



**First Judicial District of Colorado**

# **Desk Reference for Matching DUI/DWAI Offenders to Sentencing Options**

**April 24, 2008**

Prepared by:  
System Performance Subcommittee of the  
Jefferson County Criminal Justice Strategic Planning Committee

For more information about the development of this reference, contact:  
Jefferson County Criminal Justice Planning Unit  
3500 Illinois Street, Suite 2800  
Golden, CO 80401  
Phone: 303-271-4669 or 303-271-4665  
Web: <http://www.jeffco.us/cjp/>

# Section 1

## Introduction and Purpose

This desk reference was developed in early 2008 to provide criminal justice professionals in the First Judicial District with information on available sentencing options for persons convicted of Driving Under the Influence (DUI) or Driving While Ability Impaired (DWAI).<sup>1</sup> Members of the System Performance Subcommittee of the Criminal Justice Strategic Planning Committee contributed to this reference. This document contains information that can be used to determine which sentencing option may be the most appropriate for certain offenders. Of course, judges have the discretion to decide which information to consider when imposing or changing a sentence.

The four most commonly available sentencing options for DUI/DWAI offenders in the First Judicial District are:

1. Probation
2. Inmate/Outmate Program
3. Work Release
4. Jail

These sentencing options, which are described more fully within this document, are generally listed from less restrictive to more restrictive. In general, in addition to a person's criminal history, mitigating circumstances surrounding a person's current conviction may make a less restrictive sentencing option more appropriate, and aggravating circumstances may make a more restrictive sentencing option more appropriate. Moreover, pursuant to C.R.S. § 42-4-1301, all persons convicted of a DUI or DWAI receive a statutorily mandated jail sentence, of which part or all may be suspended by the judge. These jail sentences may be served through in-home detention, the Inmate/Outmate program, work release, or jail. Convicted persons must also pay the \$200 fee for their alcohol and drug evaluation that the Probation Department provides to the court and treatment providers, as well as other costs or fines.

Section Two of this document summarizes Colorado's drunk driving penalties.

Section Three is a quick reference for the most likely best candidates for each sentencing option.

Section Four contains descriptions of the programming associated with each sentencing option.

---

<sup>1</sup> The content in this Desk Reference is based upon collaborative decision-making and the best information and data available at the time (including the recidivism outcome evaluation of the Inmate/Outmate Program, Work Release, and Jail produced by the Jefferson County Criminal Justice Planning Unit in January 2008. In summary, this study showed that although all three sentencing options achieved equal recidivism outcomes, the Inmate/Outmate program did so at considerably lower cost to the County than did Work Release or Jail). As new and better information becomes available, this reference will be updated and re-distributed.

## Section 2

### Colorado's Drunk Driving Penalties (as of July 1, 2007)<sup>2</sup>

#### C.R.S. § 42-4-1301

SECTION	OFFENSE	IMPRISONMENT	FINE	USEFUL PUBLIC SERVICE
(7)(a)(I)	DUI, habitual user, per se	5 days – 1 year, the court can suspend all jail, if: 1. Alcohol evaluation 2. Completes Level I or II	\$300-\$1000	48-96 hours
(7)(a)(II) applies to the following:  (7)(a)(III)(A)  (7)(a)(III)(B)	Conviction for DUI, habitual user, per se, <u>and</u> previous conviction for DUI, habitual user, per se, vehicular homicide, vehicular assault, or driving under restraint  DUI, DWAI, or per se when BAC = 0.20 or more	90 days – 1 year, the court can suspend 80 Days, if: 1. Alcohol evaluation 2. Completes Level I or II 3. Abstaining for 1 year 4. Monitored by treatment facility	\$500-\$1500	60-120 hours
(7)(a)(IV)	DUI, habitual user or per se <u>and</u> previous conviction for DWAI	70 days – 1 year, the court can suspend 63 Days, if: 1. Alcohol evaluation 2. Completes Level I or II 3. Abstaining for 1 year 4. Monitored by treatment facility	\$450-\$1500	56-112 hours
(7)(b)(I)	DWAI	2 – 180 days, the court can suspend all jail, if: 1. Alcohol evaluation 2. Completes Level I or II	\$100-\$500	24-48 hours
(7)(b)(II)	2 <sup>nd</sup> or subsequent DWAI	45 days – 1 year, the court can suspend 40 days, if: 1. Alcohol evaluation 2. Completes Level I or II 3. Abstains for 1 year 4. Monitored by treatment facility	\$300-\$1000	48-96 hours
(7)(b)(III)	DWAI <u>and</u> previous conviction for DUI, habitual user, per se, vehicular homicide, vehicular assault, or driving under restraint	60 days – 1 year, the court can suspend 54 days, if: 1. Alcohol evaluation 2. Completes Level I or II 3. Abstains for 1 year 4. Monitored by treatment facility	\$400-\$1200	52-104 hours

<sup>2</sup> The information in this section was taken from the Colorado District Attorneys' Council's *Colorado Revised Statutes Pertaining to Criminal Law 2007 with Rules of Criminal Procedure and Rules of Evidence (2007)*.

## Section 3

### Most Appropriate Candidates for Various Sentencing Options

#### Probation

Note: A sentence to probation may or may not include an initial stay in in-home detention, work release, or jail as a condition of probation. The initial stay can fulfill a statutory minimum jail sentence.

#### The Most Appropriate Candidate

- First or second time DUI/DWAI offender  
Or
- Person requires financial assistance to pay for all or most of treatment  
Or
- Person has mental health issues and/or other drug dependence issues  
Or
- Person requires residential treatment  
Or
- Court determines that in-home detention, work release, or jail as part of a sentence to probation is warranted. When in-home detention or work release is imposed as a condition of probation, the person is eligible to attend treatment and may receive financial assistance from the Probation Department. In-home detention usually involves the person paying a daily fee for electronic location and/or alcohol monitoring, and often requires that the person reside at an approved address and has access to telephone service at that address. Persons will be required to provide proof of their whereabouts when they are scheduled outside of their home. Work release involves the person paying a daily work release fee.

#### Inmate/Outmate Program

Note: A sentence to the Inmate/Outmate Program fulfills a statutorily required jail sentence.<sup>3</sup>

#### The Most Appropriate Candidate

- Person is not a good candidate for a sentence to probation.  
Or
- Third time or more DUI/DWAI offender  
Or
- Person had a BAC of 0.20 or more.  
Or
- Person is not eligible for a sentence to probation  
Or
- Person has not yet received treatment for an alcohol or drug problem  
Or
- Person has past noncompliance with treatment  
Or

---

<sup>3</sup> The court record may contain phrasing similar to: “Defendant is sentenced to 365 days in Jail to be served in the Inmate/Outmate Program, beginning on Inmate status. [Special conditions, such as education, therapy, useful public service, and fees and costs, are typically inserted here.] Defendant is remanded to begin serving the sentence.”

- Person was on probation at the time of the current offense  
Or
- Person is willing and able, both financially and motivationally, to participate in the program  
Or
- A community-based sentencing option appears to be the best fit for the person's apparent current risk to public safety  
Or
- The justice system prefers the person to be employed so that he/she can pay restitution to victims, and pay child support and taxes

## Work Release

Note: A sentence to Work Release fulfills a statutorily required jail sentence.

### **The Most Appropriate Candidate**

- Person is not a good candidate for a sentence to probation or Inmate/Outmate.  
Or
- Person is motivated to participate in treatment and can pay for his/her own treatment  
Or
- The justice system seeks to maintain the person's employment so that he/she can pay restitution to victims, and pay child support and taxes  
Or
- A partial community-based and partial confinement sentencing option seems most appropriate for the person's apparent current risk to public safety  
Or
- The justice system wants the person to reimburse the Sheriff's Office for a portion of the costs of the person's incarceration

## Jail

Note: A sentence to Jail fulfills a statutorily required jail sentence.

### **The Most Appropriate Candidate**

- Person is not a good candidate for a sentence to probation, Inmate/Outmate, or work release.  
Or
- Person has previously failed in the Inmate/Outmate Program or Work Release  
Or
- Person has low motivation for participating in treatment  
Or
- A total confinement sentencing option seems most appropriate for the person's apparent risk to public safety  
Or
- Payment of restitution, child support, and taxes are secondary to reasons for incarceration (e.g., incapacitation, punishment)

## Section 4

### Program Descriptions of the Sentencing Options

#### Probation

##### Current Provider

First Judicial District Probation Department, Golden, CO, or contract provider  
Probation Department's phone: 303-271-6364

##### Program Description

After an offender is sentenced to probation, the Probation Department uses state-approved risk and needs assessments to determine the most appropriate level of supervision.  
Contact the Probation Department for additional information.

#### Inmate/Outmate Program

##### Current Provider

Intervention, Inc., Golden, CO  
Phone: 303-278-9600

##### Program Description

The Inmate/Outmate program is a community-based sentencing option created in late 1999 by the Jefferson County Criminal Justice Strategic Planning Committee to reduce the use of jail beds for inmates 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. 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 dedicated case manager. While on outmate status, offenders live at home, are employed, are not permitted to drive, and are required to 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 may be 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.

## **Work Release**

### Current Provider

Jefferson County Sheriff's Office, Golden, CO

Phone: 303-271-5444

### Program Description

During a sentence to the Jefferson County Sheriff's Work Release program, offenders reside in the Jefferson County Detention Facility. They are permitted to leave the facility only to work or attend school, and pay the Detention Facility a daily fee that is equal to the sum of two hours pay, with a minimum of \$14 and a maximum of \$70 per day. At the discretion of the Sheriff, offenders are eligible to earn day-for-day good time off of their sentence. Offenders may pay for and attend a drug and alcohol treatment program outside of the facility.

## **Jail**

### Current Provider

Jefferson County Sheriff's Office, Golden, CO

Phone: 303-271-5444

### Program Description

During a sentence to the Jefferson County Detention Facility, inmates are not permitted to leave the confines of the jail facility, except in rare circumstances, until the end of their sentence. One such circumstance consists of the inmate's serving as an inmate worker on the Jefferson County government campus. At the discretion of the Sheriff, inmate workers may be awarded good-time credits toward their sentence. Inmates do not receive ADAD-approved drug or alcohol treatment during their sentence, but may voluntarily attend support groups (e.g., Alcoholics Anonymous), when available, inside the facility.