



EARLY PLEA SENTENCING GUIDELINES

NON-DUI/PHYSICAL CONTROL

NON-DV OFFENSES

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Unlike the KCPAO felony units, the District Court Unit (DCU) does not have an Early Plea (EPU) deputy to review cases and make plea offers prior to trial. In DCU, each trial deputy is assigned a case after filing and is tasked with all negotiations. Given the high volume of cases, negotiations are time-consuming and often delay resolution and trial.

For the State, an early plea is considered a significant mitigating factor. Not only is the defendant choosing to take responsibility, early pleas reduce the impact upon the criminal justice system with its limited resources. Moreover, it avoids the adverse impact of further hearings and a trial upon victims and witnesses. For the defendant, an early plea often results in a more favorable resolution for these same reasons.

However, for all sides, an early plea only makes sense if the ultimate sentence is a just outcome. In lower level misdemeanors, total sanctions can sometimes exceed original recommendations when defendants fail to appear for review hearings or violate conditions. Certain sentences also have the potential of serious immigration consequences for non-citizen defendants. The State has no interest in these types of results on most low level misdemeanors.

In an effort to address these issues, the State has drafted a misdemeanor sentencing policy. These guidelines have three objectives:

1. Resolve lower level crimes in a quick and just manner without multiple review and violation hearings,
2. Ensure that the ultimate sanction is proportionate to the underlying crime, and
3. Limit the potential for serious immigration consequences for defendants convicted of low level misdemeanorsⁱ.



Sentencing Guidelines non-DUI/Physical Control Offenses

For the crimes listed in this section the PAO will make a request for an immediate sanction that reflects the seriousness of the underlying offense and will not ask for lengthy suspended or deferred sentences. For most cases, probation and treatment will not be recommended. Our recommendations will also anticipate how the court should respond to non-compliance.

1. Using the Guidelines in this Section:

The guidelines in this section assume that the listed offenses can be loosely fitted into tiers based on seriousness level of the offense. To determine a sentence recommendation, you must first determine the seriousness level of the crime (i.e. Level I, Level II or Level III.) Next, determine the defendant's criminal history category, using the definitions listed in Section I. Finally, find the appropriate sentencing recommendation on the sentencing recommendation grid.

2. Seriousness Levels of Crimes:

Level I Offenses

NVOL	Alcohol in park
All fish and wildlife crimes	Minor frequenting tavern or lounge
Minor in Possession – non-vehicle	Unlawful issuance of bank checks
Nuisance – animal noise	Prostitution
Unlawful bus conduct	Loitering for purpose of prostitution
Failure to transfer title	Possess fraudulent driver's license
Failure to use chains	Failure to Obey
Failure to register vehicle	Fraudulent trip permit
Failure to obtain Washington License	Theft 3
Stopping, standing on limited access highway	Theft of rental property
Failure to obey road signs	Clipped Ski tickets
Limo license violations	Criminal Trespass II
Malicious Mischief	Furnishing liquor to minor
PSP 3	



Level II Offenses

Assault 4** - non-injury (non-DV)	Disorderly conduct
Hit and Run – unattended/attended-no injury	Obstructing
Reckless Driving – not reduced from DUI	Possession of Burglar Tools
Negligent Driving – not reduced from DUI	Resisting Arrest
Vehicle Prowl, no damage	Minor in possession – vehicle
DWLS 2	Criminal Trespass I
	Patronizing prostitute ⁱⁱ

Level III Offenses

Assault 4** – minor injury* (non-DV)	Attempted Theft 2 – motor vehicle
Hit and Run – minor injury*	Vehicle prowl – damage
Telephone Harassment/Cyberstalking** (non-DV)	Ignition interlock violation
Harassment** (non-DV)	Attempted Theft 2 nd Degree
Attempted PSP 2 nd Degree	Attempted VUCSA
Attempted Malicious Mischief 2 nd Degree	Court Order Violations** (non-DV)
Leaving child unattended in vehicle**	

* Minor injuries are those that leave only transitory marks and/or cause temporary pain (e.g. red marks, minor swelling.) Injuries that cause considerable pain, extensive bruising, cuts, black eyes, etc. (but do not rise to the level of felony injuries) will be used as an aggravating factor which likely will merit a sentence recommendation outside these guidelines.

** Case must be staffed with a supervisor prior to any reduction and/or offer.



3. Sentencing Recommendation Grid:

Once you have determined the seriousness level of the crime and the defendant's criminal history category, find the sentencing recommendation on the following grid:

	Limited Criminal History 0-3 misd. convictions w/in 7 yrs of incident.	Moderate Criminal History 3-10 misd. convictions w/in 7 yrs of incident.	Extensive Criminal History More than 10 misd. convictions w/in 7 yrs of incident.
Level I	<u>Jail:</u> 0-1 day in jail, susp. on condition def. perform 1 day work crew or 8 hours community service for each day of jail imposed, to be completed within 30 days of sentence. <u>Fines:</u> No Fines Restitution and recoupment, if applicable	<u>Jail:</u> 1-2 days in jail, susp. on condition def. perform 1 day work crew or 8 hours community service for each day of jail imposed, to be completed within 60 days of sentence. <u>Fines:</u> \$0 - \$300 Restitution and recoupment, if applicable	<u>Jail:</u> 1-3 days in jail, susp. on condition def. perform 1 day work crew or hours community service for each day of jail imposed, to be completed within 90 days of sentence. <u>Fines:</u> \$0 - \$500 Restitution and recoupment, if applicable
Level II	<u>Jail:</u> 2-3 days in jail, susp. on condition def. perform 1 day work crew or 8 hours community service for each day of jail imposed, to be completed within 60 - 90 days of sentence. <u>Fines:</u> \$0 - \$500 Restitution and recoupment, if applicable	<u>Jail:</u> 2-5 days in jail, susp. on condition def. perform 1 day work crew for each day of jail imposed, to be completed within 90 days of sentence. <u>Fines:</u> \$0 - \$1000 Restitution and recoupment, if applicable	<u>Jail:</u> 3-10 days in jail, suspended on condition def. perform 1 day work crew for each day of jail imposed, to be completed within 90 days of sentence. <u>Fines:</u> \$0 - \$1,200 Restitution and recoupment if applicable
Level III	<u>Jail:</u> 5 – 10 days in jail, susp. on condition def. perform 1 day work crew or 8 hours community service for each day of jail imposed within 90 - 120 days of sentence. <u>Fines:</u> \$0 - \$1500 Restitution and recoupment, if applicable	<u>Jail:</u> 5 -15 days in jail, susp. on condition def. perform 1 day work crew for each day of jail imposed within 90 days of sentence. <u>Fines:</u> \$0 - \$1,500 Restitution and recoupment, if applicable	<u>Jail:</u> 10 – 45 days in jail, susp. on condition def. perform 1 day work crew for each day of jail imposed within 120 days of sentence. <u>Fines:</u> \$0 – \$2000 Restitution and recoupment, if applicable



***Statutory Assessments:** Include court costs, PSEA, and CJFP of \$50.00 (if a traffic offense).

1. Making Your Recommendation on Crimes within this Section

When recommending jail time for crimes within this section, the prosecutor will recommend that only time suspended or deferred be the amount of jail time that the defendant may complete in work crew or community service. The State will **not** recommend active probation. For example, on a defendant with limited criminal history who commits a level III offense, we will ask for 5 days in jail total, suspended on condition defendant do five days work crew and pay fines and assessments. (Formerly, we would have asked for 364 days in jail, 359 days suspended on condition that the defendant do five days work crew, pay fines and assessments and be placed on one or two years probation.) If the defendant fails to complete monetary sanctions, the state will recommend that all unpaid fines be sent to collection instead of imposing other sanctions. If defendant fails to complete work crew or other conditions, the State will recommend that the entire suspended sentence be imposed. In these circumstances, the State will not object to work release on most cases. This should avoid repeated hearings and jail bookings for non-compliance on low-level offenses. Any judge that sees the defendant for non-compliance will know exactly what the sentencing judge intended, and will, hopefully, simply impose the remainder of the suspended jail time.

Remember that the guidelines in this section are intended for the routine case. However we are not bound to these guidelines. There will be times when a particular case will simply not merit a sentence recommendation based on these guidelines -- even though the crime is listed within this section -- because of aggravating or mitigating factors or the defendant's criminal history. However, when crafting a recommendation on those cases you should still strive to accomplish the goal of front loading sanctions and eliminating probation on most cases.

Your recommendation should be for increased (or decreased) jail time, work crew, fines, and other alternatives to confinement in amounts higher or lower than those suggested on the sentencing grid -- not for lengthy suspended sentences and probation -- unless there is a specific need to set monitored conditions on a particular defendant. Time of probation should be commensurate with the type of sanction agreed upon. For example, the defendant, who has limited criminal history may elect to do 80 hours of community service hours instead of 10 days jail for a Level III offense. In such case the defendant should be allowed to complete those hours within 90-120 days of sentence. If that same defendant agreed to 10 days jail, the DPA has discretion to reduce the time to complete that jail sentence rather than suspending the whole 364 days, and can close the case upon completion of the jail term.

Conclusion

These sentence recommendation guidelines are merely guidelines and cannot encompass every type of crime, every fact pattern, or every defendant. Many cases will not fit into these guidelines. Remember that what is important is that you know the standards, that you apply them consistently and equitably, and that you are able to justify decisions when you depart from them. In the end, use your best judgement, talk to your supervisor, and try to achieve just results.

ⁱ These guidelines should be applied to all similarly situated defendants regardless of citizenship status.