

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND**

GENERAL ORDER
ADOPTING DEFERRED SENTENCING PROGRAM

In 2016, the U.S. District Court for the District of Rhode Island established a Deferred Sentencing Program. The Deferred Sentencing Program is a post-guilty plea program that offers a creative blend of treatment, supervision, and services in lieu of incarceration to effectively address offender behavior, rehabilitation, and the safety of the community. Participation is voluntary and must be approved by the presiding judge assigned to the defendant's criminal case. Participants will engage in a variety of programs to address underlying causes of their criminal conduct and will attend regularly scheduled program sessions with the presiding judge, prosecutor, defense counsel, and probation officers.

It is hereby ordered that the attached Deferred Sentencing Program Plan be adopted effective immediately.

IT IS SO ORDERED.

June 28, 2021

By the Court:

/s/ John J. McConnell Jr., Chief Judge



DEFERRED SENTENCING PROGRAM

June 2021



Table of Contents

Mission Statement.....	3
Executive Summary	4
Referral Process.....	5
Program Screening Checklist	6
Program Participation.....	7
Program Areas.....	8
Sanctions.....	11
Deferred Sentencing Program Participant Agreement	14
Deferred Sentencing Program Participant Monthly Report.....	15
Group Structure	18

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF RHODE ISLAND

Mission Statement

The Deferred Sentencing Program (“DSP”) is designed to offer an alternative to traditional incarceration after conviction by providing eligible participants with a framework of supervision and services in lieu of incarceration to help them make informed decisions, engage in positive behavior, and reduce the risk of recidivism.



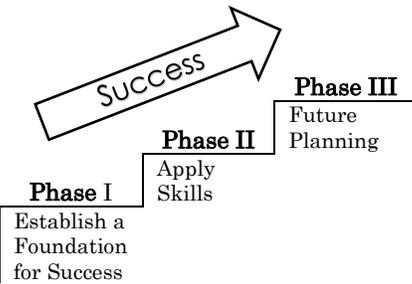
DEFERRED SENTENCING PROGRAM

Executive Summary



In December 2015, the Court established the Deferred Sentencing Program to provide post-guilty plea defendants an opportunity to avoid incarceration and instead receive targeted interventions and court guidance to effectuate prosocial behavioral change, as well as address underlying causes of criminal conduct.

This past year, in 2020, the COVID pandemic forced the court to pivot to a virtual platform but despite these challenges, DSP continued to operate in a way that was meaningful and purposeful. The pandemic, however, limited the flow of DSP referrals and provided a unique opportunity to celebrate accomplishments, but also assess areas for improvement to enhance client engagement, accountability, and success. Change efforts focused on program eligibility, participant requirements, measuring progress and addressing noncompliance, as well as reshaping the monthly meetings. The following is the 2021 revised DSP in the United States District Court for the District of Rhode Island.



Program Eligibility/Screening: Targeted selection criteria and tools are specified and expanded to help select appropriate candidates and provide a more universal template for evaluating prospective participant's eligibility. Refined criteria will also aid in data collection and evaluation efforts. Key additions include the use of the Pretrial Risk Assessment (PTRA) and Post-Conviction Risk Assessment (PCRA), University of Rhode Island Change Assessment Scale (URICA), gang affiliation, and pretrial compliance.

Participant Requirements: In addition to the mandatory conditions of release, as well as any additional conditions imposed by the Court, participation in DSP would require participants to set and achieve goals in seven key areas: (1) cognitions, (2) substance use, (3) pro-social networks, (4) work and education, (5) stable housing, (6) financial literacy, and (7) making amends. Participants will work with their supervising officer to ensure these are Specific, Measurable, Achievable, Realistic, and Time-bound (SMART) goals.

Measuring Progress: A credit system was adopted so that participants must earn 24 credits in an 18-month period to complete. The number of awarded credits will be based on performance each month. The three phase system ((1) Establish a Foundation for Success; (2) Apply Skills; and (3) Future Planning) captures key benchmarks but also build on accomplishments achieved in the prior phase(s). Monthly reports capture participant's cumulative progress, with identified goals and accomplishments.

Accountability/Noncompliance: A sanction matrix will provide graduated, predictable responses to hold participants accountable for not meeting expectations.

Session Structure: A single judge will oversee the DSP for a period of at least 12 months to help offset the increased workload required by the Court and allow for consistency and continuity of the program. To help increase client engagement, participants will meet with the Court twice a month. The DSP Judge will meet individually (either by Zoom, phone, or in person) with each participant once a month, and then the DSP Judge with Probation, will facilitate a monthly group discussion. Dr. Robert Kinscherff will continue to consult with DSP to provide clinical, forensic, and criminal justice expertise. Monthly group meetings will target criminogenic risk factors, address barriers, identify/discuss pro-social interests, and use subject matter experts to complement discussion areas (e.g., Institute of Nonviolence, Dr. Kinscherff facilitating a discussion on trauma). The monthly group meeting will take place with only participants, the DSP Judge, and DSP Probation Officers, in a circle. Other observers may view the circle from the perimeter.

Referral Process

First PSR Disclosure

- Presentence Investigation Report (PSR) filed after Defendant enters guilty plea
- Recommendation made to the presiding Judge to consider Defendant for the program by either Probation, Defense Attorney, or the Government

Needs Assessment

- DSP Probation Officer meets with Defendant
- University of Rhode Island Change Assessment Scale and Post-Conviction Risk Assessment
- Strengths and barriers for success discussed
- At least one specific goal identified

Chambers Conference

- Presiding Judge schedules chambers conference with Government, Defense Attorney, and Probation.
- All information provided to presiding Judge deemed relevant to Court's decision
- All parties given opportunity to advocate for or against program participation

Court Hearing

- Parameters of the program are discussed with Defendant
- The Court may confer with the parties and Probation as well as hear directly from Defendant
- The Court makes final decision of acceptance into program.
- If accepted, deferred sentencing hearing scheduled as soon as practicable
- If denied, sentencing continues its original course

Program Screening Checklist

Eligibility Considerations and Screening

To help provide additional guidance when determining a defendant's eligibility, the Court is looking for participants who are desirous and willing to make informed decisions, who will engage and sustain involvement in prosocial activities, and who are ready and able to change their lives away from criminal behavior. The decision to avoid ridged criteria was made to broaden the scope of potential defendants who may benefit from DSP and the assistance of the federal court, by allowing participants an opportunity to establish a pathway for success and long-term positive change.

- PCRA Risk level: High Moderate Low/Moderate
- Dynamic Risk Factors: Drugs/Alcohol Cognitions Social Networks
Education/Employment
- PTRR category: _____
- Compliance on Pretrial Service Supervision: Y or N or N/A
- Target age of participant: 18-35
 - Age of participant: _____
- Type of offense: Drugs Violence Fraud Weapons
Other: _____
- Gang Affiliation: Y or N
 - Name/Status: _____
- Age of first contact with justice system: _____
- Criminal History Points: _____
- Guideline Range: _____
- Mandatory Minimum: Y or N
- Safety Valve Eligible: Y or N or N/A

The Probation Office will screen prospective DSP participants using assessment tools to better identify risk factors and stages of change.

Program Participation

Sentencing is postponed until completion of the program or such time as a defendant shows an inability or unwillingness to complete the program. DSP participants will be on pretrial release and placed under the intensive specialized supervision of the U.S. Probation Department for a period of at least twelve months.

A single Judge will oversee the DSP program and DSP participants will meet with the Court twice a month. Sessions will consist of an individual meeting with the Judge, as well as a facilitated group with all DSP participants. Both the Government and Defense Counsel will be notified of all times when the participant is meeting with the DSP Judge and will be allowed to advocate. The presiding Judge in each case will receive a copy of monthly progress report and will be invited, but not required, to attend the monthly groups sessions.

1. *Points:* To complete the program, participants must earn 24 credits within an 18-month period. The Court will award each participant the following credits based on their performance during the month and evaluating their effort in achieving goals and actively participating in group monthly meetings. Participants who have achieved satisfactory performance during the month will receive 2 credits, marginal performance will earn 1 credit, and unsatisfactory performance will result in no credits. The Court will reserve the ability to award more than 2 credits per month, if appropriate, and in consultation with Probation. Monthly progress reports will be prepared and shared with the Court, and parties as needed.
2. *Phases:* The following Phases will serve as a framework to help guide participants through DSP.

Phase I
Establish Foundation
(4-6 months; 8 credits)

Phase II
Apply Skills
(4-6 months; 8 credits)

Phase III
Future Planning
(4-6 months; 8 credits)

Appropriate screening for treatment referral	Continue to engage in steps to achieve individual goals	Continue to work towards goals/achieve goals
Engage in steps to achieve individual goals	Review goals and adjust as needed	Establish future life goals after DSP
Plan to Address Dynamic Risk Factors/requirements of program	Complete Cognitive Restructuring worksheet(s)	Progress in all program areas must be achieved before completion
Begin all appropriate treatment	Discuss an MRT assignment(s) in group	Complete Stages of Change screening tool for measurement purposes
Making Amends Activity	Making Amends Activity	Making Amends Activity

Program Areas

DSP will target the following seven areas, and all participants are required to establish goals in each of these areas and make steady, forward, positive progress toward achieving these goals.

1. Cognitions

Participants may undergo initial medical and psychological exams as directed and should engage in programs that help them break any existing patterns of criminal thinking. Those with past trauma in their lives, or otherwise in need of counseling, should be actively engaged in therapy.

Actions that may support participants' mental health and help prevent criminal thinking include:

- Taking medications as prescribed for behavioral health condition(s)
- Undergoing psychological evaluation and participating in mental health treatment
- Completing a Moral Reconciliation Therapy (MRT) program
- Applying cognitive behavioral therapy frameworks and skills in their lives

2. Substance Use

Participants are prohibited from illicit substance use and must commit to adopting relapse prevention strategies.

Actions that may support participants' recovery and relapse prevention efforts include:

- Participate in random drug testing, as needed
- Participating and demonstrating progress in substance abuse treatment
- Enrolling in recovery and relapse prevention/self-help programs
- Identifying and utilizing a peer recovery specialist/coach/mentor

3. Pro-Social Networking

It is vital that participants build positive support systems—often composed of their family, friends, and co-workers—and engage in pro-social activities within their communities.

Actions that may help participants engage in pro-social activities include:

- Identifying relevant pro-social interests, activities, and networks and demonstrating engagement with them.
- Assessing relationships with friends and family, identifying which are helping them grow positively and which are holding them back.
- Receiving and engaging in supports for participants who are parents, potentially in collaboration with the Department of Children, Youth & Families.
- Obtaining a driver's license or other official identification.
- Addressing any transportation barriers that a participant may face.

4. Work & Education

Every participant should be engaged full-time in meaningful employment, education, and/or training. Participants must have a plan for advancing in their field of employment, ideally by working in a position that meets their interests and matches their abilities. If further education is needed or desired, then the participant should be enrolled or pursuing enrollment in school.

Actions that may advance participants' work and education include:

- Actively seeking or maintaining full-time employment and/or education.
- Studying for and taking the General Educational Development (GED) exam if lacking a high school education.
- Enrolling in a higher education or vocational training program.
- Completing an English as a Second Language curriculum.

5. Stable Housing

Having stable housing is a necessary element for a successful life. To this end, participants are encouraged to maintain stable housing and must take reasonable steps to access and sustain stable housing during the period of program involvement.

Actions that may help participants secure and maintain stable housing include:

- Identify and utilize community resources for basic needs/case management for housing assistance.
- Identify and engage with residents who are pro-social/supportive, as well as distancing themselves from those relationships that are problematic and contribute to criminal recidivism risk.

6. Financial Literacy

Participants must have the tools they need to manage their financial responsibilities without resorting to criminal behavior.

Actions that may help participants become financially literate include:

- Opening a bank account.
- Obtaining health insurance.
- Enrolling in and completing workshops or courses on financial planning.
- Establishing and working toward a payment plan for paying off any debt, such as Court imposed financial obligations.

7. Making Amends

Participants will focus on repairing the harms caused by their crime, including recognizing how and who, they have hurt, and the ripple effects caused by their criminal behavior. When victims, defendants, and community members meet to decide how to do that, the results can be transformational.

Actions that may help achieve these goals may include:

- Identify the people their criminal behavior has harmed.
- Provide an apology (e.g., by apologizing to those they have hurt) when those they victimized agree to communications from a participant.
- Provide a self-reflection statement/essay on impact that criminal behavior has on others.
- Perform community service.
- Participate in facilitated meetings to understand harm caused (to victim/community) by criminal behavior.

Standard prohibitions

DSP participants are prohibited from possessing any firearms or other weapons, and must conform to all federal, state, and local laws to which they are subject. They are required to report any contact they have with law enforcement while in the program.

Sanctions

Failure to comply with conditions of release or failure to meet the program expectations may result in the Court ordering additional conditions, sanctions, or terminated from the program. DSP has adopted the following sanction matrix to help provide consistent but flexible, proportionate, and predictable responses to hold participants accountable for their actions. Every effort will be made to make sure these responses are transparent and known, so that there will be no surprises. Level I responses will be imposed by the Court without input from the parties; however, before the Court imposes any Level II or III sanction, the Government and Defense Counsel will be allowed to advocate. Sanctions will be imposed during the individual monthly meeting with the DSP Judge. The Court may also order additional conditions or sanctions in addition to what is listed below.

Conditions/ Requirements	Event	Level
Not violate any Federal, State, Local law	Confirmed or acknowledged unlawful activities (not resulting in criminal charges)	1
	Arrest/New criminal charges (Misdemeanor)	1,2
	Arrest/New criminal charges (Driving with Suspended License)	1,2,3
	Arrest/New criminal charges (Felony)	3
Report Contact with law Enforcement	Repeated contact with LE acting in the course of their policing function	1
	Fail to report contact with LE acting in the course of their policing function	1
Do not possess firearm/ weapon	Possession of weapon (other than firearm)	2
	Possession of a firearm	3
Report as directed	Failure to report as directed	1
	Failure to follow instructions	1
	Late or missed meetings	1
Travel restriction	Leave restricted area without permission	1
	Absconding	3
Location Monitoring	Failure to follow program rules	1
	Failure to follow program rules (repeated/sporadic)	2

	Persistent failure to follow program rules (consistent and ongoing)	3
Cognitive Behavioral Therapy	Failure to meaningfully participate in program	2
No contact with victim/witness/etc.	Contact with victim/witness/other unless authorized by DSP (such as an apology or apology letter)	1
Establish pro-social interests/relationships	Confirmed or acknowledged unlawful activities with others	2
Maintain or actively seek Full-time employment or approved educational alternative/vocational training	Failure to advise of change in employment	1
	Terminated because of disciplinary action	2
	Failure to comply with job search/GED/vocational programming	1
Establish financial literacy	Failure to open bank account, demonstrate progress in paying off debt, make payments toward Court-ordered obligations/fines	1
Refrain from use of controlled substances/illicit drugs/alcohol	Possession/Use of illicit drugs/alcohol (isolated)	1
	Possession/Use of illicit drugs/alcohol (repeated/sporadic)	2
	Possession/Use of illicit drugs/alcohol (consistent and ongoing)	3
Substance abuse testing	Failure to submit to testing/missing scheduled drug test appointments	1
	Tampering/adulterating/diluting, or deceiving drug testing	3
Participate in Treatment Services	Failure to complete evaluation	1
	Failure to meaningfully participate in treatment services	2
	Failure to attend programming/treatment	2
Maintain stable residence	Change of residence without advising USPO or Court	1

Level 1	Level 2	Level 3
Verbal admonishments	Location monitoring (curfew)	Location monitoring home detention/ incarceration
Group apology	Increased reporting	Intermittent confinement (≥ 24 hours)
Writing assignment	Intermittent confinement (≤ 24 hours)	Any additional response from Levels 1 & 2
Activity logs/ journaling	Referral to treatment services (out/in patient)	Termination
Increased drug testing	Written contract with Court to avoid problem behavior	
Increased reporting	Any additional response from Level 1	

Deferred Sentencing Program Participant Agreement

During this program, I agree to comply with the conditions of pretrial release set by the Court as detailed in the Order Setting Conditions of Release. I also understand and agree that as part of this program, I will be required to establish goals in each of the targeted program areas and attend scheduled meetings with my officer, and the Court. I understand that I will be on pretrial release and placed under the intensive supervision of the U.S. Probation Department for a period of at least twelve months.

I understand that if I fail to follow my conditions of release or any of the program rules, and wish to remain in the program, the presiding Judge or the Judge assigned to oversee the Deferred Sentencing Program, may order additional conditions or sanctions upon me as detailed above.

By signing this agreement, I acknowledge that the conditions of my release and the expectations of this program have been explained to me. I also understand that my failure to comply with the conditions of release may result in my immediate sentencing, and that all sentencing options are available to the Court, including a term of imprisonment. I acknowledge that I have conferred with counsel regarding participation in the Deferred Sentencing Program. I also understand that completion of the Deferred Sentencing Program may result in a more favorable disposition at sentencing, which may include a non-jail sentence.

Additionally, the parties agree to waive any rights they may have under the Sixth Amendment's Speedy Trial Clause to the sentencing phase of this criminal prosecution and any delay in its final disposition.

Participant

Date

Defense Attorney

Date

Assistant United States Attorney

Date

U.S. Probation Officer

Date

U.S. District Judge

Date

Deferred Sentencing Program Participant Monthly Report

Participant		DSP Credits (out of 24)	
Judge	USPO	Defense Counsel	
Charge			
Date of Entry	Term of DSP	Expected Graduation	Phase
Conditions of Release			
Treatment Provider/Type			
UA Results			
MRT Status/Step			
Employment			
Residence			
Noncompliance & Response			
Credit Recommendation			



Participant Name:

Date:

Cognitions
Objective:
Current Goal:
Goals Met:
Substance Use
Objective:
Current Goal:
Goals Met:
Pro-Social Networking
Objective:
Current Goal:
Goals Met:

Work & Education

Objective:

Current Goal:

Goals Met:

Stable Housing

Objective:

Current Goal:

Goals Met:

Financial Literacy

Objective:

Current Goal:

Goals Met:

Making Amends

Objective:

Current Goal:

Goals Met:

Group Structure

Role of Staff

- Probation: Facilitators
- DSP Judge: Present in circle for support and can help present areas of discussion
- Dr. Robert Kinscherff: Help facilitate discussions surrounding mental health
- Lawyers: Present to observe group

Pre-Meeting

- Utilized only if needed to staff issues

Purpose of Group

- An educational group to help facilitate change with support and guidance from the Court and fellow DSP participants

Type of Group

- Open Group - Members may enter & leave on a rolling timeframe.

Length of Group

- 12-18 months
- Meets once a month for 1 hour
 - First 15 min to share updates for each month, time to discuss both issues & how they were handled as well as successes (any goals that were met)

Group Content

- DSP team will meet prior to each group session to set agenda
- Group content will focus on the 7 program areas of DSP and other areas found beneficial by both staff and participants