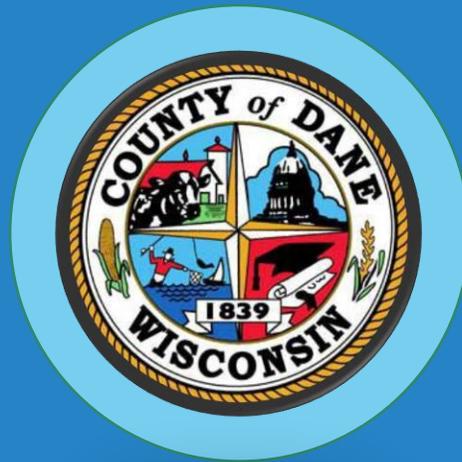


# Dane County District Attorney's Office



## Deferred Prosecution Opioid Diversion Program (DPP-O)

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*Participant Handbook*

# Table of Contents

Welcome to Dane County’s Deferred Prosecution Opioid Diversion Program (DPP-O). The purpose of this handbook is to provide you with information about DPP-O and to answer questions you may have.

This handbook will outline what is expected of you as a DPP-O participant, and it will provide you with general information about DPP-O. Please read this handbook carefully. It is your responsibility to be familiar with its contents.

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**Dane County**  
**District Attorney's Office**  
ISMAEL R. OZANNE • DISTRICT ATTORNEY

MELVIN S. JUETTE • DEFERRED PROSECUTION DIRECTOR

*Welcome to the Deferred Prosecution Opioid Diversion Program,*

We are pleased that you have decided to accept a deferred agreement and enter into this program to pursue a healthier life for yourself. It is our goal to help connect you to the best wrap around services that focuses on your mental and physical health, to support you in life long sobriety, and help facilitate emotionally intelligent recovery. We will reflect on destructive and triggering behavior, help connect you with community resources, and provide you with an individualized contract that uniquely fits your needs.

The following are expectations at the beginning of your contract:

- Meeting weekly with DPP-O Counselor until further directed.
- Compliance with rigorous drug testing
- Unless having a verified disability, maintain stable employment or participate in employment programs until gainfully employed.
- Submit a number of written assignments in a timely fashion.
- Fully comply with Substance Abuse Counseling/Treatment as directed.
- Comply with other programming when need indicated (mental health, psychiatric/psychological treatment, HSED/GED, OWI compliance, etc.)
- Community service when indicated.
- Restitution if so ordered as part and parcel of plea agreement.
- Deferred Prosecution Agreement duration will usually be between 9-15 months, unless there is substantial restitution owed in the case, which may increase time frame.

Thank you and we look forward to helping facilitate meaningful change in your life,

**James Sauer** LCSW, CSAC, ICS, LMFT

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## **DANE COUNTY OPIOID DIVERSION PROGRAM (DPP-O)**

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The Deferred Prosecution Opioid Diversion Program operates within the larger Deferred Prosecution Program (DPP) through the Dane County District Attorney's Office. DPP-O was created in 2013 in response to the numbers of opioid-related deaths that were occurring in Dane County. DPP-O created a pretrial and post-charge diversion option that aims to quickly connect participants with wraparound services to address your substance abuse issues as well as physical and mental health, and to support you on a lifelong journey of sobriety and recovery. Participants who successfully complete their deferred prosecution agreement requirements avoid formal charges being issued (if you were referred pre-charge) or receive a dismissal or reduction of charges (if you were referred post-charge).

### **Mission Statement**

**It is the fundamental goal of the Opioid Diversion Program to connect individuals to the best wrap around services that focuses on mental and physical health, to support each participant in lifelong sobriety and encourage emotionally intelligent recovery. The Deferred Prosecution Opioid Diversion Program (DPP-O), as 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 crime. DPP-O fully utilizes a wide spectrum of community resources to facilitate the completion of participant contracts that is uniquely tailored to each individual.**

**To this end, 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 innate worth, value, and potential
- Each participant's recovery is of the highest priority
- Participant responsibility and accountability are emphasized

## ELIGIBILITY

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- Accepts meaningful responsibility for offense behavior whether referred pre- or post-charge. If referred post-charge, accepts responsibility for the guilty plea that has been entered.
- Not on supervision or under a deferred agreement elsewhere.
- No pending or open matters filed or under review.
- Participation is voluntary.
- Have no prior convictions for less than 5 years prior to referring offense (except delinquency, adjudications, low-level non-assaultive misdemeanors, or OWI 1st & 2nd).
- No prior probation, parole, extended supervision or DPP participation for less than 5 years prior to referring offense (except juvenile supervision & informal probation/conditional discharge out of state probation terms).
- No repeat domestic violence or family violence offenses, and no similar behavior.
- Prior DPP clients who were returned to court for failure to comply are reviewed on a case-by-case basis.
- Director reviews juvenile history to assess risk.
- Director maintains the ability to make exceptions to the above eligibility requirements when compelling circumstances exist.
- Opiate/Opioid abuse issue.
- Referral offense related to arrest for Possession of Narcotic Drug (Opiate/Opioid only), Possession of Opiate/Opioid Drug Paraphernalia, or Opiate/Opioid-related crimes.
- No violent or assaultive convictions, and no violence or assaultive behavior in referral offense (exceptions may be made under certain circumstances).
- Convictions within the past 5 years are reviewed and may be allowed under certain circumstances.
- Dane County resident, or if outside Dane County, must have valid driver's license and transportation to maintain minimum twice weekly in-person contact.
- Willingness to comply with DPP-O's rigorous programming.

## DEFERRED PROSECUTION AGREEMENT (DPA) DEVELOPMENT AND REQUIREMENTS

A DPP-O Deferred Prosecution Agreement (DPA), also referred to as the Contract, outlines everything you are expected to do while you are in DPP-O. The Contract includes a list of expectations that all participants are expected to follow, including:

- Not having any law violations,
- Telling your Counselor about any police contact,
- Telling your Counselor within 24 hours if your contact information or address changes,
- Telling your Counselor if your job changes,
- Completing your written assignments,
- Attending the required Opioid Overdose Prevention Education class,
- Meeting weekly with your Counselor, unless you are told otherwise,
- Submitting drug tests (Urine analysis) as directed,
- Obtaining employment, unless you are told otherwise,
- Paying all your restitution requirements ,
- Following all your bail conditions,
- You must have 60-days of sobriety from all illicit substances before you can complete your Contract (this includes THC).
  - This does not include prescriptions from a physician. Your Counselor may ask for proof of your prescription for any controlled substances that have been prescribed to you.
- You must follow the recommendations of your outside treatment therapist, counselor, psychologist, or psychiatrist during your Contract. The frequency and level of care you need is determined on a case-to-case basis and is often based on collaboration between your DPP-O Counselor and the outside agency. If a higher level of care is recommended by a counselor outside of DPP-O, you must follow through with this recommendation.
  - The recommendation of treatment, the level of care, and the agency recommended to attend will always be determined with your insurance coverage in mind.
- Participate in some type of community support program. You are required to engage in some activity that shows you are dedicated to changing your unhealthy lifestyle and to fully participating in daily activities that are supportive of your recovery. Examples of these sober community support activities 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.

You may have additional things you are expected to do to address your personal needs. This may include the following things: addressing mental health needs, taking medications, addressing criminal traffic expectations, payments towards tickets, addressing child support issues, etc. Our face-to-face meetings with you, and the screening that you complete will allow us to create a well-planned Contract that will help you to change your life course from a drug-oriented lifestyle to a sober, productive lifestyle. We are also in support of you addressing your own personal goals.

Your Contract will be between 9-15 months long. The length of your Contract will be determined based on your identified needs. You may be eligible for early release from your Contract, depending upon your progress. The length of your Contract will be specified on your Contract and your Contract will be explained to you by your Counselor. Your Contract may also be extended for many reasons, including failure to pay your restitution and/or due to various violations.

When you review and sign your Contract, you will also be asked to review and sign a Consent for the Release and Exchange of Information between the Dane County District Attorney's Office and the Wisconsin Department of Justice (DOJ) Division of Law Enforcement Services, as well as the University of Wisconsin Population Health Institute. The purpose of this consent is for the information collected to be used to support program monitoring, evaluation, and statistical analysis. Also, based on your Contract and treatment requirements, and with your input, you may be asked to sign additional Releases of Information so that your DPP-O Counselor can receive information from your treatment providers.

## CONFIDENTIALITY

Participation in DPP-O starts via a legal action from the Dane County District Attorney's Office, both with pre- and post-charge cases. The DPP-O Counselors fulfill many roles, often serving in Case Management, Crisis Intervention, Treatment Planning and Brief Treatment, Referral Activities, Record and Document Keeping, and both Verbal and Written Communications to all participants. DPP-O Counselors also work closely with a variety of helping agents in the community.

DPP-O Counselors establish a working relationship with participants and partnering service providers. The success of our efforts only comes when the appropriate and necessary parties coordinate and work together. We then go forward with participants in carefully 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 and the Wisconsin DOJ Division of Law Enforcement Services, as well as, the University of Wisconsin Population Health Institute. The purpose of this disclosure is about the information collected to be used to support program monitoring, evaluation, and statistical analysis.

Based on your Contract and treatment requirements, and with your input, decisions are made regarding the signing of appropriate Releases of Information with DPP-O to the individual people and programs related to your Contract. Your information is not released or shared without written permission. DPP-O Counselors work very hard to ensure that any and all participant information that relates to program adherence, and program non-compliance, is only released to parties where releases are signed and where mandatory reporting is required. In the event that you are terminated from DPP-O, a brief summary of program compliance issues is prepared by your DPP-O Counselor and is provided to the prosecuting attorney and also to the court in post-charge cases.

## COSTS

**There is no cost to enter DPP-O.** The following costs are required if they are included in your court case:

- Fines – Assessed and ordered by the court.
- Restitution – Determined on an individual basis and ordered by the court.

## INCENTIVES AND VIOLATIONS

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Progress made in DPP-O is measured by compliance with Contract requirements and progression through treatment. DPP-O Counselors reward compliance and have procedures in place to address noncompliance. DPP-O Counselors have the discretion to grant incentives and to address noncompliance as they see fit. Also, incentives and responses to violations are tailored to each participant's individual situation, to the extent possible.

### **Incentives:**

One of the biggest incentives in DPP-O is successful completing your Contract and receiving a dismissal or reduction of your charge. This is no small thing. Yet, we also see benefit in providing smaller incentives along the way, as you make accomplishments toward your sobriety. Behaviors/situations that may lead to incentives include:

- A consistent string of negative drug tests (UA's)
- Being consistent in following all your required treatment efforts, including attending, and participating appropriately.
- Completing your written assignments that demonstrate an understanding of the personal effects of your substance abuse on others.
- Attending your appointments with your DPP-O Counselor, as directed by, and arranged with your Counselor.
- Making progress with your Contract requirements at a reasonable pace (meaning that your drug tests are negative, you are in treatment or completed your treatment, you are working or in school, and/or you have stable residence).
- Attending community support meetings (i.e., AA, NA, SMART, Church-based, etc.), or doing other activities to develop a non-using support network.
- Completing your individualized treatment tasks (examples of this include scheduling and attending a medical appointment that would improve health; going to a library with your child to assist in homework projects; filling out an additional job application that advances personal standing, or attendance at a particular job training; taking a medication consistently where there has been a history of gaps, etc. )

### **Violations:**

If you fail to follow or violate your Contract requirements, you will receive a sanction. Sanctions are given on a case-by-case basis and are aimed at changing behavior to assist on your road to recovery.

DPP-O has an established process for responding to noncompliance and violations. This process is spelled out in the Grievance Procedure as described below. As a rule, following a violation or noncompliance, we will first give you a verbal warning. If violations or noncompliance continue,

we will give you a written warning, which will be specific and is intended to raise your awareness about an issue or issues at hand. If violations and noncompliance continue after that, we could give you a Case Review Notice, which is a written notice of a mandatory meeting during which your violation issues will be addressed. During the mandatory Case Review meeting, we will establish a Case Review Agreement which will include specific tasks and deadlines for you to complete those tasks. Failure to complete those tasks, or failure to attend the meeting would then lead to a Pending Termination Case Review (PTCR) with the Director of Deferred Prosecution.

A PTCR will be your last chance to continue in DPP-O. If you were to get to this level, you would be sent a letter giving notice that you must contact the office by a certain date to schedule an appointment with the DPP Director. The DPP Director would meet with you, review your situation, and assign specific tasks and/or requirements that must be fulfilled by certain deadlines. If you fail to comply with the identified PTCR requirements, a Back to Court letter is prepared by the DPP-O Counselor and reviewed by the DPP Director, and your case would be returned to court for further action. If you were admitted prior to a charge being issued, a written memo would be prepared and emailed to the assigned prosecuting attorney to give notice that you were unsuccessful.

Please note that some violations can be related to personal circumstances, part of which may be beyond your control. Your DPP-O Counselor will be looking at your individual situation and will determine if certain lenience can be applied and will decide how best to address your needs.

## DRUG TESTING

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Participants in DPP-O are expected to eventually be alcohol and drug free. DPP-O Counselors recognize that this is difficult for many people who are starting their recovery journey. DPP-O Counselors also understand the nature and extent of substance abuse and addiction, and that relapse can and does happen for some people during their recovery.

The observed collection of urine and the testing procedures are important parts of this program. Our goal is for you to be drug free and continuing to progress in your sobriety. The results of these tests are used to reinforce that sobriety. Our urine tests are screened for a variety of substances. The temperature of the urine sample is checked. Urine is also checked for its creatinine level and other screenings to detect dilutions and adulterants. If a sample screens positive for illicit substances, we will ask you about the positive screen. We will also tell you that it is far better to tell us the truth than to be caught tampering with urine samples. DPP-O Counselors take positive screens seriously and use these opportunities to create a learning situation for you to better understand drug using patterns and mistakes. Because DPP-O is based upon honesty, participants usually feel safer in continuing to tell the truth.

You are required to submit to random drug tests. The drug testing requirements are as follows:

1. You will be assigned a color when you enter DPP-O (though exceptions to the color assignment are granted in certain situations).
2. You must call the daily color line (608-283-1390) every day (Monday-Friday) after 6:00AM to listen for the color(s) for the day.
3. If your color is on the recording, you need to come in and submit to a urine screen between 7:00-9:00AM.
  - a. If you have a meeting with your DPP-O Counselor on a day that your color is called, you do not need to come in between 7:00-9:00AM, you will provide a sample at your appointment.

Unless there are certain circumstances that are presented to the Counselor, failing to come in for a urine screen will be counted as a positive test. Please note that even though there are designated hours for UA collection listed below, you may also be asked to provide a urine sample at any time.

**If you must miss a call-in test for some reason, you must automatically come in the next day, or make an arrangement with your Counselor as soon as possible.**

It is your responsibility to notify the Counselor of the use of over-the-counter (OTC) and prescribed medications that you are taking, as this can and does affect the outcome of drug screening. Please note that you are not allowed bags, purses, or carry-ins when you are in the bathroom providing a sample. Once you've provided a sample, you will sign-in on the daily sign-in sheet and complete brief paperwork with your Counselor.

## WRITTEN ASSIGNMENTS

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You are required to write a minimum of 9 assignments during your time in DPP-O. The first assignment includes two short answer screenings about your thoughts and feelings. The other 8 of these assignments are in essay format. Information about these assignments is included below.

### SUBSTANCE ABUSE RELATED ESSAYS/ASSIGNMENTS

**There are 9 written assignments. You will receive #8 and #9 after #1-7 are complete.**

**Assignment #1:** Complete two screenings: (a), Life Events Checklist (LEC-5), and (b), Modified Mini Screen (MMS).

**For Assignments #2-#8:** Please respond to each question or statement with a minimum of 300 words. Thank you.

- **Assignment #2:** For the time that you were using alcohol and/or drugs, what are the specific ways that you impacted those closest to you?
- **Assignment #3:** Please describe your personal plans, goals, opportunities, and activities that you forfeited or postponed as a result of your use of substances.
- **Assignment #4:** What specifically are the greatest dangers for you to encounter in returning to your drug of choice? Please explain in great detail.
- **Assignment #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 all the way 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 effect, and how this scenario ends for you. Do not cut corners. You must be explicit.
- **Assignment #6:** What were your thoughts and feelings just prior to the offense that referred you to DPU? What specific ways did you compromise your values, lower your personal standards, and violate your own beliefs at the time of the offense?
- **Assignment #7:** What has been the emotional, psychological, physical, and financial impact upon the victims of your offense?
- **Assignment #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 in order to maintain your sobriety? Please explain in detail.
- **Assignment #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 Vivant Health of Wisconsin. You are required to attend one education session while you're in DPP-O. This class will either be held in-person or on Zoom (while DPP-O is operating on a remote basis). If this will be held on Zoom, you are required to download Zoom prior to the training, and you are required to attend one full hour of time for this training. We encourage you to be in a private location and to have audio/video capabilities on your device.

During this education session, you will be 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 intranasal spray of naloxone (NARCAN),
- to provide ongoing support to ensure the individual is safe.

Once trained, you will get two doses of naloxone nasal spray that will be located at the facility of Vivant Health of Wisconsin: 600 Williamson St, Madison, WI 53703. It will be your choice if you would like to go by the facility to pick up the Naloxone spray. Because naloxone is a controlled substance, Vivant Health will be required to record the names of everyone who gets a dose.

## TERMINATION

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Warrants, new arrests, or violations of your Contract and/or treatment plan may result in your termination from DPP-O. Violations that may result in termination include:

- Habitual missing of appointments with your DPP-O Counselor and/or Treatment Providers.
- Positive drug tests with little to no effort to make changes.
- Altered drug tests.
- Pattern of substance-use related violations.
- Being absent from the program for extended periods of time.
- Failing to comply with your PTCR requirements.

Termination from DPP-O may be voluntary or involuntary. A voluntary termination occurs when you decide to terminate from the program. You may do this at any time once you have signed your Contract. If you choose to terminate, your case will be sent back to court for processing.

An involuntary termination occurs when you fail to comply with program requirements after verbal warnings, written warnings, and case reviews. Your last chance to continue in DPP-O will be through a Pending Termination Case Review (PTCR) meeting with the DPP Director, as described above.

An involuntary termination may also occur if you commit a new offense or if you are negatively terminated from a treatment program. In the event that either of these things occur, the basis for possible termination is reviewed along with your progress in DPP-O. The referring prosecutor is also contacted if appropriate. After review and consideration, a decision is made by the DPP Director, in consultation with your Counselor regarding termination. If you are involuntarily terminated, your case will be sent back to court for further action.

## **PROGRAM COMPLETION**

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Upon successful completion of all of your Contract requirements, including a good faith effort toward payment of all assessed fees, fines and restitution and continued sobriety, you will successfully complete your DPP-O Contract and the charges that brought you to DPP-O will be reduced or dismissed. If you entered DPP-O pre-charge, your charges will not be filed.

Successfully completing your Contract on a post-charge basis does not make your case(s) disappear from public view. A dismissed case will still show up on most background checks that are used by employers and landlords. If the dismissal does show up on a background check, you may be asked about the case and your successful completion by a potential employer or landlord. Both misdemeanor and felony cases will be displayed on CCAP for two years if your case was dismissed or if you were acquitted. And, after two years from the date of disposition, the record will be removed.

## TEMPORARY PROTOCOL DURING COVID-19 PANDEMIC

DPP-O continues to maintain the health of our participants as our highest priority. During these changing times, it continues to be our hope that each participant will be provided weekly communication from Counselors and be able to complete all Contract requirements on time. Lastly, it is our mission to provide information to you about how to continue to be in compliance with your Contract, and to help decrease anxiety of the unknown. This change of protocol will last until it is safe to return to the office, and safety measures are in place.

### What will not happen:

- DPP-O Counselors will not be conducting face-to-face meetings at this time,
- The DPP-O office is closed, all Counselors are working from home

### What will happen:

- We will have weekly meetings through phone conversations or setting up video conferencing through a platform called “Zoom”. If you are able and interested in a Zoom meeting option, you must have a smart phone and be able to download the app.
- You will provide your written assignments through an email to your Counselor.
- You will be required to call the Color call-in-line. On the day your color is called, you will call or email your Counselor and give updates about your life. This will be a brief message about any recent use, stressors, any progress you have made in treatment, and anything you feel is relevant for your Counselor to know. This should be 30 second to 2-minute message.
  - Like the drug testing (urinalysis) protocol - If the color is the same as the day you have an appointment with your Counselor, then you only need to make contact with your Counselor during your appointment time.
- Drug testing will be conducted through Concentra Labs during the time remote procedures are in place. Decisions about the frequency and reason for the drug testing are made by Counselors on an individual basis. Concentra has two locations on the East and West side of Madison. You should decide which location is most convenient for you to attend and your Counselor will submit a verification form for you to attend. You will need to bring an I.D. and wear a mask to successfully provide a drug test (urine analysis).

Some individuals in recovery do experience relapse. If you relapse, your DPP-O Counselor will work with you and address your situation on a case-by-case basis. For this process to work we need your **100%** honesty and cooperation. As always, and especially now, we remain focused on your physical, mental, emotional, and spiritual health.

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