

# **GUIDE TO THE DUI INTEGRATED TREATMENT COURT FOR LAWYERS (DITC)**

**The DITC is a wonderful, voluntary program designed to assist multiple DUI/DWAI offenders to complete probation successfully in order to avoid a very long jail sentence and in order to achieve and maintain long-term sobriety. The DITC seeks to help participants achieve long-term job and housing security, rebuild their families, and achieve a more healthful and satisfying lifestyle.**

**Why should a Defendant want to join the DITC?**

**Research clearly shows that the drug court model achieves vastly greater positive outcomes than conventional treatment and probation supervision. For your clients who want to get sober, but more important, stay sober; this is the program for them. Positive outcomes in the Adult Felony Integrated Treatment Court have been substantial. Boulder's program won the federal government's Substance Abuse and Mental Health Services Administration's Science to Service Award for 2008 for using a researched model to develop a successful program.**

**Your clients can get into the program if they are eligible (see below) in they are pleading to at least a third DUI/DWAI or are charged with a probation complaint on the second offense in which the BAC was a .2 or higher as well as probation complaints for third DUI/DWAI's and up.**

**Incentives for joining DITC are:**

- Team approach to recovery
- Participation in a program based upon positive reinforcement and accountability from all team members including the judge
- Immediate reduced cost, high-quality treatment (The cost reduction is from 66% to 75% of treatment currently offered in the private sector.)
- Expanded gender-based treatment for women
- Family-based recovery process
- Greater likelihood of achieving and maintaining sobriety
- Greater likelihood of completing probation without a very long jail sentence
- Shorter work release/day reporting sentence
- Shorter probationary period
- Financial incentives such as bus passes and cost waivers

## **Special Information**

- ❖ Defendants cannot gain access to the ROC Program (formerly the MOD Program) without accepting the DITC if they are eligible.

- ❖ Defendants who speak only Spanish will receive the highest quality treatment from Center for Change.
- ❖ Female Defendants will receive a wide range of specialized women's services from Boulder County Public Health.
- ❖ Defendants who wish to use private providers other than Center for Change will not be admitted because all treatment providers must be part of the DITC Team.
- ❖ People with persistent serious mental illnesses such as schizophrenia and schizo-affective disorder will not be admitted; however, depression, anxiety disorders, and mood disorders that can be managed with medication and other treatment will not disqualify Defendants.
- ❖ Defendants may be admitted at initial sentencing or at the time of a probation revocation complaint hearing or sentence reconsideration hearing.

## **ELIGIBILITY CRITERIA**

**The guidelines used to identify and enter participants into the drug court program. (Note: some of these factors are dynamic and if removed, the Defendant may become eligible).**

1. Voluntarily agrees to participate in the DITC
2. 18+
3. 3+ DUI/DWAI guilty pleas anywhere in the United States (including deferred sentences) or 2 DUI/DWAI guilty pleas anywhere in the United States (including deferred sentences) if second was .2 or higher and Defendant is before the court on a probation violation
4. Motivated to change
5. Resident of Boulder County if services to be provided by Boulder County Public Health or resident of a county sufficiently close to make treatment, monitoring, and day reporting in Boulder County feasible
6. The conviction currently before the Court is a Boulder County conviction
7. Meets diagnostic criteria for substance abuse or dependency
8. Never convicted to vehicular assault or homicide
9. Not subject to an Immigration and Customs Enforcement Hold
10. Not suffering from psychopathy so severe that the Treatment Agencies will not accept the Defendant
11. Not suffering from severe and persistent mental illness
12. Not subject to holds from other counties
13. No other charges pending in other counties
14. No other charges in Boulder County that would prevent participation
15. No sex offenders currently on probation.

16. No registered sex offenders (who are no longer on probation) who committed their offenses as adults unless a psycho-sexual evaluation is performed. Acceptance will be on a case-by-case basis.

## ENTRY PROCESS

### Pre-Plea Process

Before meeting with the District Attorney (“DA”), the Public Defender (“PD”) or private defense counsel (“PDC”) may explain to the Defendant that s/he may be eligible for the DITC and special treatment. The Policies and Procedures and Handbooks are available on the 20<sup>th</sup> Judicial District website. If the Defendant is not represented or if the Defendant is represented but PDC is not familiar with the DITC, the DA explains the program at the Pre-Trial Conference (“PTC”). Handbooks are available in English and in Spanish for the DA to give to Defendants. The DA will perform a preliminary screen pursuant to a check list provided by the court to determine whether the Defendant is preliminarily eligible. In some cases, the PD will already have done the preliminary screen.

The DA may offer “Plea and Probation with DITC if eligible.” The plea offer is not conditioned on the acceptance into the DITC because there will be many people for whom a plea and probation offer is appropriate despite ineligibility for the DITC. In addition, the DITC is voluntary.

If the DA does not wish to offer the DITC and/or a plea with probation, the Defendant may still request evaluation for the DITC at the time of the plea or after conviction by a jury.

Regardless of whether a disposition is reached at the PTC or at some later time, the Trial Management Certificate will be forwarded to the Division as would normally occur.

**Please note, defense attorneys are allowed to enter into a plea and probation with DITC if eligible at the first arraignment and conference with the DA’s office. If a disposition is reached, the matter will be set in the assigned division by the Magistrate’s clerk. If you have entered an appearance and the arraignment has been waived, you can enter into a plea and probation with DITC if eligible at the PTC or at any other time.**

**Please note, if a Defendant proposes to plead in District Court to a third or greater DUI/DWAI offense or admits a probation violation on a second DUI/DWAI with a blood alcohol of .2 or above, with or without an accompanying misdemeanor, (but with no felony plea) and the Defendant is not admitted to the AITC, the District Court Judge will send the case to the Boulder DITC. The Defendant, therefore, can receive the same opportunity for joining the DITC as a person entering a plea in County Court. The disposition will be reset on the Boulder DITC Judge’s regular docket.**

COURT MAY REVOKE BOND FOR FAILING TO ADHERE TO BOND CONDITIONS.

## Plea

At time of plea, the Judge explains the purpose of the DITC and encourages participation, explaining that not everyone will be eligible but that the program has definite benefits. Incentives for joining DITC are reduced cost, high-quality treatment, greater likelihood of achieving and maintaining sobriety, greater likelihood of completing probation without a very long jail sentence, a shorter probationary period, a team approach to recovery, and financial incentives such as bus passes.

If the Defendant enters a plea of guilty and expresses an interest in the DITC, the following procedure will be used.

If the Defendant does not already have a handbook, one will be provided at the time of the plea.

Court Judicial Assistant (“CJA”) gives the Defendant his/her Appointment and Sentencing Date Form with the dates of his/her probation evaluation, treatment assessment, and sentencing date written on the form.

If the Defendant is in jail at the time of the plea and will probably not be released for sentencing, the Appointment Form will go to Probation, and a PO will meet with the Defendant in jail. ROC and CFC can also go to the jail for assessments. BCPH will not go to the jail; therefore, arrangements must be made for the Defendant to attend an assessment with BCPH either through change of bond or furlough.

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### Evaluation and Assessment Process

“ROC” refers to the Community Justice Services (“CJS”) Enhanced Outpatient Program (“EOP”)

“BCPH” refers to Boulder County Public Health

“CFC” refers to Center For Change

“Treatment Agency” refers to ROC, BCPH, CFC

The process of entry into ROC for English-Speaking Men:

- Plea in Court
- Appointment with Alcohol Probation Week 1
- Intake appointment with ROC on Tuesday Week 2
- Staffing with ROC on Wednesday Week 2  
If accepted, begins treatment
- Sentencing Week 3

Note: even if ROC rejects Defendants with ASPD, CFC may choose to assess them for entry into their program. ROC will notify CFC that a Defendant has been rejected and send its assessment to CFC. CFC may request to assess the Defendant.

The process of entry for Spanish-Speaking Men:

- Plea in Court
- Appointment with Alcohol Probation Week 1
- Appointment with Center for Change Week 2  
Begins treatment (whether DITC or not)
- Sentencing Week 3

The process of entry into Boulder Public Health for Women:

- Plea in Court
- Appointment with Alcohol Probation Week 1
- Appointment with BCPH Week 2
- Treatment Assigned Week 3
- Sentencing Week 3

Mental health and medication evaluations will be done on a case-by-case basis.

Once Probation does its evaluation, if the Defendant does not meet criteria for EOP, the PO tells the Defendant not to go to the appointment; but rather, to go to the sentencing. The Probation Officer notifies the Treatment Agency that the appointment has been cancelled.

If the Defendant does meet criteria EOP or above (e.g. inpatient or intensive outpatient treatment), the Defendant will be sent on to the Treatment Agency for assessment. The Probation Department will send its evaluation to the Treatment Agency at least 24 hours before the assessment appointment.

If the Defendant is an English-speaking male who does meet criteria for EOP, but ROC finds that the Defendant is likely too disruptive, not motivated, suffering from anti-social personality disorder beyond what ROC is willing to accept, or otherwise not appropriate for the ROC milieu, ROC will send the Treatment Agency Report for Sentencing to the Probation Officer with a copy to the Center for Change stating specifically the reason for rejection. CFC will try to fit a further assessment into its schedule before the sentencing hearing and report to the Court using a Treatment Agency Report for Sentencing. If CFC cannot provide the Defendant with an appointment before the sentencing hearing, the sentencing hearing will be treated as a bond appearance during which the Judge will inform the Defendant that he has been rejected by ROC but has been recommended for a further assessment by CFC. A new sentencing date will be set and an appointment date and time provided to the Defendant while he is in court.

If the Defendant has been sent on to the assessment stage, the Treatment Agency faxes the DITC Treatment Agency Report Form for Sentencing to the Probation Department with eligibility information and recommendations. The Treatment Agency will include the treatment schedule as part of the report if the person is accepted.

The Probation Department files the DITC PSI and the Treatment Agency Report Form for Sentencing with the CJA. The Probation Department shall send both documents incripted or by fax to the DA and the PD or PDC. The report includes recommendations regarding where treatment and Court Review will occur taking into consideration the Defendant's residence, treatment program, and work location.

The CJA provides the PSI and the Treatment Agency Report to the Sentencing Judge.

### Sentencing Hearing

- If the Defendant is determined to require EOP and volunteers to participate in the DITC, the Judge will sentence the Defendant to probation for two years (or a longer period of time if required by statute), with 240 days work release and order successful completion of DITC as a condition of probation. The Judge will welcome the Defendant into the program and give the Defendant his/her day timer for the appropriate court (Longmont/Boulder) with court dates for the next six months stamped into the book. The Judge will ask a few questions related to motivating the Defendant to succeed. The Defendant will be directed to report to the Probation Department to set up an appointment with the DITC Probation Officer and directed to report to his or her Treatment Agency.

Note: Only those Defendants who are willing to accept the Treatment Agency assigned them by the DITC may participate.

- If the Defendant is determined to require EOP and is accepted by DITC, but the Defendant does not volunteer to participate in the DITC, the Judge will sentence the Defendant as appropriate. No special shortening of the work release and day reporting will be available to the Defendant. The Defendant will be responsible for all fees for treatment. Probation will last as long as probation protocols and statutes require. The Defendant will be directed to the Probation Department to set up an appointment with a probation officer. Straight jail time is also available.
- If the Defendant is determined to require EOP but is not eligible for the DITC, the Defendant will be sentenced as appropriate.
- If the Defendant is determined not to require EOP, the Defendant will be sentenced as appropriate; however, if the Defendant is sentenced to a work release/day reporting sentence, it shall be consistent with the DITC work release/day reporting sentence s/he would have received if s/he had required EOP and been eligible for the DITC,

i.e. 240 days. The Defendant will be directed to the Probation Department to set up an appointment with a probation officer, unless the Defendant receives a straight time sentence.

- If the Defendant appears to need inpatient treatment and volunteers for the DITC, he or she will be accepted into the program and set for his or her first Court Review. The DITC Team will determine whether to start with inpatient treatment or to start with EOP.

### Court Review Process

- Every participant in the DITC will have a Court Review every other week with the DITC Judge. In later stages of the program, the Court Reviews may occur every month.
- Court Reviews will occur on Wednesday afternoons at 3:00 p.m. in Longmont and at 3:00 p.m. in Boulder. Court Staffing Conferences will occur before Court Reviews.
- DEFENSE ATTORNEYS ARE WELCOME TO ATTEND COURT STAFFINGS, BUT WILL NOT ALLOWED TO SPEAK DURING COURT REVIEWS.
- The DITC is built on Drug Court Principles, which discourage the adversary process after a participant is admitted into the program.
- Judge will administer sanctions or incentives to each participant
- Mental health and medication evaluations will be done on a case-by-case basis.

## **TERMINATION**

1. Participant requests termination from DITC.
2. Participant disappears from Probation supervision and fails to contact Probation and request participation in DITC within one month of last contact.
3. Participant moves away from the area in which treatment and court appearances can reasonably be provided.
4. Pending charges may cause suspension or termination in the discretion of the Court. If the Defendant will be incarcerated for a protracted period of time, the Court may choose to terminate or suspend participation.
5. Each case will be considered on its own merits but the Defendant's participation in DITC will be terminated if in the event that the Defendant is charged with one of the following offenses:
  - a. Criminal enterprise drug sales
  - b. Alcohol-related vehicular assault or homicide or other crime involving serious bodily injury or homicide or other crime involving serious bodily injury or death.

- c. Sex offense under C.R.S. 18-1.3-1003(5)(a).
  - d. Contributing to the delinquency of a minor involving sexual factual basis
  - e. Crime involving use of a firearm
  - f. Residential burglary when entry is into the main living space of the occupant and Defendant is not a member of the family of the occupant
  - g. 1<sup>st</sup> or 2<sup>nd</sup> degree arson
6. Participant is determined to have a condition that would prevent the participant from participating in or achieving benefits from the DITC's clinical programs.
  7. Participant fails to move to and through each of the Treatment Levels within a reasonable period of time.
  8. Participant makes threats or engages in acts of violence toward treatment providers while in the program.
  9. If a participant fails to complete treatment at one Treatment Agency associated with the DITC, he will not be assigned to another Treatment Agency.

## **WITHDRAWAL CRITERIA**

Participant may withdraw from the program at any time.

If the Participant is in violation of the DITC rules, a complaint will be filed with the original sentencing Judge, and the matter processed for the probation violation. The sentence will not automatically revert to straight time. As provided by statute, the Judge may impose whatever sentence is appropriate considering the usual factors such as number of prior convictions.

If the Participant is not in violation of the DITC rules, s/he will be returned to a non-DITC caseload which includes the change of probation officer, discontinuance of court reviews and incentives, and elimination of treatment subsidies. Probation will not be terminated early. No additional work release or day reporting will be added.

## **GRADUATION CRITERIA**

1. Participant completes of all treatment and court monitoring phases.
2. Participant completes all terms and conditions of probation that have not been waived or eliminated.
3. The DITC Team is satisfied that:
  - a) Participant has achieved a continuous pattern of sobriety sufficient to merit graduation.
  - b) Participant has legal means of support and a plan for long-term self-sufficiency.

- c) Participant has sober and secure housing.
- d) Participant has sufficient supports available in the community to remain sober and stable.
- e) Participant has developed a long-term sobriety plan.
- f) Has paid off all treatment and drug/alcohol screen/SCRAM fees, and all non-waived fees and restitution.

FOR A FULL PRESENTATION OF THE POLICIES AND PROCEDURES INCLUDING THE TREATMENT AND SUPERVISION PROTOCOL, CLICK ON THE LINK FOR THE DITC POLICIES AND PROCEDURES ON OUR WEBSITE.

**QUESTIONS OR FEEDBACK?**

**Email Harry McCrystal, ITC Coordinator, at [harry.mccrystal@judicial.state.co.us](mailto:harry.mccrystal@judicial.state.co.us).**