

Wellness Court Program Manual

“A journey toward change”

Prepared by the Court Services Division
Department of Justice and updated by
the Specialized Courts Steering Committee



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1. GLOSSARY OF TERMS

ACCUSED:

A person who is in the preliminary stages of being admitted to the Wellness Court Program prior to entering a guilty plea.

AFTERCARE PLAN:

A written plan initiated prior to and finalized at the time of a participant's program completion or discharge, to identify ongoing and available services and supports, and to confirm appropriate transfer of information regarding the individual's change of program status. The Aftercare Plan includes the participant's own plan to maintain their wellness and connection with personal and community supports and services.

CASE MANAGEMENT TEAM:

The Case Management Team is comprised of the following: the Case Manager, the Participant Support Team, and the participant.

DISCHARGE SUMMARY:

A written summary of a participant's involvement in the Wellness Court program prepared at the time of discharge. The Discharge Summary will detail the participant's background as well as an overall summary of their experience in the Wellness Court Program including a description of the participant's progress, achievements, challenges, and information relevant to the participant as an Indigenous Person, if applicable, while under the supervision of the Case Management Team.

ELIGIBILITY:

Crown Counsel's determination whether to endorse an Accused to be assessed for the Wellness Court Program; and the courts' determination as to whether the case is appropriate for referral.

PARTICIPANT:

A person who has pleaded guilty to their charges, been assessed, and is actively participating in the Wellness Court Program.

PARTICIPANT SUPPORT TEAM:

Personal and professional supports and services involved with the participant and listed on their Wellness Plan.

SPECIALIZED COURTS:

Components of the Territorial Court that include the *Domestic Violence Treatment Option Court and the Wellness Court.

SUITABILITY:

The factors the Case Management Team takes into consideration when determining whether an Accused is suitable for the Wellness Court Program. Suitability is determined through multiple meetings, suitability assessments and collaborating with other resources, and based on the Accused's criminogenic needs, available supports and level of motivation.

WELLNESS COURT:

A specialized component of the Territorial Court that exclusively hears cases that have been referred to the Wellness Court. The Wellness Court oversees cases at all stages from the time of referral to the suitability assessment and acceptance phase through active participation and to final sentencing.

WELLNESS COURT PROGRAM:

A judicially supervised alternative aimed at providing support to Accused individuals with mental health issues, addictions, or cognitive challenges. The Program combines intensive supervision of participants with a comprehensive, collaborative approach to address the issues contributing to an individual's behavior and subsequent contact with the justice system.

WELLNESS COURT TEAM:

The Wellness Court Team is comprised of the following: Manager of Specialized Courts; Case Manager; Crown Counsel; Defence Counsel; Participant Support Team, as required; and, Territorial Court Judge, as required. The Wellness Court Team meets prior to each Wellness Court sitting to review the progress of participants.

WELLNESS PLAN:

A written plan initiated at the beginning of a participant's entry into the Wellness Court Program. The plan is participant-centered and holistic in approach, addressing physical, emotional, mental, and spiritual health with targeted supports and services. The plan defines the participant's goals and responsibilities, as well as the Case Manager's responsibilities to the participant. This plan is expected to be reviewed and amended in accordance with the participant's needs.

*THE [DOMESTIC VIOLENCE TREATMENT OPTION](#) INTEGRATES COUNSELING AND THERAPY OPPORTUNITIES WITH THE COURT PROCESS FOR INDIVIDUALS WHO HAVE USED VIOLENCE IN THEIR RELATIONSHIPS AND RECOGNIZE THE NEED TO CHANGE THEIR BEHAVIOR.

2. PROGRAM OVERVIEW

2.1 PROGRAM HISTORY

The Wellness Court was implemented in 2014 and is the second specialized court in the NWT. The Domestic Violence Treatment Options (DVTO) Court has been hearing matters since 2011. In contrast to conventional courts, the Wellness Court is *offender-specific* rather than *offence-specific*. The Wellness Court combines intensive supervision of adult participants with a program that provides a comprehensive and collaborative approach to addressing mental health issues, addictions, or cognitive challenges that contribute to an individual's behaviour and subsequent contact with the justice system.

An Accused who meets the eligibility and suitability criteria for admission is accepted as a participant into the Wellness Court Program and begins their wellness journey. The participant is then assigned to a Case Manager who will prepare a Wellness Plan in collaboration with the participant. The Wellness Plan is at the heart of the Program and is individually tailored to each participant to identify realistic wellness goals based on their specific needs and available resources. Once the plan is developed, it is provided to the court.

The Case Manager supports the participants in accessing necessary services and supports such as housing, income support, treatment, and counselling. The Wellness Plan is reviewed at regular intervals, and any changes to the plan as a result of these reviews are reported to the court. Upon successful completion of the Wellness Plan, the participant will appear before the court for disposition of the charge(s). This could be sentencing (which would take into consideration participation in the Program), but could also result in the charge being withdrawn, or a stay of the proceedings being entered.

2.2 OBJECTIVES

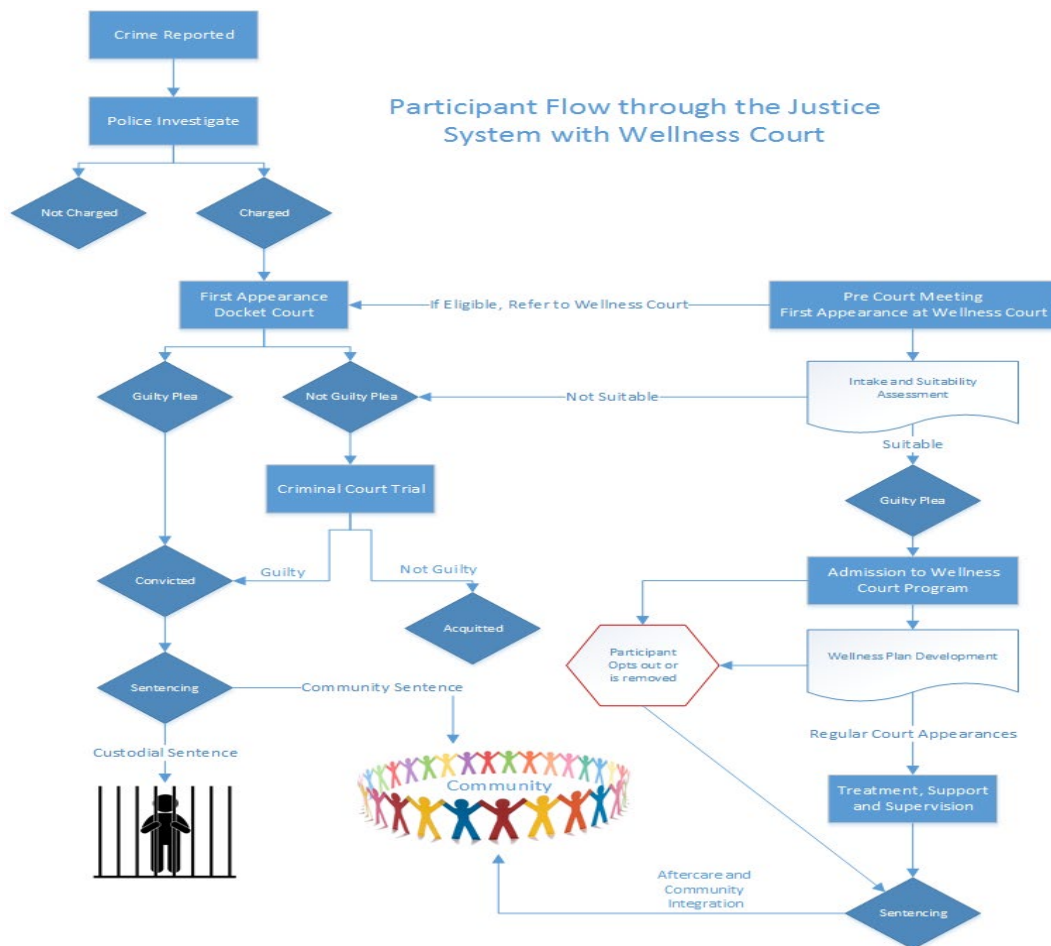
The primary objectives of the Wellness Court and Wellness Court Program are:

1. Recidivism will be reduced in frequency and severity for those individuals who participate in the Wellness Court Program.
2. The Wellness Court Program will facilitate access to needed services and supports related to mental health issues, addictions, or cognitive challenges on an individual basis, considering individual needs.
3. The use of alternative justice approaches (community-based justice, solution-focussed approaches, and restorative justice) in the NWT will be increased.

2.3 PROCESS

The Wellness Court is modeled on a strength-based approach. This means that it is centered on a trusting relationship between the participant and their Case Manager, and that social supports available to them are taken into consideration. For this approach to be successful, service and treatment providers must work collaboratively with participants on mutually agreed upon, realistic goals laid out in the Wellness Plan.

Figure 1 illustrates the process that an individual will experience in the Wellness Court.



The Wellness Plan will be unique for each individual; however, the participant-centered approach will be a common experience. The length of the Program will vary between participants. It is estimated that, if no major setbacks occur, the Wellness Plan will last approximately 6-18 months in most cases.

2.4 THE WELLNESS COURT TEAM

The Wellness Court Program is offender-centered, which means that the participants are at the centre of the work conducted by both the Department of Justice and the Territorial Court. The expectation is that all individuals who encounter and participate in the Wellness Court are treated with respect, dignity, and fairness; are listened to and treated as individuals; and are able to understand and play an active role in the proceedings.

Participants are supported primarily by their Case Manager, but also benefit from the work done by the Manager of Specialized Courts and other members of the Case Management Team. The Wellness Court Program has access to a psychologist or therapist for counselling needs.

The Wellness Court Team is comprised of the following:

- Manager of Specialized Courts;
- Case Manager;
- Crown Counsel;
- Defence Counsel;
- Treatment or Service Providers, as required; and,
- Territorial Court Judge, as required.

The Wellness Court Team meets prior to each Wellness Court sitting to review the status of each case and the progress of participants. This pre-court meeting, scheduled on the day that the Wellness Court sits, is a core feature of the Program. The Wellness Court Team is encouraged to discuss each participant, in particular those appearing before the Judge that day. The Manager of Specialized Courts chairs the pre-court meetings. Participants waive their right to attend these meetings, approve the fact that their counsel (or duty counsel) will represent their interests, and agree that their case and their participation and progress will be provided to, and discussed by, the Wellness Court Team.

3. ROLES OF THE WELLNESS COURT TEAM

3.1 JUDGE

The Judge is key to the Wellness Court Program and explains the requirements to the Accused at their first appearance in court. Upon acceptance to the Program, the participant is subject to intensive judicial supervision, which includes regular check-ins with the court. The Judge takes an active role and has direct interaction with participants by asking questions and listening to the answers. This regular accountability to the Judge is integral to the individuals' success, as each appearance reinforces the court's commitment to the positive changes the participant is undertaking.

3.2 CROWN COUNSEL (PUBLIC PROSECUTION SERVICE OF CANADA)

Crown Counsel determines initial eligibility for participation in the Wellness Court Program by conducting charge assessments, screenings and preparing an initial position. Certain trafficking offences under the *Controlled Drug and Substances Act* will be considered. Crown Counsel maintains a close relationship with the Wellness Court Team and assists with RCMP matters when necessary. In court, Crown Counsel will advise the Judge of a participant's progress, or lack thereof, and may recommend sanctions, rewards, or removal.

3.3 DEFENCE COUNSEL (LEGAL AID DUTY COUNSEL AND PRIVATE DEFENCE BAR)

Defence Counsel advises the participant on their legal rights, options, and potential sentencing outcomes. Defence Counsel are responsible for reviewing the Participant Consent Form with the Accused, which details the requirements and expectations they will be subject to upon entering the Wellness Court Program. Once the Accused and their counsel sign the consent form, it is forwarded to the Manager of Specialized Courts and the participant suitability assessment process formally begins. The Case Manager, in some cases and after consulting with defence counsel, may begin the assessment process with an Accused prior to receiving the signed consent form. Defence counsel engages with Crown Counsel to identify which charges will proceed and to develop an Agreed Statement of Facts for the purpose of a participant's entry in the program. Defence Counsel attends pre-court meetings on behalf of the participant and provides the participant's perspective to the Wellness Court Team. Defence counsel also attends court with the participant and guides the participant accordingly. Defence counsel maintains a relationship with the participant and represents the participant at the disposition of their matter.

3.4 MANAGER OF SPECIALIZED COURTS

The Manager of Specialized Courts is responsible for overseeing the integration of the components (justice, social, health) that allow the Wellness Court Program to function. The Manager is responsible for organizing the services and activities that connect the Wellness Court and the Wellness Court Program to the community. Responsibilities include facilitating entry into the Program, acting as liaison, and delivering presentations to outside agencies. The Manager maintains positive relations with the RCMP and other major stakeholders. Reporting to and communicating barriers or issues to the Judiciary, is a primary function of the Manager.

The Manager maintains close working relationships with the other members of the Wellness Court Team and is responsible for scheduling the Wellness Court Team pre-court meetings.

3.5 CASE MANAGER

The Case Manager conducts the participant suitability assessments. Once accepted into the Program, the Case Manager maintains frequent contact with participants and maintains ongoing communication with all members of the Case Management Team. The Case Manager provides supervision and guidance to participants who are subject to interim release orders, probation orders, conditional sentence orders, and other court orders.

The Case Manager is the co-ordinator of the supports and services that participants are accessing. Functions include regular communication with service providers and facilitating case management meetings. The Case Manager is the primary information provider to the Wellness Court Team.

The Case Manager evaluates compliance with legal orders and recommends breach proceedings to the Manager in the event of participant non-compliance.

The Case Manager will be available in court and with permission of the court, will be given an opportunity to make submissions.

3.6 PSYCHOLOGIST OR THERAPIST

When requested by the Case Manager, the psychologist or therapist conducts assessments to help determine the mental health needs and cognitive abilities of the participant. The psychologist or therapist will provide counselling when appropriate and attend case management meetings as required to contribute to the discussion of each participant's progress.

3.7 TREATMENT OR SERVICE PROVIDERS

Providers may include non-residential alcohol/drug treatment programs (AA, NA, etc.), residential alcohol/drug treatment programs, addictions and mental health counselling, affordable housing initiatives and programs, employment training programs, income support programs, family members, community supports, disability assistance, and cultural and language supports as appropriate. The treatment or service provider will assess and provide appropriate services to the participant according to their mandate and maintain an open dialogue with the Case Manager about participant progress.

3.8 TEAMS

Table 1: Court Teams

Team	Wellness Court Team Pre-Court Meetings	Wellness Court Steering Committee	Case Management Team
Team Chair	Manager of Specialized Courts	Territorial Court Judge	Case Manager
Purpose	Information sharing and briefing prior to court sittings	Decision making body	Create meaningful and agreed upon wellness plans for participants
Composition	<ul style="list-style-type: none"> • Case Manager • Crown Counsel • Defence Counsel • Psychologist or Therapist as required • Treatment or Service Providers, as required • Judge, as required 	<ul style="list-style-type: none"> • Territorial Court Judge(s) • Manager of Specialized Courts • Crown Counsel • Defence Counsel • Legal Aid • Department of Health & Social Services • Northwest Territories Health & Social Services Authority • Director of Court Services • Director of Corrections Service • RCMP 	<ul style="list-style-type: none"> • Participant • Psychologist or Therapist as required • Treatment or Service Providers as required • Participant support person(s) as required

3.9 PRE-COURT MEETINGS

Pre-court meetings are held prior to every Wellness Court sitting. All members of the Wellness Court Team attend these meetings. At this meeting, the Wellness Court Team discusses the status of participants and reaches consensus on the recommendations that will be made to the court on how to respond to progress or lack thereof.

4. PARTICIPATING IN THE WELLNESS COURT AND WELLNESS COURT PROGRAM

4.1 REFERRALS TO THE WELLNESS COURT PROGRAM

An Accused may be referred to the Wellness Court from an appearance in Territorial Court on their own request or where Defence Counsel and Crown Counsel agree to have the case referred. The matter is then set for the next sitting of the Wellness Court.

All referrals go to the Manager of Specialized Courts.

4.2 CRITERIA TO PARTICIPATE IN THE WELLNESS COURT AND WELLNESS COURT PROGRAM

An Accused is screened for eligibility and suitability before they are accepted into the Wellness Court. Crown Counsel will determine initial eligibility for participation in Wellness Court. Once Crown Counsel determines initial eligibility, the Accused is referred to the Manager of Specialized Courts to be screened for suitability to participate in the Wellness Court Program. Suitability refers to additional individual factors to be considered beyond the charge(s). If the Accused is found to be both eligible and suitable, and agrees to final admission requirements, they become a participant of the Wellness Court Program.

Table 2: Participation Criteria for the Wellness Court Program

Requirement	Description
1. The Accused must be eligible for participation in the Wellness Court Program.	The Crown determines eligibility. The Criminal Code or Controlled Drugs and Substances Act (CDSA) charge must be eligible. Sexual offenses are not eligible. Individuals who are subject to probation orders stemming from a conviction for sexual offences are also not eligible. Youth offenders are not eligible for Wellness Court.
2. The Accused must consent .	The Accused must consent to take part in the suitability assessment process.

<p>3. The Accused must be <u>suitable</u> for participation in the Wellness Court Program.</p>	<p>Suitability is determined by the Case Manager based on assessment tools which screen the Accused for:</p> <ol style="list-style-type: none"> 1. Addictions 2. Mental health/cognitive issues 3. Risk to re-offend 4. Motivation to change 5. Other suitability considerations (see section 4.1.2)
<p>4. The Accused must agree to the <u>final admission requirements</u> of the Wellness Court Program.</p>	<p>The final admission requirements for entry into the Wellness Court Program include:</p> <ol style="list-style-type: none"> 1. Entrance of a guilty plea 2. Agreement to a Wellness Plan

4.3 ELIGIBILITY CRITERIA

Crown Counsel will consider all relevant information when determining eligibility for an Accused into the Wellness Court Program including the public interest, criminal history of the Accused, Crown Counsel’s position on sentence and judicial interim release, information shared by Defence Counsel about an Accused’s underlying issues and motivation, prior participation in the Wellness Court Program. Crown Counsel, the Accused and Defence Counsel must also have received sufficient disclosure to determine if the Accused is able to plead guilty to the charges. Crown Counsel retains discretion to determine whether an Accused may be assessed by the Case Manager as to suitability for admission to the Wellness Court Program.

Not all Accused facing charges under the *Controlled Drugs and Substances Act* (CDSA) will be eligible to participate in Wellness Court. An Accused charged under the CDSA will be assessed on an individual basis, however in most cases a charge of trafficking drugs primarily for commercial gain or profit (other than to finance the Accused’s own drug addiction) will result in ineligibility.

If the eligibility criteria are met, Defence Counsel will review and have the Participant Consent form signed and forward it to the Manager of Specialized Courts. The Manager of Specialized Courts will assign a Case Manager to complete the Participant Suitability Assessment (Appendix C). Matters will generally be adjourned to the next sitting of Wellness Court (or such other timeframe as recommended by the Case Management Team) to allow for completion of the Participant Suitability Assessment by the Case Manager.

4.4 PROVISION OF PARTICIPANT CONSENT

Each Accused is required to sign a Participant Consent Form as part of the Wellness Court Program admission process (see Appendix B). Doing so is mandatory because the required level of participation is considerably more involved than in the conventional court process. The Participant Consent Form includes provisions for drug and alcohol testing, sharing of information between service providers, and data usage for evaluation reporting.

4.5 SUITABILITY CRITERIA

There are no specific criteria that will determine whether an Accused is suitable for the Wellness Court Program. However, the following principles/guidelines should be considered in all cases:

- That an Accused's underlying issues are contributing to or are related to their criminal behaviour;
- That resources and services are available and appropriate to address the underlying issues; and,
- That there is genuine desire and motivation by the Accused to instil the necessary changes to curb their criminal behaviour.

4.5.1 WELLNESS COURT SUITABILITY ASSESSMENT TOOLS

The Case Manager will screen an Accused to determine their suitability for the Wellness Court Program. This will include the completion of a suitability assessment, motivational assessment, and additional assessments to identify issues/category of need.

During the Participant Suitability Assessment, the Case Manager will explain the Wellness Court process and ensure that the Accused understands the level of commitment required to complete the Program. In addition, the Case Manager determines the individual's motivation to participate in the court and willingness to address the issues contributing to their criminal behavior.

Several assessment tools will be used to get the best understanding of the Accused. The core tools are summarized below in Table 3 but are not inclusive of all assessment forms that may be used.

Table 3: Summary of Wellness Court Participant Suitability Assessment Tools

Target Assessment	Assessment Tool Used*	Assessment Facilitator
Risk Assessment	Offender Supervision Inventory (NWTOSI)	Case Manager
Cognitive Assessments	Various	Psychologist/Therapist/ Case Manager
Addictions	Substance Abuse Subtle Screening Inventory (SASSI)	Case Manager/Addictions Counsellor
Mental Health	Patient Health Questionnaire	Case Manager
Readiness to Change	University of Rhode Island Change Assessment Scale (URICA)	Case Manager
Suitability for Acceptance to Program	Suitability Assessment (SA)	Case Manager
Services (i.e. housing, income support, employment services, etc.)	Multiple sources including assessment tools and individual interviews	Case Manager

* Assessment tools subject to change.

4.5.2 OTHER SUITABILITY CONSIDERATIONS

The Case Management Team will adapt their approach and methods to fit the needs of the Accused. As well, family and community support networks will be assessed.

The following factors will also be considered when determining suitability:

- Previous criminal history;
- History under court-ordered supervision;
- Current status (e.g., on conditional sentence order);
- Previous performance in the Wellness Court (if any);
- Representations made on behalf of victim(s);
- Likelihood of benefitting from treatment and monitoring; and,
- Danger to the community resulting from the person being in the community.

Once the Case Management Team has completed the Participant Suitability Assessment, it will be disseminated to Wellness Court Team at least two days before the participant’s next Wellness Court appearance.

4.6 FINAL ADMISSION REQUIREMENTS

The Accused must complete two remaining admission requirements: entering of a guilty plea to at least one charge as required by Crown Counsel and agreeing to their Wellness Plan. Additionally, if an Accused is already subject to a release order and amendments are recommended, the Wellness Court Team will discuss what amendments may be necessary. Alternatively, if an Accused is in custody and is to be released to participate in Wellness Court, the Wellness Court Team will discuss what release conditions are to be recommended to the court, keeping in mind community safety and the needs and abilities of the individual. Based on those recommendations, Crown Counsel and Defence Counsel will determine what release conditions to recommend to the court. However, if counsel cannot agree, the court will make the final determination.

4.6.1 ENTERING A GUILTY PLEA

A guilty plea must be entered for an Accused to participate in the Wellness Court Program. If there are multiple charges, guilty pleas are not required on all offences. Defence Counsel and Crown Counsel will determine what pleas will be entered. However, an Accused will not be admitted to the Wellness Court Program if they have outstanding matters pending trial or expect to go to trial on their current charge(s).

Crown Counsel and Defence Counsel will also discuss the circumstances surrounding the offences and determine the facts that the Accused is prepared to admit to. This upfront negotiation prevents disagreements that could potentially arise upon the completion of the participant's Wellness Plan when they are being sentenced. This generally results in an Agreed Statement of Facts being submitted to the Court at the time of plea.

4.6.2 AGREEMENT TO CONDITIONS AND RESPONSIBILITIES

Once accepted into the Wellness Court Program, the participant will be required to amend their Release Order (whether issued by police or by a Justice of the Peace), by adding terms requiring them to report as directed to the Case Management Team, and to attend Wellness Court as directed by the court.

In addition, the participant will sign their individualized Wellness Plan upon entry into the Program. The Wellness Plan will be filed with the court and will set out, at minimum, the Participant Responsibilities and Case Manager Responsibilities. The remainder of the Wellness Plan will be developed in the participant's initial weeks in the Program to support progress, program success, and appropriately address any public safety concerns. Wellness Plans are reviewed at regular intervals, and any modifications to the Wellness Plan because of these reviews, are to be reported to the court. The Case Manager will supervise, and enforce where necessary, the responsibilities set out in the Wellness Plan and any other court order the participant may be subject to, while active in the Program.

5. THE ROLE OF THE WELLNESS COURT

5.1 REPORTING TO CASE MANAGER/COURT APPEARANCES

To monitor compliance and participation in the Wellness Court Program, regular reporting to the Case Manager and regular appearances in court are required. Participants will be required to appear before the court every two weeks during the initial phase of their Wellness Court Program, or as otherwise directed by the court. Depending on progress, the court may reduce the frequency of court appearances. Meetings with the Case Manager will be scheduled on an as required basis and will occur a minimum of once per week. The frequency of contact with the Case Manager is higher in the beginning months of a participants' program and should decrease as they progress through their Wellness Plan.

5.2 INCENTIVES AND SANCTIONS

Consequences for behaviour must be predictable, fair, consistent, and immediate.

As a basic principle, incentives will be given to reinforce positive behaviour and change. Incentives will be personalized, yet community appropriate. When a participant engages in positive behaviour deserving a reward, that behaviour may be rewarded by an incentive.

Behaviours that may be rewarded by an incentive:

- Honesty;
- Attending all court appearances and counselling sessions;
- Following all release conditions; and,
- Completion of wellness plan components.

Incentives include such things as praise and encouragement, small gift rewards from the Case Manager, delaying a sanction(s), relaxing of conditions, or fewer appearances before the court. Another incentive would be the actual graduation ceremony from the Wellness Court along with a certificate of successful completion of the Wellness Plan.

Conversely, sanctions will be imposed for behaviour that needs to be discouraged or eliminated. When a participant engages in negative behaviour, that behaviour may be sanctioned.

Behaviours that could result in sanctions:

- Dishonesty;
- Non-attendance at court, counselling, etc.;
- Inadequate participation; and
- Incurring new charges.

Sanctions may include a verbal reprimand, more frequent appearances/check-ins, stricter curfew, a letter of commitment by the participant, a restorative justice project (such as community service), or additional program responsibilities imposed. There may be circumstances or conduct that will result in the participant being discharged from the Wellness Court Program that are addressed in section 8, Removals from Wellness Court Program.

The behaviour that garners incentives or sanctions must be monitored regularly, addressed as close in time as possible to the event and handled with certainty. Participants in the Wellness Court Program are not necessarily motivated – incentives and sanctions can provide the “hook”.

Principles that will guide the imposition of sanctions include:

- Fairness – like people in like circumstances get the same treatment – any differences in treatment should be justified and explained.
- Objectivity – the participant should be made to understand that a sanction is directed at punishing the behaviour, not the person.
- Clarity – the rules, expectations, and the range of sanctions should be clearly established. The participant should be able to understand what conduct may result in a sanction, and what may result in their exclusion from the Wellness Court Program.
- Proportionality – the sanction should be proportionate to the transgression.
- Severe sanctions mean no options remain – this may lead to participants giving up.
- A low sanction makes bad behaviour worse.

6. WELLNESS PLAN

6.1 PRINCIPLES OF THE WELLNESS PLAN

A Wellness Plan is participant-centered and holistic in approach, addressing physical, emotional, mental, and spiritual health with targeted supports and services. It is collaborative and inclusive involving organizations and departments aimed at improving the quality of life for the participant through treatment, support, and supervision.

6.2 WELLNESS PLAN DEVELOPMENT

A Wellness Plan is developed by the Case Manager in collaboration with the participant and other professional and familial supports. The Wellness Plan is approved by the Manager of Specialized Courts, provided to Wellness Court Team, and submitted to the court. The Wellness Plan is to be prepared within 2-6 weeks from the commencement of the participants' entry into the Wellness Court Program.

The Wellness Plan will identify the members of the Participant Support Team who will be the primary support people expected to be involved with the participant throughout their plan. It will clearly outline the participant's specific needs (e.g., substance abuse), action (how the need will be addressed) and time frame (i.e., projected dates of completion for action items). The Wellness Plan will define the participant's responsibilities, alongside the Case Manager's responsibilities to support the participant to address their needs and their goals. The Wellness Plan will also include goals for which the participant should seek to attain post-graduation from their program.

The Wellness Plan is tailored to the participant and includes realistic and attainable goals. The purpose of the Wellness Plan is to function as the participant's guide. The needs, actions, responsibilities, and projected duration of the Wellness Plan are determined by the Participant's Suitability Assessment. A participant entering the Wellness Court Program with less complex needs or risks will have a reduced plan, both in terms of goals and duration. The Wellness Plan is intended to be flexible and will allow for amendments and updates as required (Appendix C).

Where identified as a need, attendance at a treatment program may be part of a Wellness Plan. Where approval of treatment programs is required by the *Criminal Code*, a list of approved facility-based treatment centres can be found on the GNWT Department of Health and Social Services website at:

<https://www.hss.gov.nt.ca/en/services/addictions/nwt-facility-based-treatment-options-addictions>

7. COMPLETION OF WELLNESS COURT PROGRAM

7.1 COURT REVIEW OF WELLNESS PLAN OUTCOMES

Once a participant has completed their Wellness Plan, the Case Manager will file a Discharge Summary (Appendix G) with the court. The Discharge Summary will detail the persons' background, progress, achievements, setbacks, and an overall summary of their experience in the Wellness Court Program. The participant will appear before the Wellness Court for disposition of their charge(s). At the disposition hearing, Wellness Court Team members may speak about achievements. Additionally, community representatives and/or the victim(s) will be offered the opportunity to speak (through the reading of a victim impact statement), as they do in any other Territorial Court sentencing hearing.

The Wellness Court retains all available sentencing options allowed by law. Crown Counsel may enter a stay of proceedings or withdraw the charges. Crown Counsel or Defence Counsel may, either jointly or individually, ask for an absolute or conditional discharge or a suspended or conditional sentence, or any other sentence. The court will take into consideration the individual's participation and achievements in their Wellness Plan when imposing sentence.

7.2 TRANSITION TO AFTERCARE

Recognizing that recovery from or management of mental health issues, addictions, or cognitive challenges is a lifelong process, a smooth transition into aftercare is vital to the success of the participant. Aftercare refers to the care offered to a participant who graduates or is discharged from the Wellness Court Program. Planning for aftercare supports and services is considered at all stages of a participant's program involvement.

The Aftercare Plan (Appendix F) will be developed and include aspects relevant and important to the individual to assist in maintaining a healthy, positive, and productive lifestyle. The Aftercare Plan will address, for example, housing stability and continued access to mental health, adult services and income assistance supports where indicated, and access to the Wellness Lounge. It will be completed individually based on the needs, concerns, and lifestyle of the participant and identify the supports, resources and maintenance strategies needed to maintain them in their ongoing wellness journey. The Aftercare Plan will contemplate the Case Manager liaising between community support and the participant to facilitate their transition from the Wellness Court Program. In most cases, the Aftercare Plan will be a guide for the participant to continue engaging the services and programs they are presently utilizing without the oversight and supervision component of the court. The Aftercare Plan may need to be re-evaluated and altered to meet the changing needs of the participant and ensure it remains relevant to their current situation.

The Case Manager will communicate the Aftercare Plan, Discharge Summary, and recommendations from the court to Probation Services where a community-based sentence is imposed on a participant. On occasion, a Judge may order a Report Back to Court, whereby the participant will have a future appearance in Wellness Court, despite having completed their Wellness Plan.

8. REMOVALS FROM WELLNESS COURT PROGRAM

The following situations may result in removal from the Wellness Court Program:

8.1 PARTICIPANT OPTS OUT

If a participant chooses to opt out of the Wellness Court Program, their removal is immediate, but they cannot withdraw their guilty plea(s), unless otherwise ordered by a Judge. Depending on how far along a person is in their Wellness Plan, the matter may either be sent back to Territorial Court for sentencing or remain in the Wellness Court. Any progress made in their Wellness Plan may be considered during sentencing. As with sentencing after completion of the Wellness Plan, Wellness Court Team members may speak to achievements. Additionally, community representatives and/or the victim(s) will be offered the opportunity to speak (through the reading of a victim impact statement).

8.2 PARTICIPANT ELIGIBILITY CHANGES

If a participant's eligibility changes (e.g., new charges laid), Crown Counsel will initially determine if the participant remains in the Wellness Court Program or is removed. The participant will presumptively continue in the Wellness Court Program until full disclosure is received and reviewed by Crown Counsel. It is expected that Crown Counsel will make an eligibility determination in respect of the new charges within one month of full disclosure being complete. Where new charges are laid and Crown Counsel determines that the new charges are eligible for Wellness Court, the following three outcomes are possible:

1. If Crown Counsel determines a guilty plea is required, the participant can choose to enter a plea of guilty to bring the new charge(s) into Wellness Court. The participant's Wellness Plan will be amended if necessary, and the participant will continue in the Program;
2. If Crown Counsel determines that a guilty plea is not necessary to deal with the new charges, the participant may reserve plea and Crown Counsel will withdraw or stay the proceedings, either immediately or at a later time at Crown Counsel's discretion, and the participant will continue in the Program;
3. Where the participant pleads not guilty to the new charges, all their matters will be discharged from Wellness Court and return to Territorial Court. The Case Management Team will prepare a Discharge Summary and an Aftercare Plan and will contact the participant's service providers to help ensure continuity of care.

If Crown Counsel determines that the new charges are not eligible, Crown Counsel may apply to the court to have the participant discharged from Wellness Court and have all their matters return to Territorial Court. If Crown Counsel's application is granted by the court, the Case Management Team will prepare a Discharge Summary and an Aftercare Plan and will contact the participants' service providers to ensure continuity of care. If the Crown Counsel's application is not granted by the court, the existing matters will remain in Wellness Court, but in no case will new matters be brought into Wellness Court without the consent of Crown Counsel.

Where a participant is removed from Wellness Court, they will be permitted to continue to appear on the Wellness Court docket until their Discharge Summary and Aftercare Plan have been completed and provided to counsel.

8.3 NON-COMPLIANCE

Participants do not need to be formally charged with breaching conditions to be removed from the Wellness Court Program. A formal breach does not necessarily mean that someone will be removed from the program. A participant can be removed following a recommendation from the Manager of Specialized Courts and subsequent discussion with the Wellness Court Team. The recommendation to remove a participant will be brought before a Judge at a regular Wellness court sitting. Generally, a recommendation to remove a participant from the Wellness Court Program (without laying formal breach charge(s)) will be due to a person not engaging in their Wellness Plan, or from a participant's actions resulting in a situation that makes completing their Wellness Plan unrealistic (e.g., losing housing). As mentioned in section 7, depending how far a participant has progressed in their Wellness Plan, they could still be sentenced in Wellness Court.

8.3.1 RANDOM DRUG TESTING

For some participants, drug testing will be required and for all participants in the Drug Treatment Option Program, it will be mandatory. Drug testing will be done by random urine testing. Participants should be made aware that drug tests are important to ensure everyone has accurate information about how the participant is doing. A positive drug test will not necessarily result in someone being removed from the program.

8.3.2 RANDOM URINE COLLECTION

Random urine collection means that the date on which participants will be required to provide a urine sample will change from week to week.

Important things to remember about urine testing:

- 1. Urine screens are highly sensitive:**
Participants should be informed that some drugs, both prescription and non-prescription may show as positive in a urine sample. As such, participants should share their use of prescription and non-prescription drugs, as well as appropriate documentation.
- 2. Fluid intake:**
Participants should be advised that it is important not to consume a large quantity of fluids before a test. Participants whose screens show that the urine has been diluted will be asked to provide extra samples, most likely first thing the next morning.
- 3. Tampering with samples:**
Tampering with samples or missing a test will result in sanctions, and may, in some cases, include discharge from the Program.

9. DRUG TREATMENT OPTION PROGRAM (DTOP)

The Drug Treatment Option Program (DTOP) is a program within the Wellness Court, available to some Accused who have trafficked in narcotics, primarily for the purpose of supporting their own addiction.

The court process follows the same as Wellness Court (i.e., guilty plea prior to commencing) however, participants in the DTOP differ from those in a normal Wellness Court Program in two major ways:

- Their program consists of identifiable phases; and,
- There are pre-determined graduation requirements.

9.1 CROWN ELIGIBILITY CRITERIA

Crown Counsel will consider all relevant information when determining eligibility for an Accused who is suffering from a substance use disorder for participation in the DTOP, including the public interest, criminal history of the Accused, the Crown position on sentence and judicial interim release, information shared by Defence Counsel about an Accused's underlying issues and motivation, prior participation in the Wellness Court Program. Crown Counsel, the Accused and Defence Counsel must have received sufficient disclosure to determine if the Accused is able to plead guilty to the charges.

Certain criminality is of such severity that Crown Counsel's risk assessment will not generally favour the DTOP over ordinary sentencing principles. This may occur in situations where public safety is at risk. Some factors Crown Counsel may consider are whether:

- the person is charged with a violent offence;
- the offence involves drug-impaired driving;
- the person has a recent or significant history of violence; or
- the person uses, or threatened to use, a weapon during the commission of the offence.

In addition, a person will generally be ineligible for admission into the DTOP if:

- there is no evidence that the substance use contributed to commission of an offence;
- the person has been charged with trafficking for commercial gain;
- the drug offence involved risk to a young person; or
- the person is an associate or member of a gang or criminal organization.

9.2 DRUG TREATMENT OPTION PROGRAM – PHASES

Phase One: Treatment plan/Orientation and Stabilization

- At this stage, participants will work towards finalizing their Wellness Plan with their Case Management Team.
- Necessary counselling appointments and pre-treatment work (i.e.: ID's, medical appointments) will occur here.
- Applications for and confirmation of treatment center acceptance will occur here
- Post – treatment aftercare planning will begin here
- Random drug testing
- Regular court appearances

Phase Two: Residential treatment

- Attendance at a residential treatment facility for drug addiction, including successful completion of any recommended extensions to the normal course of the Wellness Court Program.
- Where approval of treatment programs is required by the *Criminal Code*, a list of approved facility based treatment centres can be found on the GNWT Department of Health and Social Services website at:
<https://www.hss.gov.nt.ca/en/services/addictions/nwt-facility-based-treatment-options-addictions>
- Post treatment Aftercare Plan will be finalized during this phase.

Phase Three: Aftercare and Practical Application

- Return from treatment into appropriate housing
- Engagement in services identified in aftercare plan
- Incorporate recovery into daily living
- Random drug testing
- Regular court appearances

Phase Four: Community Transition

- Concentration on building community supports outside of Case Management Team
- Focus on gaining employment or engaging in meaningful endeavours (ie: educational pursuits, volunteer work, vocational training)
- Be drug and alcohol free for a minimum 3 months
- Random drug testing
- Court appearances as required

Phase Five: Graduation

- Participants can graduate and be sentenced after completing stage four.

9.3 GRADUATION REQUIREMENTS

Following the Participant Suitability Assessment, in which a substance use disorder has been identified as the primary underlying issue related to the participant's offenses, there will be minimum criteria that the participant will be required to meet in order to successfully complete their Wellness Plan. Criteria will include:

- Being drug and alcohol free for a minimum of six months over the course of their program, including the three months immediately prior to their graduation;
- Successfully complete a residential treatment program for drug addiction;
- Having a minimum of six months immediately prior to graduation without incurring new criminal charges; and,
- Being employed or actively working towards employment or educational endeavours.

9.4 DRUG TESTING

Drug testing is mandatory for all DTOP participants. Testing will occur on a random but regular basis. Participants not attending drug tests, tampering with samples, or repeatedly testing positive will be subjecting themselves to possible sanctions and/or removal from the Wellness Court Program.

10. APPENDICIES

APPENDIX A: SPECIFIC CRIMINAL CODE AND CONTROLLED DRUGS AND SUBSTANCES ACT PROVISIONS RELEVANT TO WELLNESS COURT

APPENDIX B: PARTICIPANT CONSENT FORM

APPENDIX C: PARTICIPANT SUITABILITY ASSESSMENT FORM

APPENDIX D: WELLNESS PLAN FORM

APPENDIX E: BI-WEEKLY PARTICIPANT UPDATE FORM

APPENDIX F: AFTERCARE PLAN FORM

APPENDIX G: DISCHARGE SUMMARY FORM