

# THE OFFICE OF BEHAVIORAL HEALTH

## The Involuntary Commitment Process

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# WHAT IS AN EMERGENCY COMMITMENT (EC)

- An Emergency Commitment or “EC” is a temporary behavioral health hold that can be initiated for an individual who is deemed to be an imminent risk to themselves or others due specifically to their substance use.
- Law enforcement officers, physicians, spouses, guardians, relatives or any other responsible person may make application for an emergency commitment under the statute.
- Most EC’s are initiated after an individual is medically cleared for something directly related to their misuse of alcohol or other substances.
- Hospitals must coordinate with detox/withdrawal management centers in order for an EC to be placed.

# INITIATING AN EMERGENCY COMMITMENT (EC)

- Refers to an emergency hold procedure specific to individuals at imminent risk to self or others due to their alcohol or drug use.
- Alcohol 27-81-111 Statute: “When a person is intoxicated or incapacitated by alcohol and clearly dangerous to the health and safety to himself, herself, or others, he or she shall be taken into protective custody by law enforcement authorities, (or an emergency service patrol) acting with probable cause, and placed in an approved treatment facility (Detox/Withdrawal Management or Emergency Room).
- Substance/Drug 27-28-107 Statute: “When any person is under the influence of or incapacitated by drugs and clearly dangerous to the health and safety of himself, herself, or others, he or she may be taken into protective custody by law enforcement authorities, (or an emergency service patrol) acting with probable cause, and placed in an approved treatment facility (Detox/Withdrawal Management or Emergency Room).

# UPON ARRIVAL TO ER OR DETOX/WM

- Once the individual arrives at the approved treatment facility, "A law enforcement, physician, spouse, guardian, or relative of the person to be committed or any other responsible person may make a written application for emergency commitment under this section, directed to the administrator of the approved withdrawal management treatment facility."
- An application for an Emergency Commitment must be approved by a licensed detoxification/Withdrawal Management center. The application shall state the circumstances requiring the emergency commitment, including the applicant's personal observations and the specific statements of others, if any, upon which he or she relies in making the application.

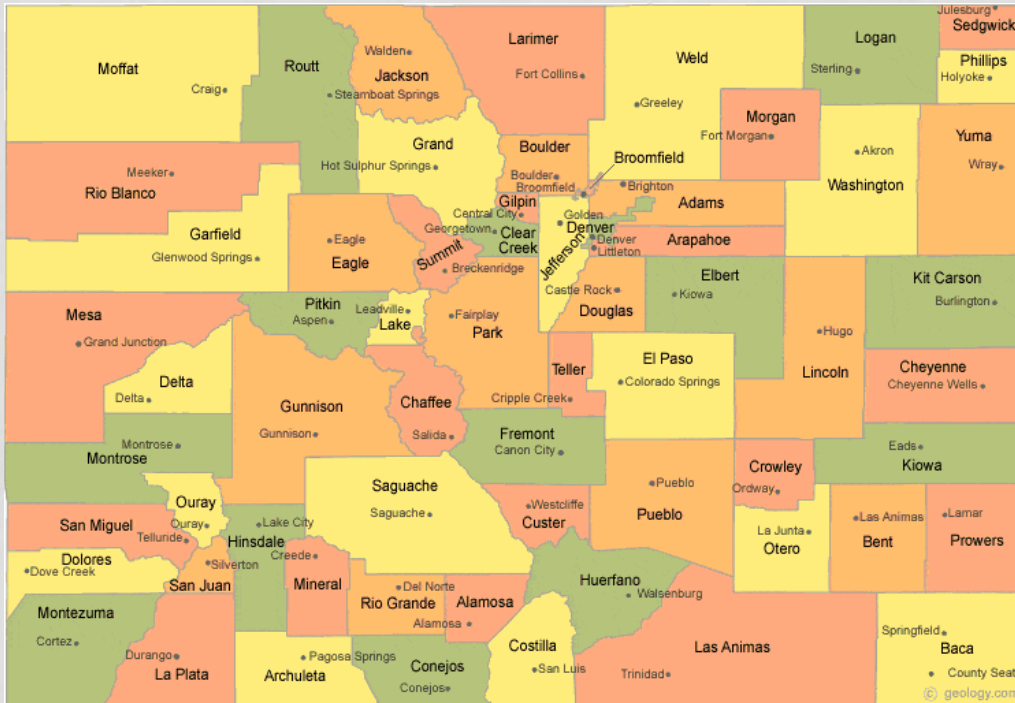
# CRITERIA FOR AN EMERGENCY COMMITMENT

- Criteria 1: Intoxicated by drugs/alcohol and clearly a danger to the health and safety of himself, herself, or others.
- Often, individuals no longer meet this after a day or so once they are sober from substances.
- If an IC is being actively pursued with the State, WM staff will monitor, but continue the EC.
- Criteria 2: Incapacitated by alcohol or drugs and clearly a danger to the health and safety to himself, herself, or others.
- Incapacitation can mean the individual is not making rational decisions with regards to their health, safety or need for detox or treatment. It may also cite debilitating medical conditions that are the direct result of substance misuse.
- Criteria for an EC is reviewed continuously at the detox/WM facility. If grounds no longer exist, the individual must be discharged from the hold and moved to a voluntary status at the facility. (while an IC is being pursued, WM staff will continue the EC.)

# DURATION OF AN EMERGENCY COMMITMENT

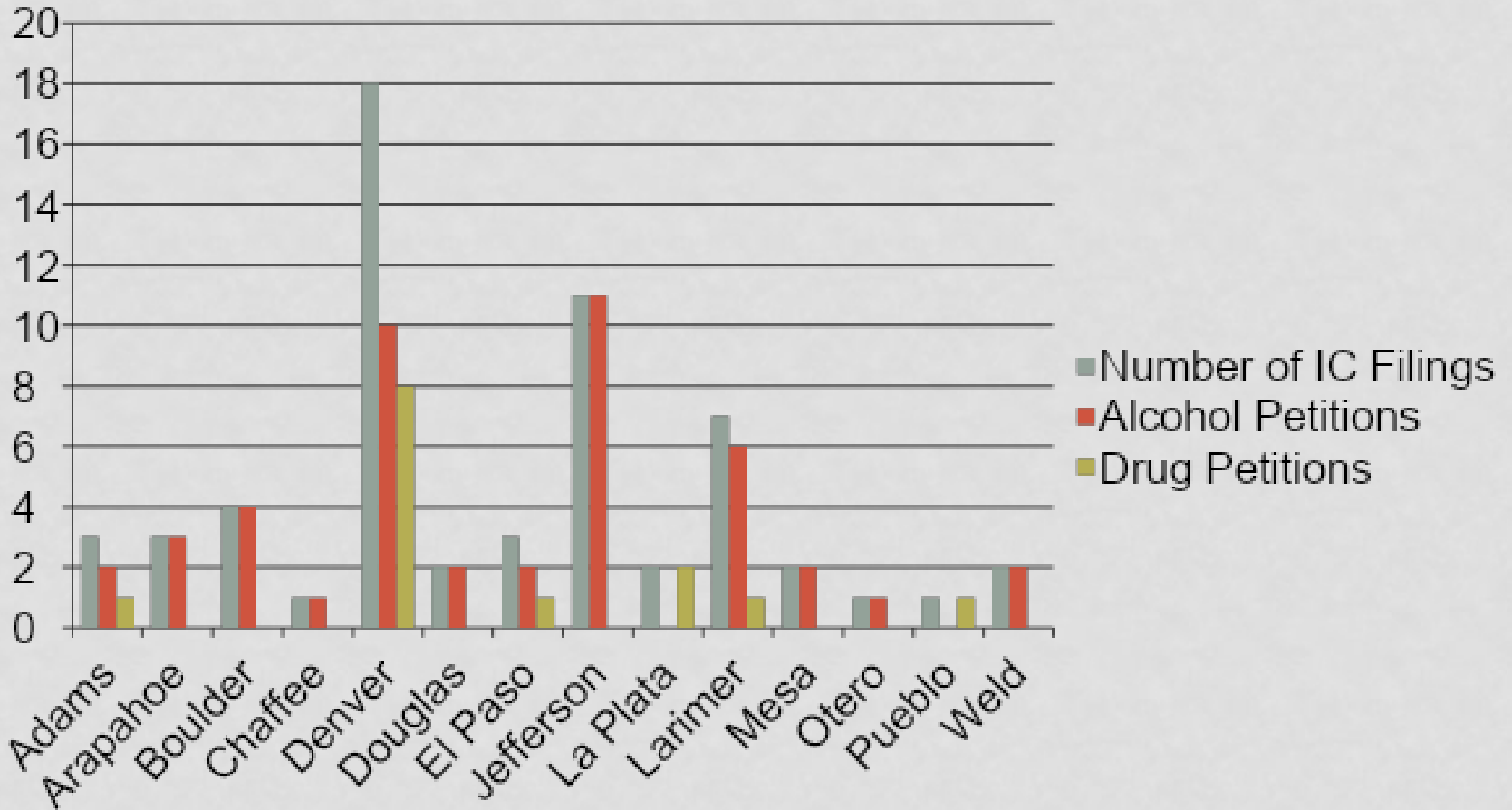
- The EC is an up to 5 day holding procedure. The individual may be released prior if grounds no longer exist for incapacitation or imminent risk to self or others.
- EC's can have three possible outcomes:
  - Individual no longer meets criteria and is able to be appropriately discharged/referred to treatment.
  - Family or interested party file for an Involuntary Commitment court order before EC expiration.
  - Individual continues to meet criteria and the hold expires after 5 calendar days.

# NUMBERS?



- 64 Counties/Attorneys Offices
- 105 Hospitals
- 16 Withdrawal Management/ Detox Centers Licensed for EC/IC Process.
- We average around 100 unique inquiries a month to the IC message line. Each call takes around 15-30 minutes of phone time. Active cases take even more time.

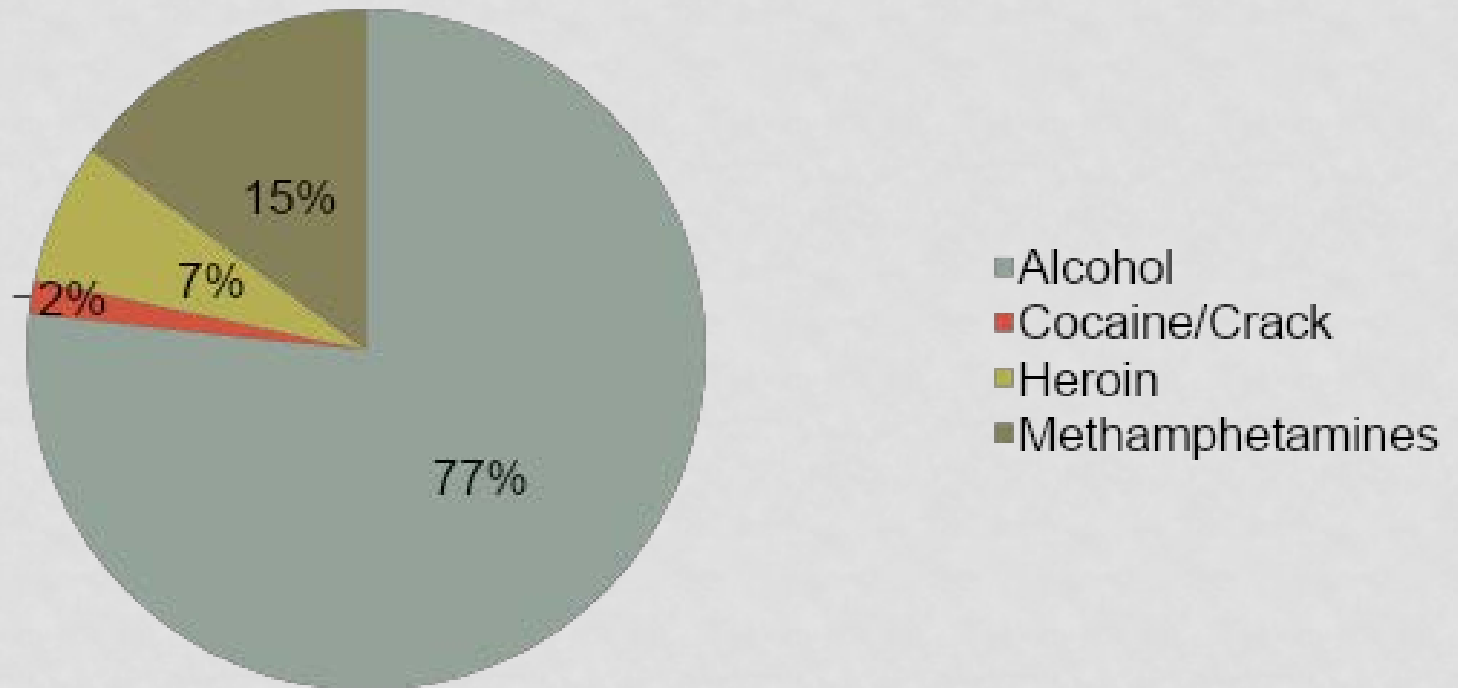
# IC FILINGS BY COUNTY





# PRIMARY SUBSTANCES IN IC CASES

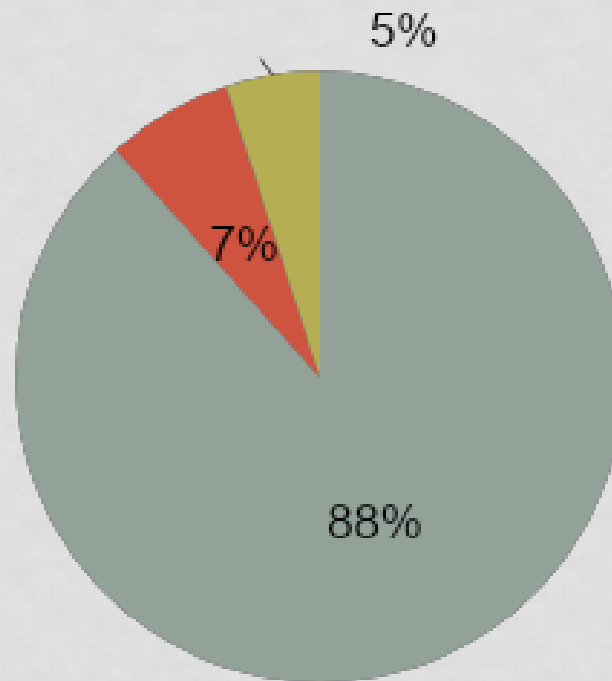
Number of Cases



# OUTCOME OF IC FILINGS

## Number of Cases

■ Stipulated ■ Commitment ■ Dismissed



# WHAT DO YOU DO WHEN YOU HAVE A QUESTION ABOUT THE IC PROCESS?

IC Phone



Reviewing IC Petitions



# HISTORY OF THE IC PROCESS

- Effective July 1, 1974, the Colorado Legislature declared that "alcoholics and intoxicated persons may not be subjected to criminal prosecution because of his or her consumption of alcoholic beverages but rather should be afforded a continuum of treatment in order that he or she might lead normal lives as productive members of society."



# TWO SUBSTANCE STATUTES

- C.R.S. 27-81-112
  - An “alcoholic” means a person who habitually lacks self-control as to the use of alcoholic beverages or uses alcoholic beverages to the extent that his/her health is substantially impaired or endangered or his social or economic function is substantially disrupted
- C.R.S. 27-82-108
  - A “drug abuser” means a person who habitually uses drugs or who uses drugs to the extent that his/her health is substantially impaired or endangered or his/her social or economic function is substantially disrupted

# IC FILING PROCESS TIME LINE

1. Inquiry
2. Individual is placed on EC in Detox/WM/Hospital
3. OBH Screens case and speaks with petitioner
4. Petitioner provides statement to OBH (OBH must approve statement, this can take some time to get a solid petition)
5. OBH sends statement to Detox/WM and asks for a physician certification to be done.
6. If Doctor is in support, OBH sends paperwork to the District/County/City Attorney for filing. Petitioner signs the petition and the individual is served paperwork at Detox/WM. A filing must occur before the EC expires or becomes invalid.
7. IC Petition Court
8. Ordered Treatment
9. Dismissal/Contempt

# 1. INQUIRIES

- OBH utilizes a dedicated Involuntary Commitment Message Line (303) 866-7502 and a IC email for families that are inquiring about the process.
- This line is the best first option to give to families. We respond to most of those calls, unless we're off-site. We have back-up coordinators return calls when we're out.
- The inquiry line is very helpful as it can provide families with preliminary information on this process.
- Often, we are able to provide alternate methods for getting their loved ones help. Referrals are often made to the following:
  - Community Mental Health Centers
  - Information on pursuing guardianship
  - Information on treatment for TBI individuals
  - Information on accessing voluntary treatment for individuals
  - Crisis Services Center information

## 2. INDIVIDUALS ACTIVELY ON EC

- Individual is at a detox/WM on an EC. Petitioners are given general information on contacting OBH to pursue an Involuntary Commitment.
- Depending on circumstance, we are often working on a very short time window to get through the rest of the steps because a filing must occur before the EC expires or becomes invalid.
- Families/petitioners typically contact our office as soon as they can, and we do our best to return calls within a 24 hour window.
- Detox/WM will notify us by email with a copy of the EC and any relevant collateral information pertaining to the case.



# 3. OBH SCREENING

- OBH reviews many aspects of a case in determining whether we can support or not.
- Most critically is the statement that is being provided by the petitioner. More on that later.
- Additionally, we need to find out if the individual is medically stable to remain in detox/go to treatment programs.
- Is there a question about competency?
- Is the individual involved in the criminal justice system\*
- Is the individual likely to benefit from SUD treatment



# 4. PETITIONER STATEMENT

- Statements must outline:
  - Attempts in the past to get the individual into treatment and why those attempts have not been successful.
  - Provide first hand knowledge that the individual has inflicted harm on themselves or others due to substances OR provide first hand knowledge that the individual is likely to inflict harm on themselves or others without intervention.
  - Per 27-81-112 The petition shall allege that the person is an alcoholic and that the person has threatened or attempted to inflict or inflicted physical harm on himself or herself or on another and that unless committed the person is likely to inflict physical harm on himself or herself or on another or that the person is incapacitated by alcohol
  - Incapacitated definition per statute: as a result of the use of alcohol is the individual is displaying one or more of the following:
    - Unconscious
    - Has his or her judgment otherwise so impaired that he or she is incapable of realizing and making a rational decision with respect to his or her need for treatment
    - Is unable to take care of his or her basic personal needs or safety
    - Lack sufficient understanding or capacity to make or communicate rational decisions about himself or herself
- Criteria for being a petitioner?
  - 18 years of age or older
  - Not abusing drugs or alcohol themselves
  - No outstanding legal issues with respondent such as DV, child custody, divorce
  - Possesses first hand knowledge of how the individual's use is putting them at risk to themselves or others

## 5. PHYSICIAN CERTIFICATION

- If OBH receives a statement that can be supported, the detox will be notified and be provided the statement for the physician to review.
- The certification must be done by a medical doctor with a license to practice in Colorado. The doctor will examine the individual and review the statement along with any other relevant information that is available.
- If the doctor does not find evidence to support, the petition will not be filed.
- OBH provides a set fee for reimbursing physician certifications.

## 6. COURT FILING

- If Doctor is in support, OBH sends paperwork to the District/County/City Attorney for filing.
- Petitioner signs the petition and may have to pay to have the individual served paperwork at Detox/WM.
- A filing must occur before the EC expires or becomes invalid.
- The client (Referred to as the Respondent in Court) is served with paperwork at Detox by police, or by a detox worker.
- The client receives the following:
  - Statements that the petitioner's wrote.
  - Copy of the criteria for the certification by the doctor.
  - Notice of hearing for the IC petition court date

# 7. IC HEARING

- Stipulated Order: The individual decides to not oppose petition and agree to treatment recommendations.
- OBH and Signal Behavioral Health Network (or appropriate MSO) determines recommendations based on assessments and information gathered from professionals at Detox/WM.
- Stipulated orders can be for up to 210 days and typically decrease in level of intensity over that period of time.
- Committed Order: The individual decides to fight the petition. If the individual loses, they are committed to an initial 30 order for treatment per statute.
- OBH acts as the petitioner in all recommitments following the initial 30 day order.
- Two recommitments can be pursued (90 days per recommitment).

# 8. ORDERED TREATMENT

- A residential treatment program is typically where the individual starts out.
- Programming is designed to act as a step-down to ensure continuity of care.
- Programming aims to keep individuals close to their communities where possible (or if needed, away).
- OBH and Signal (or appropriate MSO) monitors progress of individuals and makes notices to the courts where appropriate.
- Limitations in ordered treatment:
  - Can't order families to participate.
  - Can't order medications to assist in treatment.
  - No locked facilities.
  - Not many options for dual-diagnosed individuals.
  - Internal vs. External Pressures to Change.

## 9. DISMISSAL AND CONTEMPT

- OBH monitors progress of individuals completing their ordered treatment.
- OBH dismisses cases at the conclusion of their stipulated order.
- OBH may also recommend the dismissal of a case if it is evident that treatment is unlikely to be beneficial going forward.
- Contempt can be sought by OBH in a case, if an individual is willfully non-compliant with the IC. This is a legal determination based on the attorney in the county where the IC is filed. Judge must order it.

# VOLUNTARY VERSUS INVOLUNTARY

- Voluntary treatment should be supported at every opportunity.
- Communication with detox is very important for this reason.
- Sometimes, a voluntary disposition can be reached and an IC is not the appropriate route to go.
- Ultimately, an individual must make the choice on some level to engage for anything to be effective. When criteria exist, the IC can at times provide the structure to encourage that change to occur.



# IC TREATMENT CONSIDERATIONS

- Limitations of Treatment:
  - Likely to benefit from treatment per statute.
  - Co-occurring treatment is often hard to find.
  - No locked treatment facilities exist.
  - No guarantees that this process will work for this client.
  - Families are sometimes reluctant to be included in the treatment.

# OBH CONTACT

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