

# The Path to Success: A DWI Case Sentencing Guide

## What is Your Sentencing Goal?

- **Retribution:** seeks to punish the offender.
- **Incapacitation:** denies the offender the chance to repeat the offense.
- **Deterrence:** designed to change behavior.
  - **General:** designed to change the behavior of the general driving public.
  - **Specific:** designed to change the behavior of the particular offender.
- **Habilitation:** refers to offender reform through sentences that include DWI education and/or alcohol treatment.
- **Restitution:** offender pays for the damage caused by the DWI act.
- **Program Financing:** offender makes payments designed to raise revenue for DWI programs.
- **Restorative:** offender participates in community service.

## Sanctions and Remedies to Consider:

- Jail
- Staggered jail sentence
- Adjudication or adjudication withheld
- Probation
- Periodic returns to court for status review
- Fines
- Court costs
- Vehicle impoundment
- License suspension
- Work permit only licenses
- Transdermal alcohol monitoring (e.g. SCRAM bracelet)
- Continuous alcohol monitoring (24/7 sobriety program)
- Ignition interlock
- Daily breath testing
- GPS monitoring
- Random urinalysis
- Alcohol/drug treatment
- Alcohol/drug education
- Victim impact panel
- Offender work program
- Public service work
- Job training or obtaining G.E.D.
- Roadside Memorial Project; DUI story newspaper assignment; Positive reinforcement

## Who Is Your Offender? Factors to Consider:

- **Drug and Alcohol Issues**
  - drug court
  - DWI court
- **Mental Health Issues**
  - mental health court
  - co-occurring disorder treatment
- **Age of the Offender**
  - juvenile court
  - *Alive at 25* program
  - Elderly offender issues: health related problems, should license be revoked?
- **Disabilities; Homelessness; Financial Situation; Family and/or Friends in the Area**
  - Determine if any community services are available. Helping the offender establish basic necessities may be a necessary first step to habilitating the offender.
- **Past Conduct**
  - A first arrest vs. subsequent arrest may warrant a different sentence or treatment plan.
- **Arrest Conduct**
  - Offender conduct and mood at the time of arrest may provide clues as to whether the offender is suffering from other issues, such as mental health disorders, homelessness, illness, etc.
- **Are They NORPS/SLUGS/SLICKS\*?**
  - **NORPS** (normal ordinary responsible persons): They are generally self-correcting, and the arrest itself is generally enough punishment. Their sentence should usually be short and direct, which would include community service and a fine. Jail is considered redundant and unnecessary.
  - **SLUGS:** They make excuses, do not take responsibility, lack foresight, have low self-worth, and tend to self-destruct. Sentencing for them should involve short up-front jail, uncomplicated probation, community service, teaching a positive work ethic, job training (if needed), and programs aimed at specific problem.
  - **SLICKS:** Are described as amoral, pathological liars, lacking empathy, plays lawyer, can be charming and smooth, and always looks for shortcuts and angles. Slicks should generally be locked up as long as possible.

\*Terms developed by Judge Dennis Challeen (MN, Ret.)
- **A Veteran**
  - Consider a veterans treatment court
  - Local VJO (Veterans Justice Outreach) chapter: every state has one. Will review available veterans benefits packages and programs, including state and local benefits. Will assist in presenting claims, appealing VA decisions, and will follow through to final disposition.
  - Local Veterans Administration Office
- **A Tribal Member**
  - Generally if a tribe member commits an infraction while not on tribal land, the jurisdiction in which he/she committed the infraction will oversee the case.
  - The tribe may be willing to facilitate participation in recovery and/or retribution programs.

# My Sentencing Information and Path to Success

1. I was sentenced today on my case(s): \_\_\_\_\_ (Case Name and Number)

The sentencing judge is: \_\_\_\_\_

2. My Sentence: (Check boxes that apply)

■ **Jail:**

I was sentenced to jail today for \_\_\_\_\_ (Amount of Time)

I will receive credit for time served. The jail will advise me of my release date.

I was not sentenced to jail.

■ **Probation:**

I was sentenced to probation.

In order to successfully complete my probation, I must complete the following: (List Conditions of Probation)

If I do not complete these tasks, I will be required to return to court. At that time, I could be sentenced to jail for violating my probation, and not completing the required tasks. It is my responsibility to follow up and make sure I have completed the conditions as they are set out above.

*If I become stuck completing the requirements above, here's who to contact for answers to any questions I may have:*

Alcohol treatment contact: \_\_\_\_\_

Probation contact: \_\_\_\_\_

Payment of fines contact: \_\_\_\_\_

Driver's license contact: \_\_\_\_\_

(List other contacts as needed) \_\_\_\_\_

## My Next Steps:

1. There will be a review hearing on my case on: \_\_\_\_\_ (Date, Time, and Location)

2. The court will want to see that I have taken these steps at that time: (List the Interim Requirements)

3. If I have not completed the above requirements, I could face a jail term. We talked about this today at my sentencing hearing. The possible length of the jail term could be \_\_\_\_\_. (Length of Time)

4. If I have completed the steps set forth above, the court will note my progress and will tell me when my next hearing will occur. If I complete all the requirements of my probation, the court may terminate my probation as successfully completed. If that happens, my obligations to the court under this sentence would be over.

## What to do to be successful:

■ Complete all of the above steps

■ When in doubt, contact one of the individuals at the number listed above to ask for guidance.

**The court wants you to succeed on probation. We provide this information to tell you exactly what it will take for you to succeed, and who to contact to keep you on the right track. Don't give up. Ask for help if you are stuck or frustrated with these obligations. Good luck!**