

# **A Comparison of Three Sentencing Options for DUI Offenders in Jefferson County, Colorado**

Prepared for the Jefferson County Criminal Justice Strategic Planning Committee  
by the Criminal Justice Planning Unit  
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## **Purpose and Introduction**

In 2007, the Jefferson County Criminal Justice Strategic Planning Committee set the goal of “Expand, if possible, the Inmate/Outmate program if expansion is supported by outcome evaluation results.” This document describes a research study investigating the outcomes of three common sentencing options for repeat DUI/DWAI offenders in Jefferson County. The three sentencing options are: (1) a regular jail sentence; (2) a sentence to Work Release; and (3) a sentence to the Inmate/Outmate Program.

A regular jail sentence consists of inmates serving their time in the main section of the Jefferson County Detention Facility. Inmates may be eligible to earn good time for serving as an inmate worker. All inmates remain in Sheriff’s custody until they complete their sentence.

A Work Release sentence consists of inmates spending a portion of most days working at a job site in the community or attending school and the remainder of the day in the Detention Facility. Work Release inmates earn day-for-day good time, which means that they earn one day off of their original sentence for every day they participate in the Work Release program. All Work Release inmates are in Sheriff’s custody throughout their sentence.

In late 1999, the Jefferson County Criminal Justice Strategic Planning Committee created the Inmate/Outmate program as a community-based sentencing option for offenders with multiple DUI/DWAI convictions. The program was created for two primary reasons: (1) to reduce the number of jail beds utilized by these offenders; and (2) to contain the amount and type of criminal behavior of these offenders while they serve their sentence in the community and to not increase recidivism of these offenders. Inmate/Outmate offenders typically begin their sentence in jail on inmate status for an average of ten days. They then leave the jail on outmate status and begin community-based supervision with a case manager. While on outmate status, offenders live at home, are employed, are not permitted to drive, and participate in drug and alcohol monitoring and treatment as approved by the Colorado Alcohol and Drug Abuse Division (ADAD). If offenders commit technical violations, they are typically regressed to the jail on inmate status for approximately ten to fourteen days. They are then returned to the community to resume the community-based portion of their sentence. After three technical violations, offenders are terminated from the program and regressed to jail for the remainder of their sentence. Likewise, any new law violations typically result in offenders being unsuccessfully terminated from the program and regressed to jail for the remainder of their sentence. All offenders remain in Sheriff’s custody throughout their sentence, whether they are on inmate status or outmate status on any given day. This program has always been administered by Intervention, Inc, a non-profit community corrections provider in Colorado. Offenders pay for their own supervision and treatment, with costs pro-rated over the length of the program in order to make them more manageable for offenders. Some offenders are eligible for a sliding fee scale.

## **Method**

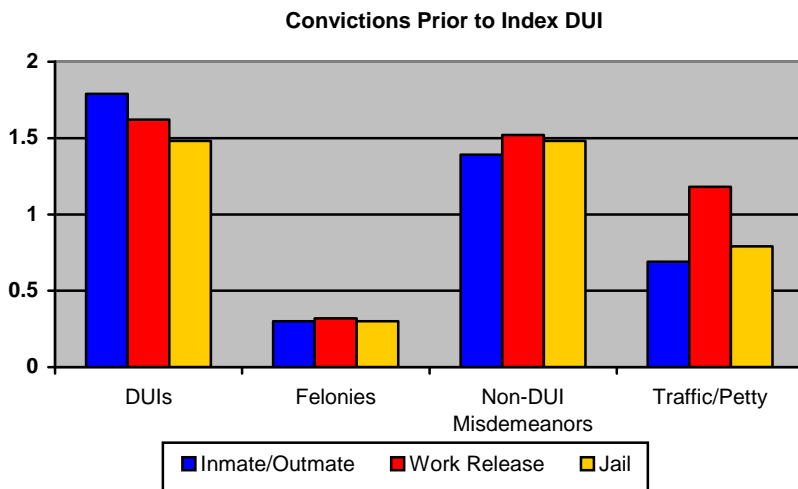
### **Characteristics of Participants**

To compare the outcomes of these three sentencing options, this evaluation examines a cohort of 154 offenders whose most serious charge was a DUI or DWAI and who were released from jail, Work Release, or the Inmate/Outmate program between January 1, 2002 and December 31, 2003. This time frame was selected because it permits a three-year time period, ending no later than December 31, 2006, for measuring recidivism.

Of the 154 offenders participating in the evaluation, 33 (21%), were sentenced to the Jail, 50 (33%) served their sentence on Work Release, and 71 (46%) were sentenced to the Inmate/Outmate program. Ninety-one percent of the cohort was male and the average age was 39 years. There were no significant differences in the distribution of sex among the three groups. However, there was a small but statistically significant<sup>1</sup> difference in the average age of the three groups. The average age for the Work Release group was 43 years old, while the average age for the Inmate/Outmate and Jail groups were 38 years and 36 years, respectively.

Group	Male	Female
Inmate/Outmate	87%	13%
Work Release	94%	6%
Jail	94%	6%
Total Cohort	91%	9%

Offenders in the cohort had an average of 4.30 convictions per offender prior to the DUI/DWAI that lead to their inclusion in this study, which will be referred to as the index DUI throughout this report. The average number of DUI/DWAI convictions per offender prior to the index DUI was 1.67 for the entire cohort, while the average number of prior felony convictions per offender was 0.31. The cohort also had an average of 1.45 prior non-DUI misdemeanor convictions and 0.87 prior traffic/petty convictions per offender. Information on offenders' criminal histories was obtained from an online link (e.g., CourtLink) to Colorado's online criminal history database.



A comparison of offenders in Inmate/Outmate, Work Release and Jail shows there were no statistically significant differences in the total number of convictions or the number of DUIs/DWAI, felonies, non-DUI misdemeanors, and traffic/petty offenses prior to the index DUI. Therefore, it is reasonable to conclude that offenders in each of the three groups were indistinguishable in the nature and extent of their known criminal histories prior to their index DUI.

To further assess the comparability of the three groups at the time of sentencing, the characteristics of the index DUI, specifically the offender's Blood Alcohol Content (BAC) and concurrent convictions, were examined. BAC results were available for 67% of the cohort, and the average BAC was .215. There were no differences among the three groups in the percentage of offenders who refused the BAC test, nor were there differences among the three groups in the average BAC for those who took the test. Additionally, there were no significant differences among the three groups in the number of concurrent convictions, with the average number of additional convictions for the entire cohort being .20.

<sup>1</sup> A statistically significant finding is one that is probably due to the treatment conditions being studied and not due to chance or some other effect (e.g., the characteristics of participants). When the outcome is not statistically significant, there is not enough evidence to conclude that there is a true difference resulting from the treatment conditions being studied. In this study, the treatment conditions are the three different sentencing options: (1) Jail, (2) Work Release, and (3) Inmate/Outmate Program.

## Outcome Measures

Three main categories of outcome measures are examined in this report: (1) the nature and number of criminal convictions for behavior during sentence; (2) the nature and number of criminal convictions for behavior after release from sentence; and (3) jail bed use and cost of that use. The first outcome category, criminal convictions for behavior during sentence, includes subcategories for the number of convictions for DUI/DWAI, felonies, non-DUI misdemeanors, and traffic & petty offenses<sup>2</sup>, as well as the total number of convictions. Likewise, the second outcome category, criminal convictions for behavior after release, includes subcategories of convictions for DUI/DWAI, felonies, non-DUI misdemeanors, and traffic & petty offenses, and the total number of convictions. Information on offenders' criminal behavior during and after their sentence was obtained from CourtLink. Information on criminal behavior was included for offenses that (a) were committed either during the sentence or within the three years after the completion of the sentence for the index DUI/DWAI, and (b) resulted in a conviction. Arrests or charges that did not result in a conviction were excluded.

The third outcome category, jail bed use, was measured by the number of days spent in jail from the beginning of a sentence through release from Sheriff's custody. For Inmate/Outmate participants, the number of jail bed days consumed is the sum of the number of days spent on Inmate status at the beginning of a sentence plus the number of days spent in jail for program violations. Information on length of stay for offenders who were sentenced to Jail and Work Release was obtained from the Jefferson County Sheriff's Office. Information on Inmate/Outmate participants' length of stay both in and out of jail was collected from Intervention, Inc.'s case files and the Sheriff's Office.

## Procedure

To evaluate the three sentencing options, this study presented in this report uses a quasi-experimental design<sup>3</sup> to compare the averages of each of the three outcome categories and related subcategories for Inmate/Outmate, Work Release, and Jail. Analyses of Variance (ANOVAs) were used to determine if there were statistically significant differences among the three groups for all variables of interest.<sup>4</sup> When a significant ANOVA was found, multiple comparisons with a Bonferroni correction were used to

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<sup>2</sup> Under current law C.R.S. 18-1.3-503 distinguishes between class 1 and class 2 petty offenses. The penalty for a class 1 petty offense includes a fine, imprisonment or both. Class 2 petty offenses, however, are only punishable by a fine. Currently, pursuant to C.R.S. 18-1.3-504 unclassified petty offenses are punishable as provided in the statute defining it. Likewise, the traffic code distinguishes between traffic offenses and traffic infractions. Pursuant to C.R.S. 42-4-1701 (3) (a) (I) traffic infractions are generally classified as either A or B infractions, neither of which have the potential for a penalty of incarceration. Under C.R.S. 42-4-1701 (3) (a) (II) (A) misdemeanor traffic offenses are generally divided into two classes, each containing the potential for a penalty of imprisonment. For simplicity of reporting, analyses herein include all traffic and petty offenses in one category and refer to judgments and convictions for such offenses as criminal convictions for traffic and petty offenses.

<sup>3</sup> This study is quasi-experimental because some, but not all, methodological controls of a true research design were possible. Specifically, participants were matched on the relevant characteristics of age, sex, and criminal history, but could not be randomly assigned to one of the three sentencing options. This matching minimizes threats to the validity of the study. The matching was possible because all cases, including those with DUI/DWAI charges, were (and continue to be) filed into the six (currently seven) Jefferson County Court divisions on a weekly rotating basis, which over time has the effect of approximating random assignment of DUI/DWAI offenders into the County Court divisions. Because these divisions utilized the three sentencing options in very different proportions, group sample sizes were adequate for all statistical tests performed. Moreover, because the offenders who were processed through the different county court divisions did not differ on any of their characteristic or outcome variables, there is no evidence that offenders were initially placed into the sentencing option based on their risk, severity of criminal history, or other self-selecting variable.

<sup>4</sup> ANOVAs were conducted to determine if there were statistically significant differences in outcome measures between participants who successfully completed the Inmate/Outmate program (82%) and those who were unsuccessfully terminated from the program (18%). No differences were found. Had differences been found, the analyses presented in this report would have divided the Inmate/Outmate group into two subgroups: successful Inmate/Outmate offenders and unsuccessful Inmate/Outmate offenders.

determine the nature of the between-groups differences. Additional analyses were conducted to investigate the use of sentencing options across court divisions to assist with interpretation of the findings.

## Results

### Criminal Behavior During Sentence

The length of time spent in sentenced status differed among the three groups: Inmate/Outmate offenders spent an average of 360 days on sentenced status (which is the approximate length of time required to complete ADAD approved treatment), while offenders in Work Release and Jail spent 154 days and 179 days, respectively. Despite this difference, there were no statistically significant differences in the total number or type of convictions for criminal behavior during sentence among participants in Inmate/Outmate, Work Release, or Jail. The average number of criminal convictions for the entire cohort was 0.06, meaning that each offender was convicted of an equivalent of 0.06 crimes committed during his or her sentence. There were no convictions for a DUI/DWAI during sentence, and the average number of felonies during sentence was 0.01. The averages for non-DUI misdemeanors and traffic/petty offenses were 0.04 and 0.01, respectively. The absence of statistical significance indicates that the small differences in the observed averages are not likely caused by the sentencing options themselves. The average number of convictions during sentence for participants in each of the sentencing options is listed in the following table.

<b>Average Number of Convictions Per Offender for Behavior During Sentence</b>				
<i>Outcome Categories</i>	Statistical Significance	<i>Sentenced Group</i>		
		Inmate/Outmate (n=71)	Work Release (n=50)	Jail (n=33)
DUIs/DWAIs	None	.00	.00	.00
Felonies	None	.01	.02	.00
Non-DUI Misdemeanors	None	.06	.02	.03
Traffic & Petty	None	.01	.00	.00
Total Number of Convictions During Sentence	None	.08	.04	.03

N=154

### Criminal Behavior After Sentence

For the second outcome category, criminal behavior after sentence, the average number of convictions for behavior in the three years after release for the entire cohort was 0.64. The cohort had an average of 0.13 DUI convictions, 0.11 felony convictions, 0.28 non-DUI misdemeanor convictions, and 0.12 traffic/petty convictions for crimes committed during the three years after release from their sentence. Similar to the findings for behavior during sentence, there were no statistically significant differences among the three groups in the average number of convictions after release. These findings indicate that none of the three sentencing options increases or decreases the risk of recidivism within three years post-sentence relative to the other options. The average number of convictions after sentence for participants in each of the sentencing options is listed in the following table.

Average Number of Convictions Per Offender for Behavior During Three Years After Release				
Outcome Categories	Statistical Significance	Sentenced Group		
		Inmate/Outmate (n=71)	Work Release (n=50)	Jail (n=33)
DUIs/DWAI	None	.20	.08	.06
Felonies	None	.06	.12	.21
Non-DUI Misdemeanors	None	.28	.34	.18
Traffic & Petty	None	.11	.12	.12
Total Number of Convictions During 3 Years After Sentence	None	.65	.66	.58

N=154

### Jail Bed Use and Cost

For the third outcome category, jail bed use and cost, findings were highly significant. As seen in the table below, the Inmate/Outmate group consumed significantly fewer jail bed days (i.e., 30 average) than did the Work Release and Jail groups (i.e., 154 days average and 179 days average, respectively). Relatedly, the Inmate/Outmate group cost an average of \$3,770 (\$5,546 - \$1,776) less to the County per offender than did Work Release, and \$8,951 (\$10,727 - \$1,776) less per offender than did Jail.<sup>5</sup> Work Release cost the County an average of \$5,181 less per offender than did Jail (\$10,727 - \$5,546).

Average Jail Bed Use and Cost Per Offender				
Outcome Categories	Statistical Significance	Sentenced Group		
		Inmate/Outmate (n=71)	Work Release (n=50)	Jail (n=33)
Average Length of Stay in Days	Highly significant <sup>6</sup> (p<.001)	29.63	154.08	178.79
Per Day Jail Bed Cost*		\$60	\$36	\$60
Cost to the Jail		\$1,776	\$5,546	\$10,727

N=154

\*Information on Per Diem Jail Bed Costs was provided by the Jefferson County Sheriff's Office.

### Additional Results

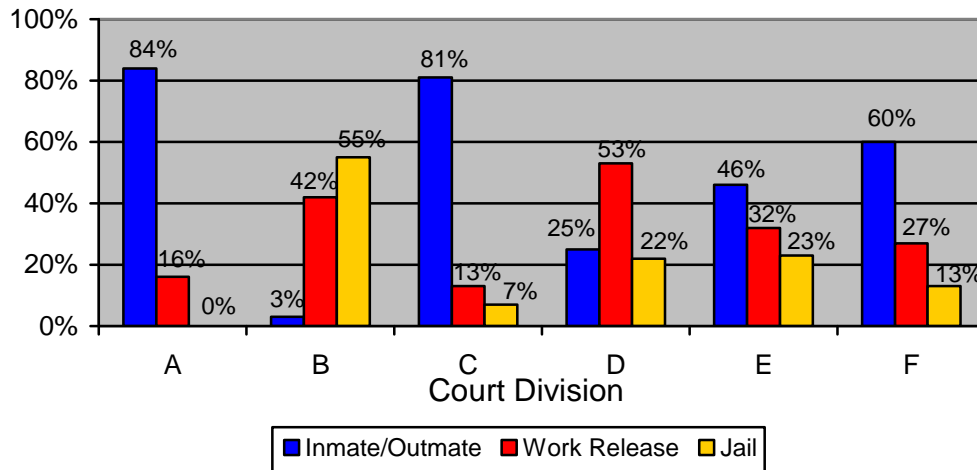
Because the six different County Court divisions<sup>7</sup> sentenced offenders to each of the three options in varying proportions (see figure below), additional analyses were conducted to assure that the offenders processed by each division were similar in their age, sex, characteristics of their index DUI, criminal histories prior to the index DUI, behavior during sentence, and behavior after sentence, the latter three of which were measured by the number and type of convictions. Results showed that there were no significant differences in these measures, indicating that offenders processed through each County Court division did not differ from one another on the variables measured in this study.

<sup>5</sup> The amount of cost savings is based on the assumption that the per diem cost for an inmate in jail is \$60, and the per diem cost for an inmate in Work Release is \$36.

<sup>6</sup> This highly significant finding means that the observed differences are the result of the treatment conditions (i.e., sentencing option) being studied.

<sup>7</sup> Four offenders who were sentenced in a District Court division were excluded from the County Court analyses (n=150).

## Sentencing Options by County Court Division\*



\* The judge in County Court Division D has changed since 2003. A seventh County Court Division (Division G) was added in 2006.

### Summary of Findings

1. There were no differences in sex, characteristics of the index DUI, and criminal history for offenders who were placed in any one of the three sentencing options. Offenders in Work Release were approximately 6 years older than offenders in Inmate/Outmate or Jail. This difference in age does not appear to have any meaningful impact on the study.
2. There were no differences in age, sex, characteristics of the index DUI, and criminal history for offenders who were processed through the different County Court divisions.
3. The type of sentence did not affect the offenders' number and type criminal convictions during their sentence and after their sentence.
4. The County Court division through which offenders were processed did not affect offenders' number and type criminal convictions during and after their sentence.
5. Jail bed use and its associated cost was highly affected by the type of sentenced imposed, with Inmate/Outmate costing the least (average \$1,776 per offender to the County), Work Release in the middle (average \$5,546 per offender to the County), and Jail the most (average \$10,727 per offender to the County).
6. County Court divisions differed greatly in the proportion of offenders that were sentenced to the three sentencing options.
7. In sum, the findings from this study show that the Inmate/Outmate Program achieved the two purposes/goals for which it was created: (1) to reduce the number of jail beds utilized by these offenders; and (2) to contain the amount and type of criminal behavior of these offenders while they serve their sentence in the community and to not increase recidivism of these offenders.

## Implications

The findings presented in this report support the expansion of the Inmate/Outmate program through its more frequent use as a sentencing option for multiple DUI/DWAI offenders in Jefferson County. Study results also support the conclusion that the Inmate/Outmate program is cost effective: it reduces costs associated with incarceration without increasing the amount of crime.

The Jefferson County Criminal Justice Strategic Planning Committee will explore additional possibilities for program expansion to other subpopulations of inmates sentenced to jail and work release.

## Supplemental Analysis

The following is a list of the class and charge of felony convictions for offenders in Inmate/Outmate, Work Release, and Jail for the three years after completing their sentence.

### Inmate/Outmate

F6	DUR
F6	DUR
F5	trespass
F4	escape

### Work Release

F6	controlled substance
F6	DUR
F6	DUR
F5	menacing
F4	criminal mischief
F3	burglary

### Jail

F6	dangerous weapon
F6	controlled substance
F6	DUR
F5	contributing to the delinquency of a minor
F5	robbery
F5	criminal mischief
F3	controlled substance

## Contact Information

For more information about:

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