

Therapeutic Alternatives to Prosecution

Referral Criteria

Therapeutic Alternatives to Prosecution (TAP) is an alternative to prosecution for adult offenders with substance use and/or mental health problems that contributed to their involvement in the criminal justice system. TAP is a post-charging diversion program that holds offenders accountable for the commission of a felony without formal adjudication. It is a solution-based program designed to work with offenders to achieve sobriety and assist them in developing the skills to manage mental health issues. Participation in the program is voluntary and offered to offenders who are motivated to overcome substance use and mental health barriers. TAP promotes stability in program participants which, in turn, reduces recidivism and ensures full restitution for victims.

Entry into the TAP Program is controlled by the Snohomish County Prosecuting Attorney's Office. The prosecutor's office reserves the right to deny an offender access to the program even when the criteria below are met based on review of the facts of the charged case, the offender's criminal history, and other relevant factors. Offenders referred to TAP are evaluated by a program counselor to determine their eligibility. They are required to sign a release of information allowing the counselor to contact current/previous treatment providers for copies of evaluations and to verify compliance with treatment. Offenders must take full responsibility for their crime and be amenable to treatment to be accepted into the program. A decision to deny or accept an offender into the program may be appealed to the Chief Criminal Deputy Prosecuting Attorney.

Offenders make the decision to enter TAP with the assistance of counsel. As a condition of their acceptance into the program, the offender must stipulate to the admissibility of police reports; sign an admission of guilt; and agree to waive trial period limits on the charge(s) to preserve the ability to prosecute the crime should they be terminated from the program for violation of the TAP Agreement. When an offender successfully completes the program, the charge(s) is dismissed with prejudice.

1. Current Offenses Excluded from TAP

- a. Violent offenses as defined in RCW 9.94A.030 and violent or predatory sex offenses
- b. Firearm offenses and offenses with a firearm enhancement
- c. Offenses with a school zone enhancement
- d. Residential Burglary, except when:

- i. the residence belongs to a relative and the victim agrees to TAP, or
 - ii. the residence was obviously unoccupied and entered only for food and shelter and the victim agrees to TAP
- e. Manufacture of a Controlled Substance, Delivery of a Controlled Substance, and Possession with Intent to Manufacture/Deliver, except when:
 - i. the defendant is a first-time offender, and
 - ii. the defendant is not involved in selling drugs for profit, and
 - iii. the weight of the drugs possessed, delivered and/or manufactured is not more than 3 grams; or if marijuana, not more than 250 grams; or if pills, not more than 25 pills; or if Oxycontin, not more than 10 pills
- f. Manufacture of Methamphetamine, Attempted Manufacture of Methamphetamine, or Possession of Ephedrine or Pseudoephedrine with Intent to Manufacture//Deliver, regardless of weight
- g. Individuals who are charged with Attempting to Elude are presumed ineligible for TAP. Attempting to Elude cases that did not involve a prolonged chase and did not involve risk to the public may be considered for TAP on a case-by-case basis
- h. Cases where restitution exceeds \$10,000.00 or the defendant does not have the means to pay the full restitution amount owed to the victim within 3 years
- i. Offenses where there is evidence the defendant targeted vulnerable victims or abused a position of trust

2. Eligibility Requirements for Offenders

- a. The offender must admit guilt and express a desire to change criminal behavior
- b. No more than 3 felony convictions or pending charges
- c. All current felony counts and pending uncharged felony counts being considered for TAP must be drug, alcohol, or mental health related
- d. No charged or pending uncharged felony counts that are excluded from TAP eligibility
- e. No prior convictions for violent offenses, as defined by RCW 9.94A.030(54) or for violent or predatory sex offenses
- f. Offender cannot be under a DOSA sentence or be a current participant in Adult Drug Treatment Court or Mental Health Court
- g. The criminal charge forming the basis for the TAP referral must have occurred in Snohomish County
- h. The offender resides in Western Washington and has the ability to travel to the Snohomish County Campus to attend regular TAP appointments and court hearings

- i. The offender must demonstrate a desire to address substance use and/or comply with recommended mental health treatment, and must have the financial means to access treatment
- j. During the initial TAP screening, the offender must provide honest disclosure of requested background information and sign a release of information allowing TAP to contact current/previous treatment providers for copies of evaluations and to verify compliance with treatment. In addition, the offender will promptly comply with the following:
 - i. a referral for a chemical dependency evaluation by a state certified chemical dependency agency/provider. The assessment must result in a substance use disorder diagnosis and recommendations for treatment; and/or
 - ii. a mental health evaluation by a state-certified mental health provider. The evaluation must include an official clinical diagnosis from the DSM-5, or DSM-IV-TR Axis I, diagnostic criteria. On a case-by-case basis, an offender may be considered for TAP if the evaluation concludes the predominant diagnosis is a DSM-IV-TR Axis II diagnosis or results from a brain disorder, developmental disability, or dementia.
- k. In addition to the Documentation of Health Care Professional Authorization to Engage in the Medical Use of Cannabis in Washington State, an offender who is using cannabis for medicinal purposes must provide written verification from his/her primary care physician that supports the offenders medical need for the use of cannabis per RCW 69.51A. The documentation needs to be provided to the TAP Counselor within 14 days of the initial screening appointment.
- l. The offender must be a legal resident of the United States