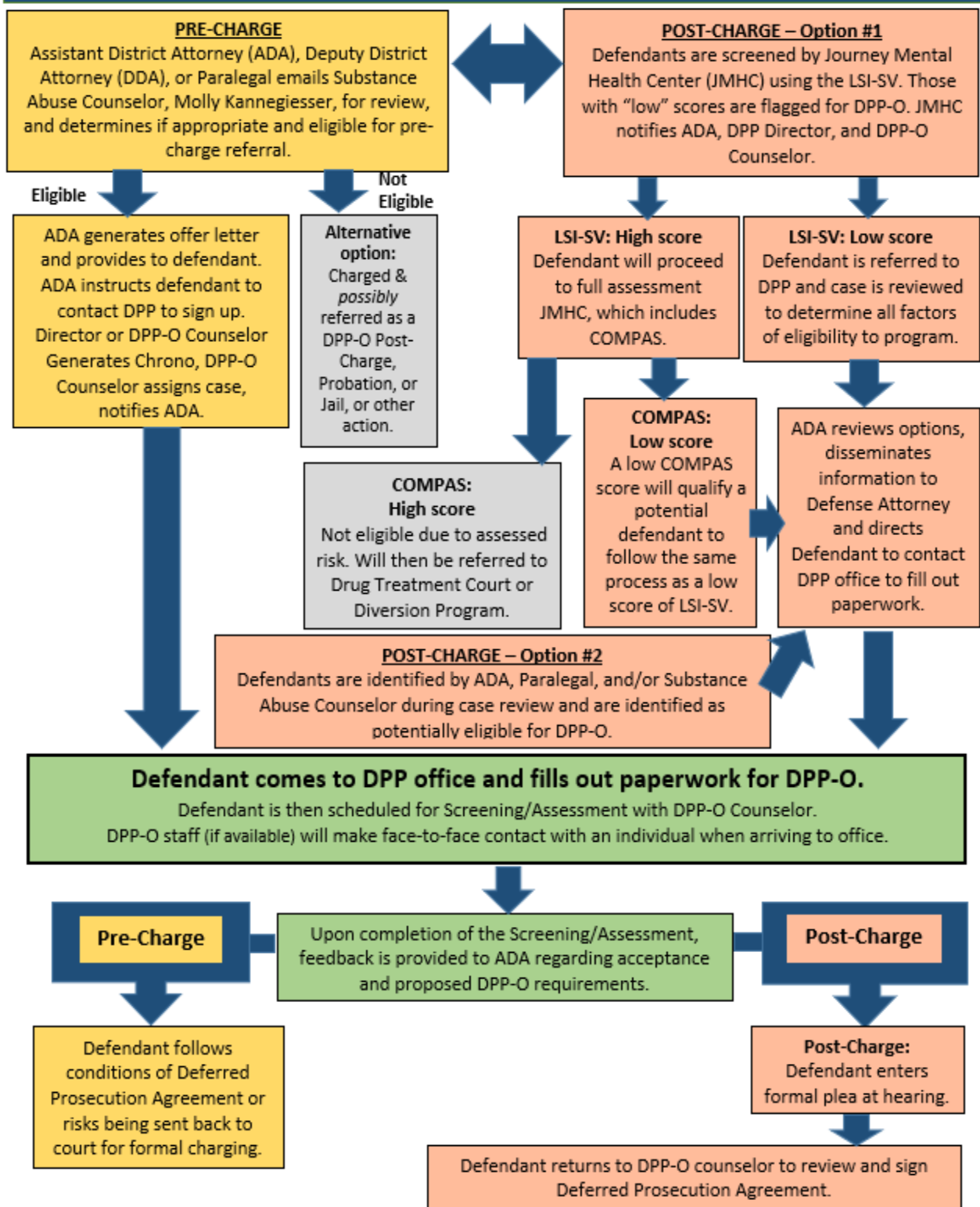
- All pre-charge referrals have prosecutorial merit. If the Participant meets eligibility criteria, the ADA/Paralegal will offer the opportunity for pre-charge referral; the Offer may be communicated through written letter, phone call, or electronically.
- Participant has one week from the offer to contact DPP-O and accept the offer.
- ADA should forward a copy of this offer to DPP-O, noting the one-week end date.
- Participants should contact the DPP office by the deadline to relay acceptance of the offer, provide contact information, and schedule an intake appointment with the DPP-O Substance Abuse Counselor.
- If the Participant has not responded in one week, office personnel call the Participant to determine if they are interested in participating in the program,
- Pre-charge intake is then completed with DPP-O Substance Abuse Counselor, and a Deferred Prosecution Agreement (DPA) is developed and signed.
- If the Participant rejects the pre-charge offer, the ADA/Paralegal should proceed with the charging case. Upon charging the case, the post-charge protocol goes into effect, including a screening with DPP-O Substance Abuse Counselor .

Post-Charge Referral Process:

- All post-charge referrals have prosecutorial merit. Post-charge referrals are made via two pathways:
 - #1: Participant is referred for drug court screening at Journey Mental Health Center (JMHC) by Court Commissioner, Prosecutor, or Defense Counsel. Participants receiving a low score on the Level of Service Inventory-Revised Screening Version (LSI-R-SV) screening are “flagged” for DPP-O. JMHC has the Participant sign a Release of Information (ROI) for DPP and, within a few days, sends an encrypted email with the Participant’s name to both ADA (if assigned) and DPP-O Substance Abuse Counselor.
 - Note: Participants receiving a higher score on the LSI-SV may initially proceed to a full assessment at JMHC, including the COMPAS criminal risk assessment. If the Participant scores low on the COMPAS assessment, they may still be “flagged” as a potentially viable candidate for DPP-O.
 - After reviewing the case, the DPP–O Substance Abuse Counselor communicates with the ADA to confirm that the Participant is a viable candidate and may be considered for a screening (formerly known as “pre-screen” or “pre-assessment”) and/or referral, pending ADA approval.
 - #2: Participant is identified as a potential DPP-O candidate via an ADA/Paralegal or by the DPP-O Substance Abuse Counselor who receives notification of new offenses. ADA/Paralegal and DPP-O Substance Abuse Counselor reviews to ensure the Participant meets eligibility criteria, and ADA/Paralegal offers the opportunity for a post-charge referral. Offer may be communicated via written letter, phone call, or electronically.
- ADA reviews options, disseminates information to the Defense Attorney, and directs the Participant to contact the DPP office to request a screening/intake.

- ADA should notify the DPP-O Substance Abuse Counselor when an offer is made and when the Participant is expected to respond to allow tracking.
- Participants should immediately contact the DPP Office to provide contact information and schedule an intake appointment with the DPP-O Substance Abuse Counselor .
- Once the intake is completed, the DPP-O Substance Abuse Counselor forwards a memo to the ADA outlining appropriateness for program, acceptance, and proposed DPA requirements.
- If the Participant is appropriate, the DPP-O Substance Abuse counselor coordinates a time to return to the office to sign a DPA, typically 1-3 days after the Participant's scheduled plea hearing.
- Participant attends final court date and enters formal plea.
- Participant returns to DPP-O Substance Abuse Counselor at a pre-arranged time to review and sign DPA.
- Please note that regardless of whether participant referral is entered as pre-charge or post-charge, all referrals have prosecutorial merit.

Flow Chart for Opioid Diversion Program (DPP-O) Referral Process



SCREENING/INTAKE PROCESS

DPP-O screenings/intakes require gathering a significant amount of information related to substance history, mental health, trauma, interpersonal, family, residence, recovery environment, relapse potential, assessment of opioid agonist/antagonist medications, etc. It is crucial to gather this information and keep accurate clinical data to define the components of the participant's DPA and develop the DPP-O working care plan. Secondly, and equally important, all this information must be entered into a DOJ grant-required reporting system called Comprehensive Outcome Research Evaluation (CORE) Reporting System. This is a multi-category, initial, and ongoing reporting system.

Because of the details listed above, once an individual accepts a referral to the program or agrees to participate in an intake, they are required to come to the DPP office to provide contact information and schedule an intake appointment with a DPP-O Substance Abuse Counselor. The intake lays the groundwork for both clinical and research purposes and not only serves the purpose of getting needed participant information up front, but it also provides an opportunity for the DPP-O Substance Abuse Counselor to meet and interact with said individual face-to-face. This initial contact helps to elicit engagement from the potential participant and can expedite the enrollment and intake process.

The intake interview has multiple components, which measure several life functioning areas, and a detailed substance use history is gathered. Two pieces of gathering the substance use history include the Texas Christian University Drug Screen V (TCUDS5) and the program-developed "Supplemental Opioid Assessment Questionnaire" (SOAQ)/"Supplemental Methamphetamine Assessment Questionnaire" (SAQM). The TCUDS5 is employed to determine alcohol and other substance use over the 12 months before involvement with the program and screens for Substance Dependence as identified by the Diagnostic and Statistical Manual of Mental Disorders (DSM V). It also provides a method for identifying the substance causing the most significant harm and the frequency of use for each substance. The SOAQ/SAQM is completed based on the substance of choice, and these tools detail opioid-/meth-specific involvement, past and present, offering helpful information to the DPP-O Substance Abuse Counselor in the development of the DPA.

Additional intake pieces include a DPP-O Substance Abuse Counselor administered risk and needs tool, the Level of Service Inventory-Revised (LSI-R). Most referrals are assessed as low risk/high need, which is the targeted range for participation in the program. After the intake interview and assessment/screening tools are completed and reviewed, the DPA is developed and implemented based on the screening and assessment results.

For post-charge referrals, it is preferred to do an intake before the Participant enters a plea for several reasons. First, the DPP-O track is rigorous and very different from the General DPP. Intake appointments allow Participants to be informed about the requirements and rigor of the program and to discuss their ability to comply. Secondly, this intake process offers the DPP-O Substance Abuse Counselor an opportunity to get a firm handle on what the potential participant needs to work on and an opportunity to give pre-plea assignments that can greatly facilitate starting the program with as much recovery capital as possible. Third, by gathering more information up front, more specific information can be provided to the ADA (via a memo) so that both the ADA and the defense counsel/Participant have more knowledge at the time of the plea.

Additionally, there have historically been occasions where a Participant enters a plea, and the Judge issues an order for DPP-O, unbeknownst to any DPP staff. In those cases, the Participant is scheduled after completing the initial pre-intake paperwork, and the DPP-O Substance Abuse Counselor does their best to complete the entire process. Commonly, the Participants in these situations are not specifically informed about the rigor DPP-O requires.

For pre-charge referrals, in most cases, a potential participant can schedule an intake interview and DPA signing within a few days after presenting to the DA's Office to provide contact information. However, in cases where questions or concerns are raised by an ADA or DPP-O staff, a screening interview is required to sort out any issues before a DPA can be offered. These questions could be related to individuals' uncertainty about whether they want to participate in DPP-O. This could also be related to those living out of the county, concerns about transportation, previous charges and/or dispositions, past violence or aggressive related behaviors, or other categories.

DPP-O views Medication for Opioid Use Disorder (MOUD) as a viable treatment and commonly a necessary treatment protocol for initial sobriety. We readily accept participants engaged in MOUD and also frequently assist in the recommendations and referrals of participants to receive MOUD.

DEFERRED PROSECUTION AGREEMENT (DPA) REQUIREMENTS

A DPP-O Deferred Prosecution Agreement (DPA) template, also called the Contract, contains a set of standard expectations to which all participants are expected to adhere. These requirements include:

- No additional law violations.
- Informing Substance Abuse counselor of any recent police contact.
- Notifying Substance Abuse counselor within 24 hours of contact information or address changes.
- Notifying Substance Abuse counselor of job changes.
- Completing written assignments.
- Attending Opioid Overdose Prevention Education class.
- Meeting weekly with DPP-O Substance Abuse counselor or as otherwise directed.
- Submitting drug tests (saliva and/or urine analysis) as directed.
- Obtaining employment, unless there is documented disability limiting employment.
- Paying all restitution requirements.
- Following all bail conditions.
- Required maintenance of 60 days of sobriety from all illicit substances before the end of contract completion (this includes THC). It is fully understood that obtaining sobriety is a process which is a distal goal in most cases. Honest and forthright communication about substance use paves the way toward sobriety.
 - This does not include prescriptions from a physician. DPP-O Substance Abuse Counselor may ask for proof of prescription for any controlled substances prescribed to a participant.
- Must maintain treatment compliance with outside treatment therapists, counselors, psychologists, or psychiatrists during the DPA. The frequency and level of care

determined is made on a case-to-case basis and is often determined based on collaboration between DPP-O Substance Abuse Counselor and outside agency. If an outside counselor or treatment provider recommends a higher level of care, the participant must follow this recommendation.

- The treatment recommendation, the level of care, and the agency recommended to attend will always be determined with a participant's insurance coverage in mind.
- Participants may participate in some type of community support program. Participants are encouraged to engage in some activity that shows they are dedicated to changing their unhealthy lifestyle and fully integrating into daily activities supportive of recovery.

Examples of sober community support may look like the following:

- Alcoholics Anonymous (AA), Narcotics Anonymous (NA), Smart Recovery, etc.
- A recovery-oriented religious group
- Pairing with a peer recovery coach through community agencies such as Safe Communities.

For each participant, additional expectations are included which address personal clinical and/or life functioning needs. This can and often does include addressing mental health needs, taking medications, addressing criminal traffic expectations, payments towards tickets, addressing child support issues, etc. The combination of a face-to-face interview along with administering validated tools allows for a well-planned DPA to assist each participant in changing their life course from a substance-use-oriented lifestyle to a sober, productive lifestyle, whereby each person addresses their personal goals. The DPA can be amended during the contract period to reflect things that need to change for the participant's benefit.

DPAs are generally 9-15 months. The treatment history influences the length of a DPA, the current treatment status, employment, housing, transportation issues, restitution, length of sobriety, etc. Participants are eligible to be released early from their DPA on a case-by-case basis, depending upon their level of progress. This is indicated in the contract and explained to each participant. The DPA can also be extended for many reasons, including unpaid restitution costs and violations. DPP-O is a voluntary program, and each participant has the right to request removal from the program at any time. The referring case would then be sent back to Circuit Court for Post-charge or the District Attorney's Office for Pre-charge for further action.

CONFIDENTIALITY

Participation in DPP-O is initiated through legal action from the Dane County District Attorney's Office, both with pre- and post-charge cases. We also work closely with other legal factions and authorities, including the Wisconsin DOJ, Defense Attorneys, the State Public Defender's Office, and the Dane County Circuit Court. The DPP-O staff fulfill many roles, often serving in case management, crisis intervention, treatment planning, brief treatment, referral activities, record and document keeping, and verbal and written communications to all participants. DPP-O staff also work closely with a variety of helping agents from the community at large.

To this end, and in the efforts of promoting honest communication and openness of significant life functioning areas, we establish the basis of a working relationship with participants and partnering service providers. The success of our efforts only comes with the coordination of the appropriate and necessary parties working together. Therefore, we go

forward with participants thoroughly explaining, discussing, and signing confidentiality agreements about what information is shared with specific parties. This starts with the Consent for the Release and Exchange of Information between the Dane County District Attorney's Office, the Wisconsin DOJ Division of Law Enforcement Services, and the University of Wisconsin Population Health Institute. The purpose of this disclosure is strictly about the information collected to support program monitoring, evaluation, and statistical analysis.

Thereafter, based upon each participant's contract and treatment requirements, and with participant input, decisions are made regarding signing appropriate Releases of Information with DPP-O to the individual people and programs related to the contract. This is critical to the confidentiality in the intervention process and is communicated as such. Information recorded in the DA Office PROTECT system is limited to the status of treatment efforts, including attendance, but not personal disclosures from the treatment sessions. The information about participants is not released or shared without written permission. DPP-O staff work very hard to ensure that all participant information related to program compliance and non-compliance is released only to those parties where releases are signed, and mandatory reporting is required. If a participant is terminated from DPP-O, a summary of program compliance issues is provided to the prosecuting attorney and the court in post-charge cases. Other information sharing with the DA's Office and court officials is limited and is in alignment with best practice standards.

VIOLATIONS

Violation standards that are spelled out in the Grievance Procedure have been in place with DPP General Population for many years (see Deferred Prosecution Grievance Procedure). DPP-O follows the outline of these standards and executes some modifications to this outline as needed. As a rule, we first give a verbal warning, followed by a written warning, which is specific to certain violations and is intended to bring awareness to an issue or issues at hand. Next, we would move to a Case Review Notice, which is a written announcement of a mandatory meeting during which all violation issues will be addressed. During the Case Review meeting, a Case Review Agreement is established, usually identifying specific tasks and deadlines to complete those tasks. Failure to complete those tasks or attend the meeting would lead to a Pending Termination Case Review (PTCR).

The PTCR represents a last chance for a participant to remain in the program. When violations reach this level, the participant is sent a letter giving notice that they must contact the office by a specific date to schedule an appointment with the DPP Director. The Director meets with the participant, reviews their situation, and assigns specific tasks and/or requirements that must be fulfilled by specific deadlines. If the participant fails to comply with the identified PTCR requirements, a Back-to-court letter will be prepared by the DPP-O substance abuse counselor and reviewed by the DPP director. The participant is subsequently returned to court for further action. If the participant was admitted pre-charge, a written memo is prepared and emailed to the assigned ADA to give notice that the participant was unsuccessful.

The following descriptions represent potential circumstances whereby a participant may be offered additional leeway at the discretion of DPP-O Substance Abuse Counselor. This is not an exhaustive list, but it does cover the most recurring areas of concern.

- Significant mental health challenges that can manifest with behaviors, inability to secure a timely Psych appointment, medication congruence, which includes medication adjustment, treatment plan/medication plan compliance, and/or ability to pay for needed medications promptly.
- Changes in treatment protocols or levels of care can greatly affect the nature and content of warnings or case reviews due to what a participant may be addressing. For example, a person faltering in their outpatient program receives a Case Review specifically addressing missed appointments. It becomes evident that the missed appointments are related to substance use. The participant then agrees to a residential stay, which may resolve the initial Case Review, but this action creates a new Case Review.
- Homelessness can be and usually is a profound inhibitor to consistent and/or complete program involvement. Components of homelessness include instability with where one stays (couch surfing, various relatives, frequent changes of tent placement, etc.), abuse by other homeless, theft by other homeless, ease to which substances are available, usually little to no income, transportation, keeping track of appointments and schedule, regular meals, difficulty with self-care which includes managing periods of illness.
- Non-support of primary family, by sending a strong message to someone that they should not be going through all of the program requirements, can leave a participant feeling they are against family by staying in the Deferred Agreement. The message coming from the immediate family members may be one of “take the conviction” or “do the time and get out of there.”
- Loss of employment can indefinitely derail several contract components. Loss of income often presents a stop-gap in being able to comply with initial goals.
- Overall depletion of life resources, over time, creates a scenario of looking like there are too many problems to solve. In other words, because of the level of depletion in the participant's mind, there is an overwhelming set of tasks to correct. This breeds a negative outlook and a depressed state, making it difficult for the person to keep any consistent motivation. Because the number of unsolved issues has stacked up, it seems easier to give up.
- Verified health risks or complications may require special accommodations at the discretion of the DPP-O Substance Abuse Counselor.

As always, amended warnings and/or case reviews are documented in the DA's Office PROTECT Log. If needed, any case can be presented to the DPP Director during the consultation process. DPP-O utilizes proximal and distal goals in contract planning, and any of the variations listed above can greatly alter these goals.

As a result of any areas of concern described above, some variations to the standard protocols can be easily employed. These are also subjective in nature.

- DPP-O may issue more than one written Warning Letter before issuing a Case Review. This can be a way to bring credence of the seriousness of this program; for select positive drug tests; for missing an appointment or a test; or for significant duration between violations.
- DPP-O may issue more than one Case Review Agreement if some major life functioning issue has dramatically changed, if a major level of treatment care has changed, or if

threatened with a PTCR has brought about a major change in attitude and/or performance.

- DPP-O may or may not send a participant back to court or back to an ADA for a new arrest. This is reviewed on a case-by-case basis. If the new arrest is opioid-/meth-related, as in overdose and/or possession, then usually, after checking with the assigned ADA, DPP-O advocates to keep the participant. A new charge may be applied at a later date, possibly affecting contract duration or a separate contract. Or, in some cases, the ADA will decline. At the very least, it will usually bring a new Case Review that specifically addresses the new charge. If the new charge involves a victim, involves violence, or will likely be a case with restitution, DPP-O most often sends this case back to court or the ADA.
- DPP-O understands the nature and extent of a Substance Use Disorder. The goal for each participant is to obtain complete sobriety while still in DPP-O eventually. This process is for all involved and viewed case-by-case before rushing to terminations. The sanctions are employed as listed above and done so by keeping in mind where each person is in relation to their treatment process and which drugs they are struggling with. Termination can and does occur due to continued drug use after all other interventions are employed.
- DPP-O does terminate participants as needed. When doing so, a section of the Back to Court Letter is usually devoted to the specific conditions in which a DPP-O re-referral would be considered. Those conditions are based on clinical data and expectations.

PROGRAM INCENTIVES

The most significant incentive is the ending of the contract, whereby the participant gets a dismissal or reduction of the charge. This is no small resolve. There are also participants who have demonstrated consistent progress with DPP Director approval can receive an early dismissal from their DPA. Additional incentives include specific occasions of verbal praise or for overall progress, drug testing reduction, and case-manager check-ins.

Many DPP-O Participants come from personal histories lacking the support and encouragement to accomplish even the smallest things. Therefore, a cognitive-behavioral approach is utilized continuously, reminding the Participant of progress milestones, shortcomings, and larger goals developing upon completing smaller, attainable ones.

DRUG TESTING

Due to substance use issues, participants are expected to be alcohol and other substance-free eventually. DPP-O recognizes that this is difficult for many individuals starting in recovery. DPP-O also understands the nature and extent of substance use disorders, and that relapse can and does happen to some individuals during their recovery.

Each participant is required to submit to random drug tests. The observed collection of saliva and/or urine and the testing procedures are essential parts of this program. Our goal is for the participant to be substance-free and continue to progress in their sobriety. The results of the tests are used to reinforce that sobriety. Our saliva and urine tests are screened for a variety of

substances. Depending on the clinic where the participant is testing, saliva and/or urine collection protocols may vary. Participants may be asked to provide a saliva test, and if that test returns a positive result, participants will be asked to provide urine samples for confirmation. As decided by lab protocols, participants may be asked to provide a urine sample. The temperature of the urine sample may be checked. Urine is also checked for creatinine levels and other screenings to detect dilutions and adulterants. If a sample screens positive for illicit substances, we discuss with participants about the positive screen. We instruct participants that telling us the truth is far better than being caught tampering with samples. DPP-O staff take positive screens seriously and use these opportunities to create a learning situation for the participant in order to understand substance use patterns and mistakes better.

It is the participant's responsibility to notify the DPP-O Substance Abuse Counselor of the use of over-the-counter (OTC) and prescribed medications that are being taken, as this can and does affect the outcome of drug screening. Please note that participants are not allowed bags, purses, or carry-ins when they provide a sample in the bathroom. The participant also completes sign-ins and paperwork with the testing center staff as required.

DRUG SAMPLE REVIEW AND LAB CONFIRMATION

A contract with COTG has been established to conduct random, observed drug testing. DPP-O participants are drug tested weekly. The random drug testing procedures put in place by DPP-O are used in conjunction with drug testing required by some Substance Abuse treatment providers, each with their testing system. There is much variance in the testing protocols of providers, so coordination with these testing systems is on a case-by-case basis. If provider testing frequency is adequate, some participants can forego random testing via COTG. However, this requires the participant and provider to work together to provide the test results to DPP-O staff promptly. In the event of barriers such as out-of-county/state residence, barriers to reliable transportation, etc., DPP-O staff may also try to make adjustments to accommodate participants on a case-by-case basis while not compromising program structure and efficacy.

If not in outpatient therapy, DPP-O participants test via COTG. COTG is located a few short blocks away from the DA's Office, and they utilize a 10-panel saliva collection system (with Fentanyl) as a first step in the drug testing process. If the saliva test shows a positive result, the participant will submit an observed, 10-panel urine test. The participant may opt to forgo the saliva test and submit an observed urine test. Participants schedule appointments to test at COTG via phone or email, and COTG follows a strict process for observing tests, monitoring the chain of custody, sending results for confirmation, etc. Results showing positive/negative from the saliva test are immediate. For the urine tests, COTG staff send samples for confirmation, and the DPP-O Substance Abuse Counselor receives an email with the results. Depending on the test site, many participants are tested weekly. However, the minimum testing is twice monthly.

It is vital to receive specific drug values (weight per volume, as in Nanograms per Milliliter) to assist the DPP-O Substance Abuse Counselor in issuing judgments and making recommendations. It is also critical that test results are updated to ensure monitoring of dangerous substances such as fentanyl. Sometimes many consecutive tests are sent in for a participant to confirm all that may be positive; sometimes consecutive tests are sent to receive values; sometimes sending positive tests are staggered. Every participant will have tests sent for confirmation, whether with each test or with occasional tests.

WRITTEN ASSIGNMENTS

Each participant is required to write a minimum of 9 assignments. The first assignment is non-narrative, completing two short answer screenings: the Life Events Checklist (LEC-5) to screen for potentially traumatic events and the Modified Mini Screen (MMS). This broad-brush screening tool is used to gather thoughts and feelings as well as current concerns relating to potential mental health issues. These tools do not diagnose but offer valuable information to assist the DPP-O Substance Abuse Counselor in relating to the participant over time and potentially helping with appropriate referrals as needed. These tools are reviewed to address recurring and/or pressing mental health and trauma needs. It is well documented in the field of substance use that unresolved or unmet mental health needs will inevitably affect recovery status.

SUBSTANCE USE RELATED ESSAYS/ASSIGNMENTS

Except for #1, participants should respond to each question or statement with a minimum of 300 words.

- 1) Complete two screenings: (a) Life Events Checklist (LEC-5) and (b) Modified Mini Screen (MMS).
- 2) For the time that you were using alcohol and/or drugs, what are the specific ways that you impacted those closest to you?
- 3) Please describe your plans, goals, opportunities, and activities that you forfeited or postponed due to your use of substances.
- 4) What specifically are the greatest dangers for you to encounter in returning to your drug of choice? Please explain in great detail.
- 5) Please write your most likely relapse scenario. Begin with thoughts, feelings, people, places, money, possible crimes, and other things that contribute to your use of substances. Track it through to its culmination, including what you use, how much, where, with whom, and for what duration of time. Then, continue the scenario with what happens next, whom you hurt or affect, and how this scenario ends for you. Do not cut corners. You must be explicit.
- 6) What were your thoughts and feelings just before the offense that referred you to DPP? How did you compromise your values, lower your personal standards, and violate your beliefs at the time of the offense?
- 7) What has been the emotional, psychological, physical, and financial impact on the victims of your offense?
- 8) You were willing to go to many lengths in continuing your alcohol/drug use, including frequently obtaining, ingesting, and withdrawing from substances. What lengths are you willing to go to maintain your sobriety? Please explain in detail.
- 9) Write a goodbye letter to your drug(s) of choice in the first person. Include whatever difficulties you experience in saying goodbye, what you will miss, what you will gain, and when and how you might think about this long-lost friend.

DEFERRED PROSECUTION-SPONSORED OPIOID OVERDOSE EDUCATION

Opioid Overdose Education is sponsored through Deferred Prosecution and provided by Vivent Health of Wisconsin.

Participants are trained in the following areas:

- to recognize the signs of an opioid overdose,
- to call 911 safely,
- how to stimulate the individual to attempt to get a response from them,
- to provide rescue breathing,
- to prepare and administer an inter-nasal spray of naloxone (NARCAN),
- to provide ongoing support to ensure the individual is safe.

Each participant in DPP-O must attend one education session. This can be done either in person or via Zoom. Each participant is expected to attend an entire training session. Once trained, each person gets two doses of naloxone nasal spray from the Vivent Health of Wisconsin facility: 600 Williamson St, Madison, WI 53703. Because naloxone is a controlled substance, Vivent staff are required to record the names of everyone who gets a dose.

PROGRAM COMPLETION

Participants successfully complete DPP-O when they satisfactorily complete all components of their Deferred Prosecution Agreement. This includes either successful completion of treatment or being at a point in ongoing treatment where treatment goals have been met, but services remain in place. The participant will have achieved consistent negative drug tests for a minimum of 60 days, satisfied financial obligations (other related fees and restitution if claimed), completed the Opiate Overdose Prevention Education session, completed all written assignments, satisfied community service hours if assigned and maintained contacts with the DPP-O Substance Abuse Counselor as directed. Participants will have secured employment or be enrolled as full-time students and have otherwise remained compliant with all DPA requirements.

Upon successful completion of DPP-O requirements, formal charges are avoided or dismissed based on whether the case was initially referred to as a pre-charge or post-charge. DPP-O staff utilizes the PROTECT system (a case management system developed by District Attorney Offices statewide) to communicate participant compliance and noncompliance with the assigned prosecutors. This information and communication is limited and complies with best practice standards.

Pre-charge completion notifications are sent electronically to prosecutors and participants via email and postal mail. Noncompletion notifications are sent electronically to the Paralegal Intake Unit for further actions via PROTECT.

The post-charge completion Motion to Dismiss and Order to Dismiss are drafted by the DPP-O Substance Abuse Counselor and submitted electronically through our PROTECT system. The DPP-O Substance Abuse Counselor then completes the Motion and Order, so such action is notified to the Assistant District Attorney through PROTECT, the Judicial Branch, and the court system (CCAP). The Majority of completions are dismissals; however, in a select few cases, a reduction of charges may be the agreed-upon disposition.

TERMINATION PROCESS

Participants are terminated from DPP-O if they do not satisfactorily complete all components of their Deferred Prosecution Agreement. A grievance procedure (see Appendix 1 on Page 21) is in place for all participants. This procedure involves verbal and written warnings and face-to-face case reviews with the DPP-O Substance Abuse Counselor. When noncompliance persists, the participant is invited to schedule a Pending Termination Case Review (PTCR) with the DPP Director as a last effort to return to good standing. At each step in the process, efforts are made to assist participants in addressing barriers to success. They may include referral for further assistance from partner agencies (e.g., assistance with healthcare benefits, employment assistance, etc.) or generally assisting the participant through problem-solving techniques. The referring prosecutor and defense attorney (if represented) receive notification of PTCR through the PROTECT system. If all efforts fail and noncompliance persists, the case is returned to the referring prosecutor for issuance of charge or return to court, dependent upon the initial referral of the case as pre-charge or post-charge. The case is returned to court via a Back to Court Letter generated by the DPP-O Substance Abuse Counselor and sent electronically through the PROTECT system to the Assistant District Attorney, Judges, and Defense Attorney. A copy of the letter is sent to the participant.

The above-described grievance process may not apply if probable cause indicates that the participant has committed a new offense or has been negatively terminated from a treatment program. In those instances, the basis for the possible termination is reviewed along with the participant's progress and adjustment. The referring prosecutor is also contacted if appropriate. After review and consideration, a decision is made by the DPP Director in consultation with the DPP-O Substance Abuse Counselor regarding program termination. In all cases, the participant receives a copy of the termination letter outlining the reason(S) for the termination and what requirements were completed while the participant was in the program.

COMPREHENSIVE OUTCOME RESEARCH EVALUATION (CORE) DATA SYSTEM

As a part of the Treatment Alternatives and Diversion (TAD) grant funding, DPP-O staff are required to enter participant information into DOJ's CORE Reporting System. The CORE Reporting System is an online system owned and operated by the Wisconsin Department of Justice (DOJ). Each DPP-O staff member submits a request for access to the CORE Reporting System to DOJ, and each DPP-O Substance Abuse Counselor is responsible for the timely reporting of participant information to the CORE Reporting System for each participant on their caseload.

The process for entering participant information into CORE is as follows:

- When a participant is referred to DPP-O and deemed eligible/appropriate, DPP-O Substance Abuse Counselors create a record for the participant in the CORE Reporting System.

- Once a participant is assigned to a DPP-O Substance Abuse Counselor's caseload, it is the responsibility of that Counselor to enter all required information into the CORE Reporting System in a timely and accurate manner.
- The following information is required to be entered into the CORE Reporting System:
 - Referral and admission information (including all demographic, referral, offense, screening, assessment, eligibility, administrative, criminal background, medical, mental health, alcohol and other drug use, and responsivity/treatment motivation information)
 - Complete results of alcohol and other drug testing
 - Completion of ancillary services/requirements
 - Attendance at treatment services
 - In-program recidivism
 - Sanctions
 - Status changes (i.e., housing, education, employment, living situation, etc.)
 - Discharge information (including all discharge status, outcomes, education, employment, medical, and mental health information)
- Entering and updating participant information in the CORE Reporting System is ongoing as participants move throughout DPP-O. DPP-O Substance Abuse Counselors enter and update information in the CORE Reporting System daily to maintain reporting requirements.

The University of Wisconsin Population Health Institute (UWPHI) evaluation partner conducts quarterly data quality monitoring for the CORE Reporting System. This process involves reviewing each record in the CORE Reporting System to identify missing information areas and any inaccurate or inconsistent information. The UWPHI evaluation partner sends a list of issues identified to DPP-O Substance Abuse Counselors after each quarterly data quality monitoring process, and each DPP-O Substance Abuse Counselor is responsible for resolving the issues identified with participants who are on their caseload. Post-program participant recidivism outcomes are monitored on an ongoing basis.

APPENDIX 1: DEFERRED PROSECUTION GRIEVANCE PROCEDURE

The Deferred Prosecution Program (DPP) acts under the authority of the Dane County District Attorney. This program is committed to the preservation of and compliance with all participant's legal rights.

EXCEPTIONS TO THE GRIEVANCE PROCEDURE ARE GROUNDS FOR IMMEDIATE TERMINATION FROM THE PROGRAM:

- Engaging in conduct that creates probable cause to believe participant has committed a crime.
- Currently on supervision for criminal charges.
- Failure to comply with any requirement of the treatment program. The treatment provider and no one else will decide failure in treatment program.
- Failure to enroll in required treatment programming by the agreed-upon date in the deferred prosecution agreement contract.

NON-COMPLIANCE WITH CONTRACT

If a contract is signed and the individual fails to follow through with the agreed-upon conditions, the following procedures will be followed by this program:

- (1) the assigned substance abuse counselor will send participants a warning letter, which will outline non-compliance. This letter will ask participant to appear for a case review appointment. If the conflict is resolved, the participant will receive a letter summarizing the issues discussed and the agreed-upon steps that will be taken to complete the DPA requirements.
- (2) If the participant does not appear for the scheduled appointment and/or is unable at the appointment to resolve the dispute over the DPA requirements, the participant will receive a letter discussing reasons for termination from the program.

APPEAL TO THE DIRECTOR

If the participant disagrees with the substance abuse counselor's decision to terminate their DPA, the participant may appeal that decision by following the procedures outlined below:

- (1) Contact the Deferred Prosecution Office at 284-6896 within five (5) working days of the date of the "pending termination" letter. Participants will ask to set up an appointment with the Director of the program director or designee for a "pending termination case review."
- (2) The participant will meet with the Director or designee as scheduled. At this meeting, the participant should be prepared to discuss why they should not be terminated from the program and what they will need to do to comply with the conditions of their contract.

- (3) The Director of the Deferred Prosecution Program will review the participant file and the appeal. Every attempt will be made to resolve the at this meeting.
- (4) Participant will receive a written decision within five (5) working days outlining the meeting with the Director.

***If a participant fails to respond to the warning or pending termination letter, their DPA will be terminated, and the case will be sent back to court for further proceedings.

APPENDIX 2: TEMPORARY PROTOCOL DURING COVID-19 PANDEMIC

This temporary protocol to account for DPP-O operations during the COVID-19 pandemic ran from March 2020 to December 2022. It is included here for historical documentation purposes.

Temporary Protocol Documentation:

DPP-O continues to maintain its participants' safety as our highest priority. During these changing times, we hope each participant will be provided weekly communication from counselors and be able to complete all contract requirements on time. Lastly, our mission is to clarify how to continue to be compliant and to aid in decreasing anxiety about the unknown. This protocol change will last until it is safe to return to the office and safety measures are in place.

What Has Stopped:

- We will not be conducting face-to-face meetings at this time.
- The DPP-O office has closed, and all staff are working from home.

What Continues:

- We will continue to have weekly meetings through phone conversations or setting up video conferencing through a platform called "Zoom." Those capable of using this method must have a smartphone and be able to download the app. More instructions will follow. Alternative options will be available.
- Returning Homework assignments. These will be provided through an email to DPP-O Substance Abuse Counselors.
- Participants will be required to continue to call the Color call-in-line. On the day their color is called, they will call or email their DPP-O Substance Abuse Counselor to give updates on their lives. This will be a brief message about any recent use, stressors, progress made in treatment, or anything they feel is relevant for their DPP-O Substance Abuse Counselor. This should be 30 second to 2-minute message.
 - Like the Urine analysis- If the color is the same as the day of a scheduled appointment, then participants will just need to make contact during the appointment.
- Drug testing will continue through Concentra Labs when remote procedures are in place. The frequency and reason for the drug testing are made individually by the DPP-O Substance Abuse Counselor. There are two locations on the East and West side of

Madison. DPP-O participants will determine which location is most convenient, and the DPP-O Substance Abuse Counselor will submit a verification form for the participant to attend. Each participant must bring an I.D. and wear a mask to complete a urine analysis successfully.

These are very uncertain times we face across the Madison Community and the world; we ask that participants be flexible and understanding as the Counselors adjust to this change. It is our highest priority to keep each one of our participants safe. We feel our new procedure will help in this mission.

Some individuals in recovery do experience relapse. If relapse occurs, the DPP-O Substance Abuse Counselor will work with the participant and address the situation on a case-by-case basis. For this process to work, we need 100% honesty and cooperation. As always, and especially now, we remain focused on all our participants' physical, mental, emotional, and spiritual health.