



**THE DISTRICT COURT
OF
WESTERN AUSTRALIA**

**PROTOCOL OF DISTRICT COURT
REFERRALS TO THE
INTELLECTUAL DISABILITY
DIVERSION PROGRAM
(IDDP) COURT**

2020

PROTOCOL

DISTRICT COURT REFERRALS TO INTELLECTUAL DISABILITY DIVERSION PROGRAM (IDDP) COURT

1. Purpose

- 1.1 The following protocols set out the procedure to be followed when an offender appearing before the District Court is potentially suitable to take part in the IDDP Court Program ("the Program").
- 1.2 The terms and conditions are to facilitate communication between the two jurisdictions. It is not intended to in any way fetter the discretion of the Sentencing Judge.

2. Responsibility

ELIGIBILITY GUIDELINES

- 2.1 In the circumstances described in paragraph 1.1, referral can occur when:
 - a) the offender has been diagnosed with an Intellectual Disability, Cognitive Disability (which might include FASD) or Autism Spectrum Disorder by a suitably qualified person or they are likely to be so diagnosed if assessed by a suitably qualified person,
 - b) the offender has pleaded guilty,
 - c) the Sentencing Judge might impose a sentence other than immediate imprisonment, if the Program is successfully completed by the offender, and
 - d) the offender is not remanded in custody.

REFERRAL PROCESS PURSUANT TO 1.1

- 2.2 The offender must first be assessed by IDDP Court Adult Community Corrections for their suitability for the Program.
- 2.3 If suitability has not already been addressed in a PSR, the Sentencing Judge should order a PSR to specifically address suitability for the Program.
- 2.4 The offender should only be referred to participate in the Program if the PSR deems them suitable to participate.
- 2.5 If the offender is deemed suitable, the Sentencing Judge should set a future District Court date before the same Sentencing Judge ("future Court date"), **a minimum of 8 weeks after the date of referral.**

The bail conditions for the future Court date should include the following:

"To report to Perth IDDP Court on the date as directed by the District Court and thereafter to comply with all lawful directions of the Perth IDDP Court"

- 2.6 The offender should be directed to attend the IDDP Court Perth **on a Monday within no less than 5 working days** from the date of referral, at 10am. The Sentencing Judge should order that the District Court PSR and any relevant specialist assessments be released to the IDDP Court Magistrate and Prosecutor.
- 2.7 The Associate to the Sentencing Judge should enter the following results into ICMS:

- **Remanded** to the future Court date (with at least the bail condition in paragraph 2.5) and an order that the District Court PSR and any relevant specialist assessments be released to the IDDP Court team,
- and,**
- **Adjourned** to Magistrates Court Perth on a nominated Monday (at 10am) with an appearance outcome of "Application for IDDP Court".

2.8 The Associate to the Sentencing Judge should send an email marked "Attention IDDP Court Coordinator" to perthmagistratescourt@justice.wa.gov.au detailing the referral, attaching relevant transcript and outlining any other instructions.

PROGRAM

- 2.9 In IDDP Court, once the offender is formally accepted into the Program, they will be judicially case managed and required to attend IDDP Court as often as directed by the IDDP Court Magistrate. The IDDP Court Magistrate will request a copy of any transcript of proceedings in IDDP Court be sent to the Sentencing Judge.
- 2.10 If the Sentencing Judge places the offender on a PSO at the future Court date, the Sentencing Judge should order PSO Review Reports in the usual manner, requesting they be prepared by IDDP Court Adult Community Corrections. IDDP Court Adult Community Corrections will complete these reports.
- 2.11 When remanding the offender to future Court dates, the same bail conditions in paragraph 2.5 should be imposed.
- 2.12 Notification should be given to IDDP Court of any future Court dates by the process set out in paragraph 2.8, including when a final sentencing date is set.
- 2.13 When a final sentencing date is set, the Sentencing Judge should order a PSO Sentencing Report, requesting it be prepared by IDDP Court Adult Community Corrections. IDDP Court Adult Community Corrections will complete this report.
- 2.14 At the completion of the Program and when notified that a final sentencing date has been set in the District Court, the IDDP Court Magistrate will strike the matter from the list and direct the offender to answer their bail at the final sentencing date set by the Sentencing Judge.

NON COMPLIANCE

- 2.15 If an offender, during their participation in IDDP Court during the process described in paragraph 1.1;
- fails to comply with lawful directions of IDDP Court Adult Community Corrections;
 - fails to attend IDDP Court as directed;
 - fails to comply with the conditions of a PSO;
 - commits further offences, or
- if there is concern for their safety or wellbeing, or the safety or wellbeing of others, the IDDP Court Magistrate may exit the offender from the Program.
- 2.16 The IDDP Court Prosecutor will advise the DPP of the non-compliance and, if the non-compliance consists of a breach of bail conditions, request an application be made to the District Court for the revocation of bail. The IDDP Prosecutor will also advise the IDDP Court Duty Lawyer of the non-compliance.
- 2.17 Once the IDDP Court Magistrate is satisfied the DPP have been advised, and if there are no Magistrate Court charges listed in IDDP Court, any remaining matters will be struck from the list.
- 2.18 If an offender is placed on a PSO by a Sentencing Judge during the process described in paragraph 1.1 and fails to comply with a condition of the PSO such that the CEO (Corrections) issues a Warrant for non-compliance, Adult Community Corrections will send an email marked "Attention

IDDP Court Coordinator" to perthmagistratescourt@justice.wa.gov.au attaching a copy of the Warrant, Certificate of Breach and Progress Report (if applicable).

- 2.19 When the offender is apprehended on the Warrant and after they have appeared before the General Duties Judge, the offender will be required to appear before the Sentencing Judge. The Associate to the Sentencing Judge should send an email marked "Attention IDDP Court Coordinator" to perthmagistratescourt@justice.wa.gov.au detailing the outcome of the appearance and any future court dates, attaching relevant transcript and outlining any other instructions.

Dated 17 August 2020



Her Honour Judge Julie Wager
Chief Judge of the District Court



Magistrate Felicity Zempilas
Magistrates Court of Western Australia