

The National Hardcore Drunk Driver Project

THE NATIONAL AGENDA: A SYSTEM TO FIGHT HARDCORE DWI

The Goal: To protect the public by reducing the recidivism of hardcore drunk drivers.

The Strategy: Mobilize an effective campaign to curtail hardcore drunk driving based on a *coordinated system* of mutually reinforcing components. Special criminal charges of Aggravated DWI and Hardcore DWI, with associated sanctions and remedial treatment, can provide the focus for such a system.

The Rationale: A coordinated system is necessary to provide the framework needed to close loopholes in existing laws and programs, enact needed legislation, and ensure that the responsible agencies and organizations work together effectively to address the problem.

For those states choosing to adopt them, special charges reinforce a coordinated system by requiring immediate identification and stipulating appropriate punishment and treatment that, combined, act to reduce recidivism. By calling attention to the serious nature of the crime, a higher level charge acts as a general deterrent.

Objectives and Tactics: Research shows that a system to deter, detect, punish and change the behavior of hardcore drunk drivers should be based on swift identification, certain punishment and effective treatment. An important factor for success is an accountable statewide planning group or task force, with representatives from pertinent state agencies and interested organizations, to spearhead change and monitor effectiveness.

SWIFT IDENTIFICATION

- Focused Enforcement Strategies and Support Technologies
- Statewide DWI Reporting System
- More Severe Consequences for Refusal to Submit to Chemical Test

CERTAIN PUNISHMENT

- Administrative License Revocation (ALR)
- Administrative Vehicle Immobilization or Plate Seizure
- Mandatory Alcohol Ignition Interlock
- Home Confinement with Electronic Monitoring
- Judicial Education and DWI Courts

EFFECTIVE TREATMENT

- Early Intervention
- Assessment-Based Programs
- Mandatory Participation
- Intensive Monitoring/Supervision
- Dedicated Detention Facilities

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ACKNOWLEDGMENTS

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A number of organizations and individuals assisted with the development of the sourcebook. At its core is new survey information from all 50 states, the District of Columbia, American territories and the Navajo Nation. The information was obtained through the offices of the governors' highway safety representatives in each state. Without their help and that of the Governors Highway Safety Association, much of the information in this sourcebook would not have been available.

Crucial to the sourcebook were the insights and recommendations of its national advisory panel, an interdisciplinary group of judges, researchers and professionals in the fields of alcohol abuse, law enforcement and traffic safety. The panel's counsel, the state surveys and the most recent research on hardcore drunk driving guided its content.

The sourcebook for the National Hardcore Drunk Driver Project was developed for The Century Council by Blakey & Agnew, LLC, of Washington, D.C.

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The Century Council

The Century Council is a not-for-profit organization dedicated to fighting drunk driving and underage drinking. Headquartered in Washington, D.C., and chaired by The Honorable Susan Molinari, the Council develops and implements innovative programs and public awareness campaigns and promotes action through strategic partnerships. An independent Advisory Board of distinguished leaders in business, government, education, medicine and other relevant disciplines assists the Council in continually developing innovative, effective initiatives.

America's leading distillers have funded The Century Council for more than ten years, allowing the Council to become a leader in the fight against drunk driving and underage drinking. These companies have promoted the Council's mission since 1991 by investing over \$120 million in its programs:

- Allied Domecq Spirits and Wine North America
- Bacardi U.S.A., Inc.
- Brown-Forman
- DIAGEO
- Future Brands, LLC
- Pernod Ricard, USA

Our Mission. The Century Council promotes responsible decision-making regarding drinking or non-drinking of beverage alcohol and discourages all forms of irresponsible consumption through education, communications, research, law enforcement and other programs.

The Century Council

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ABOUT THE SOURCEBOOK

Spurred by the proliferation of new research, legislation and programs, this publication is an update of *Combating Hardcore Drunk Driving*, a sourcebook produced in 1997 by The National Hardcore Drunk Driver Project. The Project is an initiative of The Century Council, a not-for-profit organization funded by America's leading distillers.

The original sourcebook, which was reprinted twice, became a frequently cited reference and resource for safety advocates and state leaders. It was the first traffic safety community effort to provide a single, comprehensive resource to assist in reducing fatalities, injuries and crashes caused by repeat offenders and drivers with high blood alcohol concentration levels of .15 and above. It included information on a broad range of policies, laws, sanctions and treatment programs, culled from professionals in the field of alcohol abuse, traffic safety and research and from surveys of U.S. territories, special jurisdictions and every state.

Hardcore drunk drivers can be defined as those who drive with a high blood alcohol concentration of 0.15 or above, who do so repeatedly, as demonstrated by having more than one drunk driving arrest, and who are highly resistant to changing their behavior despite previous sanctions, treatment or education.

Building upon that base, this 2003 edition includes a review of recent drunk driving research as well as updated information from in-depth surveys of drunk driving strategies, legislation and programs in all 50 states, the District of Columbia, the U.S. territories and the Navajo Nation. Guided by the recommendations of a panel of internationally recognized professionals in the fields of law enforcement, corrections, traffic safety, research and treatment, the sourcebook is designed to be an up-to-date, comprehensive resource to assist legislators, highway safety officials, law enforcement officers, judges, prosecutors, community activists, corrections personnel and treatment professionals in developing programs to reduce hardcore drunk driving. A website, www.dwidata.org, maintains and updates this information and tracks relevant legislation in each state.

The sourcebook and website are only part of the Project's and The Century Council's efforts to develop materials and provide assistance to states to combat hardcore drunk driving. In 1998, the Project held a series of community forums in Massachusetts, Texas and Ohio that began a national dialogue focusing on shared problems and creative solutions to hardcore drunk driving. *From the Grassroots to a National Agenda* is a report to the nation summarizing the insights of forum participants and presenting the first comprehensive and systematic approach to the problem. Another publication, the Project's *Guide for Legislators*, puts concise information at the fingertips of lawmakers and has been widely distributed to elected officials throughout the country.



A Continuing Battle

Much has happened in the five years since the first edition of this sourcebook. An emphasis on intoxicated driving has resulted in more drunk driving laws, loopholes in the system have been identified and more states' laws have focused on getting hardcore drunk drivers off the road.

While these developments are fairly recent, and some hold great promise, the results have yet to reflect the increased efforts. Following a huge drop in alcohol-related fatalities in the 1980s and early 1990s, the number of alcohol-related traffic fatalities increased slightly in 1996 and then inched slowly downward to an all-time low in 1999 of 16,572. However, in 2000, the number of alcohol-related fatalities increased to 17,380 followed by another increase in 2001, bringing the number of alcohol-related traffic fatalities up to 17,448 — a level not seen since 1996.

Although some states have recently shown an increase in alcohol-related traffic fatalities, in others the numbers have dropped significantly. Despite the ups and downs among the states, the overall national downward trend in drunk driving seems to have come to a halt. The traffic safety community is struggling to identify the obstacles that have prevented continued progress in further reducing alcohol-related traffic deaths. Hard core drunk drivers have little fear of being stopped, arrested and punished, and the public seems more focused on other safety issues.

Whatever the reasons for the halt in progress, there is an urgent need to revitalize efforts to reduce drunk driving. That revitalization requires a focus on the hardcore drunk driver who continues to be over-represented in alcohol-related traffic crashes causing death and injury.

In 2001, 5,299 drivers — 22 percent of all driver fatalities — killed in traffic crashes had a BAC above .15. The most frequently registered BAC for drivers involved in fatal crashes with positive BAC levels was .16. About 1,461 alcohol-related fatalities occurred in crashes involving alcohol-impaired or intoxicated drivers who had at least one previous DWI conviction, accounting for 8.4 percent of the alcohol-related traffic fatalities. This figure and the number of drivers killed with a BAC above .15 have been steadily increasing since 1997 (FARS 2002). It is clear that comprehensive countermeasures to target the hardcore drunk driving population are critical and have been cited by the National Highway Traffic Safety Administration (NHTSA) as an immediate need on which the nation should focus.

Some Promising Indicators

Clearly, the battle against hardcore drunk driving has not been won, but there have been inroads in the past five years:

- Identification strategies, such as preliminary breath testers, passive alcohol sensors, and in-car videotaping, have proved



effective and are more widely used.

- Progress has been made in the recognition of the importance of electronic information sharing; one result is the implementation of a model DWI information system in a number of states.
- Refusals by drivers to participate in chemical testing are coming under closer scrutiny, with many jurisdictions attempting to strengthen the penalties for refusals.
- State systems are becoming more comprehensive, and the traffic safety, law enforcement, judicial, corrections and treatment communities are collaborating more closely with regard to reducing hardcore drunk driving.
- Treatment is increasingly being recognized as a critical element in any coordinated attempt to reduce hardcore drunk driving.

However, financial resources are a constant source of concern. Federal funds for highway safety provide limited assistance to states. Additional resources for traffic safety have the potential for improving the nation's progress in reducing drunk driving, and some states have developed successful programs to address funding shortages. New York's offender-funded and locally administered STOP-DWI program was established through legislation in 1981 and generates approximately \$22 million each year. New York's results are impressive. Since the program's inception, alcohol-related traffic fatalities decreased from 1,107 in 1981 to 334 in 2000 for a 70 percent drop (NHTSA Spring 2002). For comparison, alcohol-related traffic fatalities decreased 32 percent from 1982–2001 in all the U.S. (NHTSA FARS 2002).

Despite the inroads, those concerned with public safety continue to seek more effective ways to prevent, punish and rehabilitate the hardcore drunk driver. A successful strategy to combat hardcore drunk driving requires weaving together programs, policies, procedures and laws to create a coordinated system that addresses every aspect of the hardcore problem.

A Coordinated System

It is important for states to focus on interaction across agencies to create a coordinated system. In part, states need to examine their current statutes to coordinate existing laws, close loopholes and enact legislative authority to create a comprehensive system that can:

- Ensure offenders are charged at the proper level;
- Provide prosecutors with accurate and complete information to obtain a conviction;
- Apply a number of connected sanctions that are individualized to the offender, backed by scientific research and reinforce each other;
- Verify compliance with sentencing terms;



- Assist in determining appropriate treatment based on previous record and intervention efforts;
- Ensure accurate and timely data to identify hardcore drunk drivers and allow appropriate handling through the judicial process; and
- Provide accurate data to detect trends and determine effectiveness of the overall system.

Developments during the past five years make it clearer than ever that multifaceted efforts, undertaken in concert, can have a significant impact on hardcore drunk driving. Swift identification, certain punishment and effective treatment are the necessary components for an effective solution.

Framework of the Sourcebook

This sourcebook contains six sections:

1. **Hardcore Drunk Drivers and Their Impact** provides a look at hardcore drunk drivers, their impact on society and why the complex problems they present require a coordinated system of countermeasures.
2. **Swift Identification** addresses the issue of detecting and identifying drivers who are likely to be hardcore drunk drivers. It not only includes identifying these drivers on the highway but also recognizing and acknowledging their hardcore status in the judicial and treatment systems. The section includes enforcement strategies and statewide information systems that help provide law enforcement, the judicial system and treatment professionals with the information needed to determine the nature of the driver's history so appropriate actions, in terms of both sanctions and rehabilitation, can be taken.
3. **Certain Punishment** examines sentencing strategies for hardcore drunk drivers and the factors that influence what sentence is imposed. Examples are given of innovative judicial programs aimed at hardcore drunk drivers. The section also addresses both driver- and vehicle-based sanctions for offenders and looks at methods to prevent or limit the opportunity for the hardcore offender to drive drunk.
4. **Effective Treatment** describes the important role of treatment and rehabilitation programs in reducing hardcore drunk driving. Highlighted are some of the more promising programs designed to respond specifically to the hardcore drunk driver. The section details the assessment process for offenders and examines a few of the treatment options available.
5. **Bibliography** lists more than 280 sources of information, including books, journals, government reports, scholarly articles, websites, interviews and other resources consulted in the research for this publication.



6. **State Profile CD-ROM** holds information from in-depth surveys of drunk driving statistics, strategies, programs and laws in all 50 states, the District of Columbia, the U.S. territories and the Navajo Nation. Included is the most current, state-specific information on policies, laws, sanctions and treatment programs that addresses hardcore drunk driving. The www.dwidata.org website maintains this information and tracks relevant legislation in each state.

A Call for Action

Since its founding in 1991, The Century Council has used its resources as a catalyst for action to involve the beverage alcohol industry — producers, wholesalers and retailers — with law enforcement, public officials, educators, insurers, health care professionals and private citizen organizations in implementing programs throughout the United States to fight drunk driving and underage drinking.

It is time to renew efforts to fight hardcore drunk driving. Alongside a growing body of research and concerted efforts by concerned citizens and organizations, this publication's goal is to advance the sound planning and long-term vision necessary to substantially reduce this problem.





HARDCORE DRUNK DRIVERS AND THEIR IMPACT

All drunk drivers are dangerous, and action must be taken at every level to ensure progress in reducing drunk driving. This publication's focus is on hardcore drunk drivers because this group continues to be over-represented in drunk driving crashes.

A Deadly Minority

In 2001, 17,448 people were killed in alcohol-related traffic crashes and 275,000 were injured in the United States (NHTSA 2002). That represents an average of one alcohol-related fatality every 30 minutes and one person injured approximately every two minutes. In addition to injuries and the loss of lives, drunk driving carries a huge economic price tag (Blincoe et al. 2002).

While comprising a relatively small proportion of drivers, the impact of hardcore drunk drivers in human and monetary costs far exceeds their actual numbers. For example:

- It is estimated that while drivers with BACs in excess of .15 are only 1 percent of all drivers on weekend nights, they are involved in nearly 50 percent of all fatal crashes at that time (Simpson et al. 1996).
- About one-third of all drivers arrested for DWI are repeat offenders and over half have a BAC over .15 (Hedlund and McCartt June 2002).
- In the United States in 2001, 22 percent of all drivers killed in motor vehicle crashes and 57 percent of all drinking drivers in an alcohol-related fatal crash had BAC levels of .15 or greater (FARS 2002).
- Drivers with a BAC of .15 or above are 385 times more likely to be involved in a single vehicle fatal crash than the average non-drinking driver (Zador 1991).

A strong relationship exists between a high BAC and the likelihood of having a previous DWI conviction. The 2001 Fatality Analysis Reporting System (FARS) data show that previous DWI convictions increase in direct correlation with increases in BAC in subsequent arrests.

For example, only 1.4 percent of non-drinking drivers involved in a fatal crash had a prior DWI conviction compared to 18.5 percent of those with BACs of .15 to .19. This percentage increases to 30.5 percent for those with a BAC of .20 or above. FARS estimates also indicate 77 percent of fatally injured drinking drivers with a BAC above .10 had a prior DWI conviction, while 58 percent of fatally injured drinking drivers with previous DWIs had BACs of .15 and over.

At any BAC level, the risk of apprehension for drunk driving is extremely low, depending on the level of enforcement and the method of calculation. Estimates range from about one arrest in 50 trips to one arrest in 100 trips. Consequently, many hardcore



drunk drivers go undetected and aren't reflected in any statistics. Compounding the problem is that hardcore drunk drivers are highly resistant to changing their behavior. That resistance is often characterized by repeat DWI convictions despite previous sanctions, education or treatment. Approximately 30 percent of all drinking drivers arrested for DWI have been caught in the past by the police and sanctioned by judicial and administrative agencies (Wiliszowski et al. 1996).

The 1996 Wiliszowski study also examined reasons given for drunk driving by repeat offenders. Most subjects presented numerous reasons for their behavior with the most common being that the person thought he or she was OK to drive (32.2 percent). Other answers included: just did not think about it (21 percent); lacks control over him/herself after drinking (18.6 percent); no one is available to drive him/her (14.4 percent); and thought he/she would be OK if careful to avoid accident/arrest (13.8 percent).

Common Characteristics

Compared to all drivers, hardcore offenders often are more aggressive, hostile and thrill seeking. They are more likely to have a criminal record, to use drugs and to have poor driving records (Simpson 1996). But perhaps most telling is their pattern of alcohol-related problems. Compared with first-time driving-under-the-influence arrests, repeat offenders tend to have higher rates of alcoholism and alcohol-related problems, more frequent non-traffic criminal offenses and more severe mental health problems (NHTSA 1996).

A 2000 study done by Jones and Lacey included the following attributes of repeat offenders:

| | |
|-------------------------|--|
| Mean Age | 35 |
| Education | High school or less |
| Occupation | Non-white collar |
| Income | Low |
| Other Offenses | Traffic and Criminal |
| Gender | Male (over 90 percent) |
| Race | White |
| Marital Status | Unmarried |
| BAC | >0.18 percent at arrest; higher in fatal crashes |
| Prior DWIs | 2–3 |
| Alcohol Problems | Alcohol dependency common |

A study of 126 hardcore DWI offenders incarcerated in Ohio prisons (Siegal et al. 2000) found 98 percent had histories of alcohol abuse and 75 percent were alcohol dependent. They all had been previously arrested for DWI. The mean number of DWI arrests was 7.6; the mean number of convictions was 7.1.

Those numbers take a huge jump when looking at all previous involvement with the criminal justice system. Of the hardcore drunk



drivers studied, Siegal found the mean number of arrests for any offense was 29.0, while the mean number of convictions was 25.2. In addition to alcohol-related driving violations and technical violations, such as contempt of court, the most commonly reported arrests were for disorderly conduct/public intoxication, drug related charges and assault charges.

Making the same point, a 2002 study of recidivism looked at 4,403 people convicted of DWI in Vermont and found many DWI offenders are incorrectly identified as “first time” offenders.

“These findings suggest that the image of the typical DUI offender as someone who is new to the criminal justice system is not accurate. The offender with no prior record is the exception and represents only about one-quarter of offenders who may be considered archetypical first offenders” (Clements 2002).

Complex but Not Impossible

The problems presented by hardcore drunk drivers are complex. As a result, there are numerous entry points and effective methods for attacking the problem. All efforts to combat hardcore drunk driving have the most traction when operating as a coordinated system that emphasizes swift identification, certain punishment and effective treatment.





SWIFT IDENTIFICATION

Swift identification of hardcore drunk drivers is critical. This identification provides law enforcement officials, the judicial system, corrections officials and treatment professionals with the information needed to determine the nature of the driver's problems so appropriate actions, in terms of both sanctions and rehabilitation, can be taken.

Identification of hardcore drunk drivers should occur when a driver registers a high BAC or traffic records show the driver to be a repeat offender, but it may also occur at various points further downstream when the offender is charged, appears before a judge or is evaluated for treatment. Once they are detected, the identification of hardcore drunk drivers requires access to reliable and current records at every juncture in the legal system. A thorough records investigation should provide prosecutors and judges with the information needed to identify hardcore drunk drivers, determine the extent of their problems and recommend appropriate sanctions and treatment.

Focused Enforcement Strategies and Support Technologies

This section looks at some of the most effective enforcement techniques used to detect and identify drunk drivers, as well as some of the problems police officers face in trying to apply them. Many of the approaches mentioned here are aimed at the larger driving population but have an important, direct impact on the subset of hardcore drunk drivers.

Unfortunately, the odds are against detecting and identifying alcohol-impaired drivers, particularly hardcore drunk drivers, many of whom are alcohol tolerant and do not exhibit signs of intoxication, even at high BAC levels (Simpson and Robertson 2001). Recent studies estimate the number of times a person drives drunk before being arrested range from about one in 50 to one in 100 (Hedlund and McCartt 2002; Simpson and Robertson 2001; Beitel, Sharp, and Glauz 2000), depending on the level of enforcement and the method of computation.

For hardcore drunk drivers, as well as all drunk drivers, the perception that they will be detected and caught can act as a deterrent. Public attention and news coverage of DWI enforcement efforts help create the perception that if motorists drive drunk, they will be stopped and charged. A 1996 study of repeat offenders showed when police presence was certain, there was a decrease in DWI behavior among study participants. Additionally, the threat of arrest and/or the consequences of arrest caused 61 percent of the repeat offenders studied to stop their behavior for some period of time (Wiliszowski, Murphy, and Lacey 1996).

“Research has shown that likelihood of apprehension is more important in deterring offenders than is the severity of punishment. The key to creating this perception is enforcement. Merely putting strong laws on the books is not enough. Enforcement efforts must be sustained and well publicized and create a realistic threat of apprehension” (Insurance Institute for Highway Safety 2000).



Blanket Patrols

Also called saturation patrols, roving DWI patrols, or dedicated police patrols, blanket patrols are specifically designed to identify drunk drivers and are legal in all 50 states. Combining the desirable features of both spot checks and routine police patrols, these campaigns are often characterized by a large number of officers concentrating their patrol time on a given area for a set time period. During that time, the police officers stop drivers for any traffic offense but usually with a particular focus on drunk driving. The perception of risk acts as a deterrent, as it does with sobriety checkpoints, but blanket patrols can offer greater staffing flexibility than sobriety checkpoints.

Where Are Blanket Patrols Used?

According to the National Hardcore Drunk Driver Project Survey, blanket patrols are used in 44 states and three territories.

How Effective Are Blanket Patrols?

Measured in arrests per working hour, blanket patrols are viewed as the most effective method of apprehending offenders. Within a limited geographical area, these patrols may be an efficient and effective means of apprehending DWI repeat offenders because officers are able to identify potentially impaired drivers by observing driving performance and stop only those who appear to have been drinking (Health Canada 1997). Saturation of an area also makes it more difficult for impaired drivers to avoid detection.

Minnesota's Operation NightCAP (Night-time Concentrated Alcohol Patrol) is a unique enforcement program in which monthly blanket patrols are conducted by the State Patrol in partnership with county and local law enforcement agencies. Public information and media efforts are a part of each blanket patrol. Overall, NightCAP has proven to be one of the most effective federal traffic safety programs currently underway in Minnesota. For fiscal year 2001, the program resulted in 96 total blanket patrols, 13,681 vehicles stopped and 566 DWI arrests.

Project Zero is New York State's Zone Enforcement Reduction Operation, a statewide blanket patrol initiative targeting impaired drivers through aggressive enforcement and public information and education campaigns. State and local police and sheriff departments combine personnel and resources to operate in concert on predetermined dates and times. Working on roadways with a high volume of alcohol-related crashes, they target all vehicle and traffic law violations, with a special emphasis on drunk driving offenses. Strong public information efforts aimed at increasing the public's perception of risk are conducted both before and after Project Zero initiatives. Associated enforcement strategies, such as warrant sweeps for DWI-related offenses and underage purchase violations, are conducted in tandem with Project Zero patrols. *More information about Project Zero is available from the New York State Division of Criminal Justice Services, Office of Public Safety.*



Where to Go for More Information on Blanket Patrols

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Sobriety Checkpoints

Sobriety checkpoints provide an effective enforcement strategy against drunk driving. Checkpoints present a highly visible way to catch violators, but their greatest benefit may be deterring people from driving drunk by increasing the perceived risk of arrest. Sobriety checkpoints are most effective when they are highly publicized and when the consequences of drinking with a BAC above the legal limit are highly publicized, too.

Checkpoints are particularly useful in pinpointing hardcore drunk drivers because the face-to-face contact allows the officer to spot drivers who have a higher alcohol tolerance and, despite high BAC levels, may have modified their driving behavior to avoid detection. Checkpoints are also a good way to apprehend people driving with a suspended or revoked license due to an alcohol related offense.

Where Are Sobriety Checkpoints Used?

According to the National Hardcore Drunk Driver Project Survey, sobriety checkpoints are used in 38 states and the District of Columbia.

How Effective Are Sobriety Checkpoints?

Publicized DWI enforcement that includes sobriety checkpoints can be effective in identifying the hardcore drinking driver and in reducing alcohol-involved driving and alcohol-related crashes (National Transportation Safety Board 2000). A recent review of 23 sobriety checkpoint studies (Shults et al. 2001) found:

- Crashes thought to involve alcohol dropped a median of 20 percent following implementation of sobriety checkpoints that used selective breath testing (where police administer a breath test only to drivers suspected to have been drinking).
- Fatal crashes thought to involve alcohol dropped a median of 23 percent following implementation of sobriety checkpoints.
- Crashes declined regardless of the follow-up time of the study, dropping a median of 18 percent for follow-up times of less than one year and 17 percent for follow-up times of more than one year.



However, research shows approximately half of all legally impaired drivers stopped at checkpoints, including the hardcore, go through undetected (Simpson and Robertson 2001). When implemented alone, sobriety checkpoints may not be the most effective enforcement tactic; it should be used as a part of a comprehensive enforcement program.

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Special License Plates

License plate markings have proven effective in alerting police officers to cars owned by DWI offenders. In some jurisdictions, special plates, stickers or numbers are issued for a vehicle owned by a convicted drunk driver and constitute probable cause for stopping the vehicle. The special plates or stickers permit family members to continue to operate the vehicle that otherwise might have been impounded or had its registration suspended or revoked.

Three states — Iowa, Minnesota and Ohio — issue special license plates to permit the use of the vehicle by family members of convicted DWI offenders (NHTSA January 2001). In Minnesota, upon arrest for DWI/DUI, license plates are impounded and disposed of. Special license plates may be issued so the vehicle can be operated by a family member with a valid driver's license or by offenders who have a limited (restricted) license. These plates contain a special sequence of letters for drunk driving offenders. In



2000, Minnesota passed a law making it a separate crime for an offender to drive a vehicle without a special plate or for a person to knowingly allow a drunk driving offender to drive a vehicle without a special plate. The penalty for violation of this law is vehicle impoundment for one year.

A national survey of American adults conducted in 2001 found 50 percent of respondents favored special identifying license plates for convicted drunk drivers (Snow 2002). However, that wasn't the case in Washington and Oregon. Those states operated programs in which police officers, if they stopped an unlicensed driver, could take possession of the driver's vehicle registration, provide a temporary registration certificate, and place a striped tag, or zebra sticker, over the annual renewal sticker on the license plate. The programs had little public support, and the zebra tag law was allowed to expire in both states, but in Oregon, suspended license offenders with zebra tags had fewer subsequent drunk driving violations than suspended offenders who did not receive the special tags. The similar law in Washington state was not applied to nearly as many drivers and did not appear to reduce subsequent violations or crashes.

Standardized Field Sobriety Test (SFST)

The SFST is considered one of the best methods for determining whether a driver is over the legal BAC limit and includes the horizontal gaze nystagmus, which involves checking for an involuntary movement of the eyes, the walk-and-turn test and the one-leg stand test. Studies have confirmed the considerable accuracy of the SFSTs to assist officers in making DWI arrest decisions (Burns and Anderson 1995; Fazzalano 2000). Recent field studies with officers trained and experienced with the battery of tests found arrest decisions were more than 90 percent correct (Burns 1999).

Many prosecutors prefer officers to administer only the SFSTs to help make arrest decisions for DWI because the tests have been scientifically validated and are defensible in court (NHTSA 2001). However, field sobriety tests are often attacked in court, with the defense arguing that the officer's interpretation of the performance of the SFST is subjective. One way to minimize that challenge is to videotape the performance of the field sobriety tests (Kuboviak and Quarles 1998). *See in-car videotaping section.*

SFSTs are used in all 50 states and have become the standard pre-arrest procedures for evaluating DWI in most law enforcement agencies. Recent research and surveys of law enforcement officers notes one of the key issues with SFST is ensuring all patrol officers in the United States are trained to conduct the test.

Preliminary Breath Test (PBT)

PBTs and passive alcohol sensors can greatly aid the identification and apprehension of hardcore offenders. Almost 20 percent of the police officers surveyed in a recent research study said PBTs are the best tool for identifying repeat offenders (Simpson and Robertson 2001).



The preliminary breath test (PBT) is the most common chemical test conducted in the field. A PBT device is a small alcohol sensor used by having the driver blow into a mouthpiece to establish his or her BAC. In most states, police must have reason to suspect the driver has been drinking before a breath test can be administered (Shults et al. 2001), unlike a passive alcohol sensor (see following section). The PBT results are then used to substantiate the officer's opinion that the driver was impaired or intoxicated.

The devices are granted U.S. Department of Transportation approval if they meet accuracy and reliability standards. Generally, states allow PBTs to be used to provide evidence for an arrest but not to establish the driver's BAC in court. PBTs are not necessarily as accurate as evidentiary breath testers because the field conditions under which they are used are less controlled.

Because many police departments have a limited number of PBTs, a majority of officers lack regular access to them.

"Officers in our survey estimate that over three-fourths of all DWI arrests result from routine patrol, so it is imperative that patrol officers have regular and consistent access to PBTs to assist with the detection of repeat DWI offenders during routine traffic stops" (Simpson and Robertson 2001).

PBT is only one component of detecting hardcore drunk drivers. More experienced officers offer a note of caution with regard to the use of PBTs. In their experience, newer officers come to rely extensively on these test results. However, if the officer cannot establish reasonable grounds for applying the test, the results will be of no use in the prosecution of the case. It is still vital that newer officers be familiar with standard signs of intoxication and adept at conducting the SFST.

Where Are PBTs Used?

Preliminary breath tests are used in the following 36 states and Puerto Rico: Alaska, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Hawaii, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, Nebraska, Nevada, New Mexico, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, South Dakota, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. Preliminary breath tests are used absent specific legislative authority, but based upon case law in Georgia, Maine and Wyoming.

Is the Use of PBTs Effective in Overall Enforcement?

Studies (Voas et al. 1997) have found the presence of a state law allowing use of PBTs was associated with a lower alcohol-related fatality rate. The distribution of PBTs to state and local police in Minnesota resulted in a substantial increase in the number of DWI arrests.



Where to Go for More Information on PBTs:

Shults, R.A., et al. 2001. Reviews of evidence regarding interventions to reduce alcohol-impaired driving. *American Journal of Preventive Medicine* 21(4S): 66–88.

Simpson, H.M., and Robertson, R.D. 2001. *DWI System Improvements for Dealing with Hard Core Drinking Drivers: Enforcement*. Ottawa, Ontario: Traffic Injury Research Foundation.

Voas, R.B., Holder, H.D., and Gruenewald, P.J. 1997. The effect of drinking and driving interventions on alcohol-involved traffic crashes within a comprehensive community trial. *Addiction* Supplement 2: S221–S236.

Passive Alcohol Sensors

Passive alcohol sensors (PAS) — so called because they do not require active cooperation by the person being tested — are usually integrated into police flashlights or clipboards (for daytime use). These devices sense alcohol in the exhaled breath near the driver's mouth. They are more objective and reliable than an officer's nose, and they have been found to significantly improve the detection of drunk drivers. Proper training is required for effective use.

Unlike PBTs, they are not intrusive and are unlikely to be challenged based upon constitutional prohibitions against unreasonable search and seizure. Passive alcohol sensors can be particularly helpful in reducing the number of hardcore drunk drivers who go undetected at checkpoints.

While PAS results are usually not permitted in the court as prima facie evidence of DWI, they can establish probable cause for further investigation by an officer

How Effective Are Passive Sensors?

Studies have found these devices to be very effective. Their use has led to fewer high BAC drivers avoiding arrest and fewer low or zero BAC drivers being detained. A series of studies has shown passive sensors increase by about 50 percent the detection rate of drivers with BACs at .10 or greater in checkpoint operations (Voas et al. 1997).

One study found passive sensors can identify about 75 percent of drivers with BACs at or above .10 and 70 percent of BACs at or above .08 — a vast improvement of the 40 to 50 percent detection rate by police officers at checkpoints not using sensors (Farmer et al. 1999).



Where to Go for More Information on Passive Sensors

Burns, M.M. 1999. Identification of alcohol impairment outside the vehicle: Field sobriety tests. *Issues and Methods in the Detection of Alcohol and Other Drugs*. Washington, DC: Transportation Research Board, National Research Council.

Farmer, C.M., Wells, J.K., Voas, R.B., and Ferguson, S.A. 1999. Field evaluation of the PAS III Passive Alcohol Sensor. *Journal of Crash Prevention and Injury Control* 1(1): 55–61.

Fell, J.C. 2000. Comments on “Increasing the Opportunities to Examine Impaired Drivers.” *Issues and Methods in the Detection of Alcohol and Other Drugs*. Washington, DC: Transportation Research Board, National Research Council.

Grey, S.L. Spring 2001. Passive alcohol sensors and the fourth amendment. *Impaired Driving Update*. Kingston, NJ: Civic Research Institute, Inc.

Hedlund, J.H. 2000. What’s needed to improve police detection of alcohol and other drugs in drivers. *Issues and Methods in the Detection of Alcohol and Other Drugs*. Washington, DC: Transportation Research Board, National Research Council.

In-Car Videotaping

More and more jurisdictions are using in-car videotaping, which includes audio and video recording, as a valuable tool in DWI arrests. There’s widespread agreement that cameras can protect the rights of both police and citizens, exonerating officers of false complaints and monitoring police behavior. An in-car video camera enables the officer to record the actions of the vehicle prior to the stop as well as the performance of the DWI suspect on field sobriety tests. Prosecutors report DWI offenders often will plead guilty after watching a video of their arrest. These admissions of guilt reduce plea-bargain attempts and requests for costly jury trials. At the same time, police officers must be trained as to how to testify about the videotape of the hardcore drunk driver, recognizing the hardcore do not always appear as drunk as they are.

Many police agencies welcome video cameras as a way to document traffic stops are justified and conducted in compliance with sanctioned policies and procedures. Law enforcement officers frequently use videotape to document the arrest from the initial sighting of a traffic violation through transporting the defendant to jail. This helps establish that the offender was afforded due process and protects the officer as well.



Where Is In-Car Videotaping of DWI Suspects Used?

Law enforcement agencies in all 50 states use some form of mobile videotaping in their cars. According to the National Hardcore Drunk Driver Project survey, 47 states, one territory and the Navajo Nation use in-car videotaping to record DWI investigations as well as other kinds of offenses.

Since 2000, the Justice Department Office of Community-Oriented Policing Services has granted \$15 million to state law enforcement agencies nationally to equip 3,563 cruisers with cameras (McMahon 2002).

Texas, Ohio, and Arizona are recognized as having some of the best in-car videotaping programs, with frequent training required. Texas also has mandatory recording of DWI suspects in jurisdictions of over 25,000 people, and each of the state's 254 counties has some mobile video equipment in their cars (Kuboviak 2002).

How Effective Is In-Car Videotaping of DWI Suspects?

One study (Jones 1998) looked at video cameras' impact on successful prosecution, time until disposition and implied consent hearing requests. It found in-car videotaping of drunk driving arrests led to more successful prosecution.

Some defense attorneys say video cameras in police cars can actually help them. According to an article in *Lawyers Weekly USA* (Sept. 17, 2001), attorneys use the tapes to show defendants appeared sober and officers made mistakes conducting the sobriety tests. Defense attorneys are also getting cases dismissed if a camera was not turned on, if the roadside tests weren't conducted within the camera view or if the tape was lost or erased. While they admit the videotapes can help the prosecution if the defendant is falling down drunk, defense attorneys say such cases are commonly pleaded and if the defendant resists a guilty plea, the tape can help convince him or her to plead.

Video cameras were in about one-third of police cars in the U.S. in 2001, with vendors predicting the number to double by 2004. A 1996 NHTSA survey found 77 percent of the police departments using in-car videotaping had a favorable attitude toward the systems.

Police In-Car Video Camera Evaluation: The IACP is conducting a comprehensive evaluation on the installation, use and impact of police in-car video cameras in 47 state police and highway patrol agencies. This 18-month project, which began in June 2002, will examine and determine the impact of in-car cameras in four critical areas: police officer safety, agency liability, community perceptions of police and police professionalism (International Association of Chiefs of Police 2003).



Where to Go for More Information on In-Car Videotaping

Dam, J.L. Sept. 17, 2001. Drunk driving attorneys use police videotapes to win cases. *Lawyers Weekly, USA*. Lawyers Weekly, Inc.

International Association of Chiefs of Police. 2001. *Traffic Safety in the New Millennium: Strategies for Law Enforcement: A Planning Guide for Law Enforcement Executives, Administrators and Managers*. Alexandria, VA: International Association of Chiefs of Police.

Law Enforcement Mobile Video Institute, Inc. website. 2002. <http://www.lemvi.com>.

Jones, B. January 1998. In-vehicle videotaping of drinking driver traffic stops in Oregon. *Accident Analysis and Prevention* 31(1): 77-84.

Morrison, K. 2002. *Evaluation of In-Car Video Systems*. Jacksonville, FL: Institute of Police Technology and Management, University of North Florida.

National Highway Traffic Safety Administration. 1996. *In-Vehicle Videotaping of DWI Suspects*. Washington, DC: National Highway Traffic Safety Administration.

Pavic, B., Stoduto, G., Mann, R.E., Anglin, L., and Vingilis, E. 1997. Fast-track courts and video-cameras as drinking driving countermeasures. In: *Proceedings of the 14th International Conference on Alcohol Drugs and Traffic Safety*, Annecy, France.

A DUI Public Reporting Program: 1-800-GRAB-DUI

The Ohio State Highway Patrol started this toll-free hotline in 1991 to encourage the public to report drunk drivers and people who continue to drive despite convictions and license suspensions for impaired driving. In 1993, they added a cellular DUI system that provides free air time and allows motorists with a cell phone to dial *DUI to report DUIs and other roadside emergencies. From August 1, 1991, through September 30, 2001, 55,438 calls were received via 1-800 GRAB DUI and *DUI reporting lines. During the same time period, all enforcement efforts in the state, including the 1-800-GRAB-DUI, resulted in 17,399 habitual DUI offender arrests (Ohio defines habitual offenders as those with five or more DUI convictions). The highway patrol considers it to be an effective method to remove repeat offenders from the streets.

HOT Sheets

HOT sheets are lists sent periodically to police and other local authorities to alert them to offenders in their area who may be



driving with suspended or revoked licenses following multiple DWI convictions. HOT sheets can be developed and distributed by law enforcement agencies, or, as is the case in Ohio, produced by the Department of Public Safety. Ohio has had great success with its Habitual Offender Tally (HOT) sheets program, which compiles information supplied by law enforcement agencies and lists drivers with suspended licenses following five or more DWI arrests. The HOT sheets are distributed throughout every county in Ohio. Additionally, the Ohio Department of Public Safety reports offenders' names in its monthly newsletter, *HOT Sheet News*.

According to the March 2003, *HOT Sheet News*, between August 1991 and January 2003, the HOT Sheet program in Ohio resulted in 13,706 arrests of habitual offenders (five or more convictions).

Guidelines for a Suspended or Revoked Operator Enforcement Program, a NHTSA report that outlined HOT sheet programs in Ohio, Florida, West Virginia and Utah, noted the programs are most effective when combined with other traffic enforcement strategies such as sobriety checkpoints, blanket patrols or random traffic checkpoints (license, registration, insurance checks). The sheriff's office in Ohio County, West Virginia, has used the HOT sheet program as part of its checkpoint enforcement strategy.

The pilot HOT sheet program in Salt Lake County, Utah, resulted in a 14 percent increase in arrests for driving while suspended or revoked (Moser 1998).

Where to Go for More Information

Moser, Jr., A.N. 1998. *Guidelines for a Suspended or Revoked Operator Enforcement Program*. Washington, DC: National Highway Traffic Safety Administration and National Sheriffs' Association.

Media Blitzes & Public Information Campaigns

When used in conjunction with enforcement campaigns, media blitzes and public information campaigns play an important role in the fight against hardcore drunk driving. The purpose is to alert the public to an upcoming campaign through stories in print and electronic media, to raise the public's awareness of efforts to stop drunk driving and to deter the illegal behavior. Media blitzes and public information campaigns can help discourage motorists from driving drunk in the first place, which in turn leads to fewer repeat offenders.

Information and Intervention: Hand-in-Hand. The success of a public information campaign relies on strong backup by the promised enforcement: one doesn't work without the other. When enforcement is inconsistent, public compliance diminishes. "Publicity without sufficient enforcement is soon perceived as not credible; enforcement without publicity has too little impact on the drinking driving population to create a general deterrent effect" (Rodriguez 2002).



NHTSA's Impaired Driving Prevention Toolkit provides a resource for communities launching public awareness campaigns, including sample press materials. The toolkit also stresses the importance of campaign evaluation and provides assessment tools to help focus and evaluate progress towards the campaign's goals and objectives.

Where to Go for More Information on Media Blitzes and Information Campaigns

National Highway Traffic Safety Administration. January 2003. Impaired Driving Prevention Toolkit. Washington, DC: National Highway Traffic Safety Administration.

Challenges to Hardcore Drunk Driver Detection and Identification

Three problems often cited as undermining law enforcement efforts to curb hardcore drunk driving are test refusals, excessive paperwork and insufficient look-back periods (Simpson and Robertson 2001; NTSB 2000).

Test Refusals

Test refusals are a major problem for police officers who confront hardcore drunk drivers. Many DWI suspects refuse to cooperate with the police in any way by refusing to answer questions, take the field sobriety test, or take a breath test. But test refusals are most common with hardcore repeat offenders, primarily because they know they'll test high, they are familiar with the loopholes in DWI laws, and in most jurisdictions, sanctions for refusing to cooperate with police are much less severe than sanctions for a DWI conviction, especially repeat offender sanctions.

When drivers refuse, the police officer can't gather the evidence needed to support a DWI charge. As a result, in most states, drivers who are drunk and refuse testing avoid a criminal conviction and may not be identified as repeat offenders the next time they are stopped. Test refusal is one way hardcore drunk drivers continue to evade prosecution and sentencing. In a 2002 study on DWI prosecutions, three-fourths of the prosecutors interviewed said the blood alcohol test was the single most critical piece of evidence needed for a conviction, evidence they are frequently without (Simpson and Robertson 2001).

Refusal rates vary greatly from state to state. Some states report refusal rates of up to 50 percent for drivers with a prior DWI (Jones and Lacey 2000). In Simpson and Robertson's 2001 research report on DWI enforcement, law enforcement officers reported they experience test refusals in one-third of the cases they process, with refusal percentages running even higher among hardcore drunk drivers.

"Officers say they encounter some form of refusal in one-third of the DWI cases they process. And, 95 percent of the officers say that refusals are much more common among repeat offenders. Refusal rates vary widely across jurisdictions, from as low as 5 percent to as high as 50 percent, largely as a result of differences in the sanctions imposed on those who refuse" (Simpson and Robertson 2001).

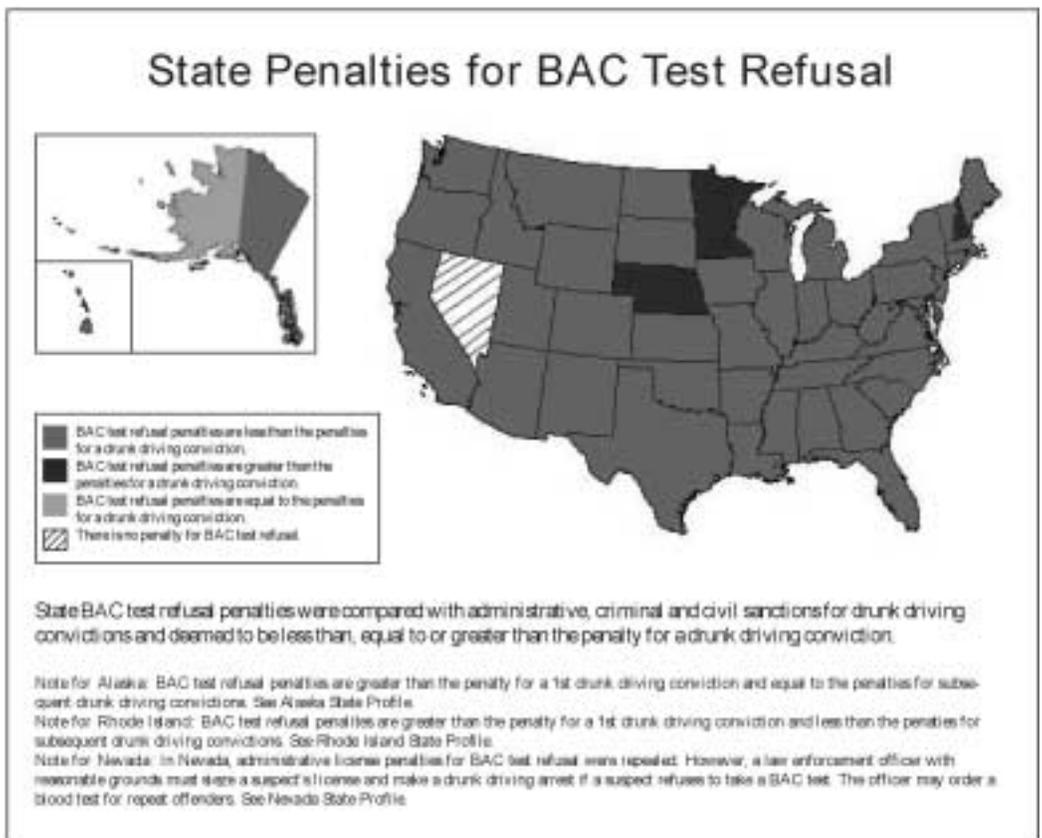


In Minnesota, where the test refusal rate is 14 percent (Hedlund and McCartt 2002), the state laws related to test refusals are among the strongest in the nation. Minnesota is one of five states (Alaska, Minnesota, Nebraska, Rhode Island, and Vermont) where BAC test refusal carries a criminal penalty. The Minnesota law considers BAC test refusal to be a drunk driving offense resulting in administrative and criminal penalties. Administrative sanctions for BAC test refusal include license revocation for 90 days on a first offense and one year on subsequent offenses with mandatory minimums. Limited driving privileges can be obtained after the mandatory license revocation concludes. Criminal sanctions are equal to the sanctions for drunk driving convictions.

In Nebraska, criminal penalties for BAC test refusal include jail, fines, probation, community service and license revocation. Administrative license sanctions for BAC test refusal include mandatory license revocation for one year. Offenders are not eligible for employment/hardship driving privileges, and the sanctions are greater than the administrative license sanctions for drunk driving convictions.

Strengthen Penalties for Refusals.

The National Committee on Uniform Traffic Laws and Ordinances (NCUTLO) recommends in its DUI model law that the penalty for test refusal should be double the penalty for test failure. It also recommends that a driver's refusal to take a BAC test be admissible in court. According to the National Hardcore Drunk Driver Project's survey of states, refusal to take a chemical test is not admissible in court in Hawaii, Massachusetts and Oregon. Rhode Island has no statutory or case law on the admissibility of BAC refusal.





Forty-one states and the District of Columbia have administrative license revocation laws for DWI test refusal or failure. In most states, the penalties involve an administrative license suspension of 90 to 180 days. This is much less severe than the criminal penalties for failing a chemical test. Furthermore, the administrative sanctions are often discretionary and lack sufficient consequences to be a deterrent (NHTSA 2000).

Excessive Paperwork

Interviews with law enforcement officers and a number of research studies have identified paperwork as a primary hindrance to DWI arrests. Documenting an arrest can take several hours of law enforcement time and require as many as 13 different forms, diminishing the time available for other enforcement activities. On average, 45 percent of arrests take one to two hours, but half of the officers surveyed in a recent report said it takes in excess of two hours. Such time consuming documentation not only can discourage officers from making a drunk driving arrest, but the excessive paperwork can also lead to frustration and, subsequently, errors or incomplete details in reports. That, in turn, can limit a prosecutor's ability to obtain a conviction. Because many hardcore drunk drivers refuse BAC testing, accurate paperwork is particularly vital in these cases because it becomes the primary source of evidence (Simpson and Robertson 2001).

In most jurisdictions, increased patrol time devoted to identifying and stopping alcohol-impaired drivers would be one of the greatest improvements to DWI enforcement. Reducing the paperwork associated with the arrest and processing through computer technology and the use of fewer and shortened forms is one of the most productive ways of increasing officer patrol availability (Jones et al. 1998). A DWI enforcement van, equipped with evidentiary breath test equipment and sometimes even a magistrate, can dramatically cut arrest processing time in checkpoint or blanket patrol operations (Hedlund and McCartt 2002).

Technology in the field remains grossly underutilized. A coordinated electronic record keeping system with driver license and driver record information readily available to patrol officers could prevent offenders from falling through the cracks. Some police departments in Arizona, Florida, Iowa, North Carolina and Wisconsin obtain information from drivers' licenses by swiping them through bar code or magnetic stripe readers. Police in West Des Moines, Iowa, have mobile data computers with bar code readers. When the license is swiped, the driver's information is stored and can be uploaded at the end of a shift (Simpson and Robertson 2001).

Insufficient Look-back Periods

The length of time or "look-back period" offenses remain on a driver's record is a key issue in identifying hardcore drunk drivers. Research reveals a wide disparity among the states concerning the period of time a prosecutor, judge or administrator may consider in reviewing an offender's records. States that provide for a shorter period of time run a greater risk of treating repeat offenders as first-time offenders, possibly leading to inappropriate sanctions and treatment.



All states have enacted laws defining a look-back period for criminal enhancement of a DWI offense to a repeat offense. These look-back periods range from three years to the lifetime of the offender. Federal legislation under TEA-21 calls for mandatory minimum sanctions to be imposed on repeat offenders who are convicted of a second or subsequent DWI or DUI within five years of a previous conviction.

Thirty-two states and the District of Columbia have passed laws complying with this mandate, which requires a one-year hard license suspension; vehicle impoundment or immobilization or the installation of an ignition interlock device on each of the individual's motor vehicles; an assessment of the individual's degree of abuse of alcohol and treatment as appropriate; and not less than 30 days community service or 5 days of imprisonment on a 2nd offense, and not less than 60 days community service or 10 days of imprisonment for 3rd or subsequent offenses.

In 2002, Massachusetts passed a law that allows judges to consider drunk driving convictions further back than ten years when sentencing offenders. Prior to the new law, a repeat offender would only serve time in a correctional facility after the third conviction within 10 years. Under the new law, all prior convictions will be taken into consideration.

| State Look Back Periods | | | | | | |
|--|---|---|---|----------|----------------|--|
| 24-36 Months | 5 Years | 6-9 Years | 10 Years | 12 Years | 15 Years | Lifetime |
| *Navajo Nation | AL, AS, AZ, DE, GA, Guam, *HI, ID, IN, *KS, KY, MD, MS, *MO, MT, *ND, Northern Marian Islands, Puerto Rico, RI, *WI, WY | *AK, *MI, *NE, NV, NC, *ND, *OH, PA, WA | *AK, CN, *HI, IL, LA, ME, *MA, *MI, MN, *MO, NH, NJ, NM, NY, OK, OR, SC, SD, TN, TX, UT, VA, Virgin Islands, WV | IA, *NE | Washington, DC | American Samoa, CO, FL, *KS, *MA, *OH, VT, *WI |
| <p>*States with more than one look back period: AK — 10 years on 2nd and subsequent offenses, 6 years for felony DUI on 3rd and subsequent offenses HI — 5 years on a 2nd offense, 10 years for felony DUI on 4th and subsequent offenses KS — 5 years on 2nd and subsequent offenses, lifetime for felony DUI on 3rd and subsequent offenses MA — 10 years on 2nd offenses, lifetime on 3rd and subsequent offenses MI — 7 years on a 2nd offense, 10 years on 3rd and subsequent offenses MO — 5 years on a 2nd offense, 10 years on 3rd and subsequent offenses NE — 8 years on 2nd and subsequent offenses, 12 years for sentencing purposes ND — 5 years on 2nd and 3rd offenses, 7 years on 4th offenses OH — 6 years on 2nd and subsequent offenses, lifetime for 3rd degree felony DUI on 5th and subsequent offenses WI — 5 years on a 2nd offense, lifetime on 3rd and subsequent offenses</p> | | | | | | |

A 10-year Minimum Look-back Period. The National Hardcore Drunk Driver Project, along with NHTSA, MADD and the NTSB, recommend states maintain at least a 10-year look-back period. Long record retention and look-back periods are important because of the low probability of arrest and the need for long-term measures to change the behavior of hardcore drunk drivers (NTSB 2000).



Statewide DWI Reporting Systems

Current, reliable statewide DWI reporting systems would go a long way in reducing the obstacles to identifying hardcore drunk drivers. In the past five years progress has been made, but much work still needs to be done. Access to reliable and current records is the cornerstone of any attempt to identify recidivist criminal behavior, regardless of the nature of the offense. However, because drunk driving offenders are usually processed through several different agencies, each of which maintains its own records, a system of shared information and data management is particularly important for recognizing hardcore drunk drivers. Many multiple DWI offenders are tried inaccurately as first time offenders, indicative of an under-reporting of multiple DWI convictions. Often there is no tracking to ensure offenders who are sent to treatment actually go, or even that information on the arrest, such as the offender's BAC level, is provided to the treatment agency.

DWI offenders may have separate records in any of the following agencies:

- law enforcement organizations;
- departments of motor vehicles;
- county and municipal courts;
- offices of prosecutors and district attorneys;
- probation and corrections offices; and
- education and treatment providers.

The primary stakeholders in a DWI information system are law enforcement agencies, courts, departments of motor vehicles, treatment facilities and correctional agencies. Many states have some form of a judiciary-based citation or case-based impaired driving tracking system. With the growing use of administrative sanctions for impaired driving, motor vehicle departments have an increasingly important role in managing these sanctions through the driver licensing systems.

Law enforcement officers' role in DWI information systems also has grown with the increased use of electronic citation systems, which provide them with immediate access to driver license and vehicle registration information. Without roadside access to records on prior arrests and driving violations, the officer is handicapped in his or her role as point-person for swift identification. For police officers, electronic citation systems provide the added benefit of reducing the paperwork and reporting burden, thereby increasing the time available for other patrol duties.

Delays in reporting or exchanging information regarding the disposition of traffic citations between the courts and licensing agencies commonly last six months or longer — sufficient time for a driver to commit additional traffic offenses, putting others at risk of death and injury.



Guidelines for a Model DWI Tracking System

The lack of appropriate record keeping across the country led the National Highway Traffic Safety Administration to develop guidelines for a model DWI tracking system. In the fall of 2002, NHTSA partnered with four states — Iowa, Nebraska, Alabama and Wisconsin — to implement the guidelines and create Model Impaired Driving Records Information Systems that:

- Track each impaired driving offender from arrest through dismissal or sentence completion;
- Provide aggregate data, for example, numbers of arrests, convictions, BAC distribution, and offender demographics;
- Conform to national standards and system performance standards;
- Ensure data is accurate, complete, and reliable; and
- Maintain quality control and security features that prevent core and essential data elements and/or impaired driving records from being compromised or corrupted.

NHTSA provided grants and the guidelines to the four partner states, all of which have some of the model components already in place and will be trying to fill in the gaps during the course of the three-year demonstration project. In 2003, NHTSA will publish the model requirements (which can be found in the Federal Register) and an interim implementation guide.

Features included in the model guidelines developed by NHTSA emphasize immediate sharing of data among law enforcement officers, DMVs and the courts, as well as electronic reporting to the courts and DMVs by probation, treatment or correctional agencies with regard to compliance or non-compliance with administrative or court sanctions. The citation tracking system would provide real-time tracking from the distribution of citation forms to issuance by police officers, through final adjudication and the imposition and completion of administrative and judicial sanctions.

Data generated from a model system would include the number of first and repeat offenders, referral rates to treatment, conviction rates and the rates of BAC refusal, sentence or adjudication diversions or deferrals, as well as a myriad of other information important to identifying the most effective methods of dealing with hardcore drunk drivers.

Where to Go for More Information on the Model Information System

Model information guidelines can be found in the Federal Register, Vol. 67, No. 113, June 12, 2002. Once the guidelines are published in 2003, they will be available through the NHTSA Impaired Driving Division and, along with interim implementation guidelines, will be available at the NHTSA website, <http://www.nhtsa.dot.gov>.



Other Data Collection Systems

The Model Impaired Driving Records Information Systems is one small component of the National Model for the Statewide Application of Data Collection & Management Technology to Improve Highway Safety (National Model). The National Model and the Transportation Safety Information Management System (TSIMS) are two broad-based data tracking systems with drunk driving components.

The National Model was launched in 1997 when the State of Iowa, partnering with the Federal Highway Administration, created a fully integrated safety management system to make data collection for all roadway incidents, not just those involving drunk driving, easier, faster and more accurate. Data, which can be collected with Traffic and Criminal Software (TraCS), is available for local use simultaneously with the electronic transfer to the statewide files. Local staffs can analyze the data the same day it is collected, as opposed to the months it took previously, start to finish, to enter all required data and mail all documents to the proper authorities.

More general still is the TSIMS, a program sponsored by AASHTO (American Association of State Highway and Transportation Officials) on behalf of its member organizations. The goal of TSIMS is to develop a common information management infrastructure to support state and local traffic safety information management requirements. TSIMS is an information system designed to facilitate the capture, storage, management, retrieval and analysis of the data that comprise a comprehensive traffic records system at a state and/or local level.

Sharing Information Across State Lines

The Driver License Compact

Another key to assuring accurate records is the sharing of information across state lines so out-of-state offenses are included in an offender's driving history. This has a direct impact on the identification of the hardcore offender who, without cross-state record keeping, can obtain a driver's license from another state to avoid being identified as a multiple offender. The Driver License Compact (DLC), an agreement among 45 states and the District of Columbia, is one attempt to prevent offenders from skirting the law. The DLC and another interstate compact, the Non-resident Violator Compact (NRVC), are administered by the American Association of Motor Vehicle Administrators (AAMVA).

The DLC illustrates the states' ability for cooperative action and affirms that offenses, including drunk driving, will be treated with the full force of the law regardless of jurisdiction. The major provisions of the DLC are:

- The one driver license concept, which requires the surrender of an out-of-state driver's license when application for a new license is made;



- The one driver record concept, which requires that a complete driver record be maintained in the driver's state of residence to determine driving eligibility in the home state, as well as non-residence operator's privilege in other jurisdictions;
- The reporting of all traffic convictions and license suspensions and revocations of out-of-state drivers to the home state licensing agency, as well as other appropriate information; and
- The assurance of uniform and predictable treatment of drivers by treating offenses committed in other states as though they have been committed in the home state.

For example, if a driver gets a ticket in one state, that department of motor vehicles will relay the information to the driver's home state, whereby the violation will be added to his or her driving record, just as if the ticket had been issued in the state of current residence. Both the Driver License Compact and the Non-resident Violator Compact are being revised into a single, more effective compact called the Driver License Agreement (DLA).

The National Driver Register

Maintained by NHTSA, the National Driver Register (NDR) is a computerized central repository of information designed to help prevent the issuance of a driver's license to drivers whose licenses have been revoked, suspended, denied or cancelled anywhere in the country, or who have been convicted of serious traffic violations such as driving while impaired by alcohol. State driver-licensing officials query the NDR when individuals apply for a license to determine if the applicant's driving privilege has been withdrawn in any other state. Because NDR is a nationwide index of driver records from all states, a state needs to submit only a single inquiry to obtain this information. The information obtained from the NDR assists state driver-licensing officials in determining whether or not to issue a license (NHTSA Highway Safety Desk Book 1996).

Federal agencies that certify pilots, locomotive engineers and ship operators also use the NDR to avoid certifying or recertifying individuals who have a problem driving history, especially alcohol-related. Employers who hire individuals to operate motor vehicles also use the NDR to avoid hiring problem drivers.

All fifty states and the District of Columbia contribute information and have electronic access to the NDR file, which contains records for approximately 36 million drivers. During 2001, the NDR processed approximately 44,445,087 file checks, which resulted in more than 5 million probable identifications of problem drivers.



CERTAIN PUNISHMENT

Certain punishment is the second crucial component to combating hardcore drunk driving. In conjunction with swift identification, certain punishment is necessary not only to penalize the hardcore drunk driver but to deter repeat behavior. Public pressure to deal severely with the problem has resulted in stricter legislation and tougher law enforcement. Among the byproducts:

- Over the years, more than 2,000 laws have been passed to punish convicted drunk driving offenders.
- Many courts are inundated with DWI cases. Approximately 1.5 million people are arrested for drunk driving in America each year, a number that presents a tremendous challenge to the judicial community as the cases move through the system.
- DWI offenses are the most frequently adjudicated misdemeanor in the lower courts. For example, in Minnesota, almost 40 percent of the criminal calendar is DWI-related (Robertson and Simpson 2002).

In addition to their frequency, drunk driving cases are among the most complicated criminal cases in terms of legal and evidentiary issues. Successful prosecution is frequently complicated by new legislation, changing case law and sophisticated defense techniques.

What is the best sentencing strategy to prevent or discourage the hardcore from driving drunk? While drunk drivers vary greatly in terms of their response to specific deterrence efforts, judicial policies increasing the swiftness of adjudication and the certainty of punishment of convicted offenders are greater deterrents than policies increasing the severity of punishment (NHTSA 1996). But those two words — *sure* and *swift* — rarely apply to judicial proceedings for drunk drivers. Often there are significant delays between the offense and the trial or disposition of DWI cases. And plea-bargaining and pre-trial diversion programs can result in a conviction on a reduced charge, which in turn, avoids a drunk driving conviction on the driver's record. Sentencing guidelines often are ignored and licensing sanctions reduced (Voas 1995).

Many drunk driving laws allow the judge considerable discretion in sentencing. Sometimes these laws are enforced to the fullest extent, but for a variety of reasons unique to each locality, many times they are not. Some key judicial problems identified by judges include sentence monitoring, evidentiary problems, caseload, motions and continuances, failure to appear, records, sentencing disparity, mandatory minimum sentences and juries (Robertson and Simpson, June 2002).

When hardcore drunk drivers receive a lenient sentence, the deterrent effect of the laws is considerably weakened.



Two Tracks: Criminal and Administrative Procedures

The cumulative effect of these problems in the criminal justice system has led to changes in the application of some DWI programs and laws. Functions traditionally handled through the criminal justice system have been transferred to the states' motor vehicle departments, with the arresting police officers acting on their behalf.

The most notable examples of administrative procedures are administrative license revocation (ALR) or suspension (ALS) laws, which are administrative actions of the Department of Motor Vehicles (DMV) and independent of court action. These laws allow the arresting police officer to revoke or suspend the license of drivers who either fail or refuse to take a chemical test for alcohol. The officer issues a receipt to the driver and sends the license to the DMV. In most states, the receipt serves as a temporary license, often for seven days, to allow the offender to make other transportation arrangements. This action, sure and swift, increases deterrence and has proven effective in reducing alcohol-related fatal crashes. *For more information, see section on Administrative Licensing Actions.*

Many jurisdictions also are employing other administrative actions aimed at drunk drivers. For example, the arresting police officer, again acting on behalf of the DMV, can suspend and seize vehicle tags or registration of repeat DWI offenders. In some states, such as Maryland, California and West Virginia, alcohol safety interlock programs are managed administratively by the motor vehicle departments. Several vehicle impoundment and forfeiture programs also are handled administratively.

In Minnesota, people arrested for drunk driving who have a previous offense within 10 years or who have a BAC of .20 or higher will have their license plates impounded and destroyed by a police officer acting as an agent of the Department of Public Safety. Replacement plates are issued only when the license revocation order has been rescinded after the mandatory minimum impoundment period.

A study found Minnesota's license plate impoundment law to be quite effective. Violators who received a police-issued impoundment order had one-half the recidivism rate as compared to similar offenders who did not receive this order (Rodgers 1994). Originally, the Minnesota license plate impoundment law was managed through the courts. However, after 29 months only 6 percent of eligible offenders received this penalty. Subsequently, the law was amended to allow for administrative management of the program through the Department of Public Safety, and in the first 21 months approximately 68 percent of eligible offenders had their plates impounded.

The most extensive current use of administratively imposed vehicle sanctions is in the state of California. In 1995, two laws went into effect enabling law enforcement officers to immediately impound for 30 days vehicles of anyone driving with a suspended license. According to law enforcement agencies throughout the state, more than 100,000 vehicles are being impounded each year. An evaluation of the law showed among repeat offenders whose vehicles were impounded, there were 34.2 percent fewer traffic



convictions and 37.6 percent fewer crashes (DeYoung 1998).

That same year in San Francisco, 7,066 vehicles were impounded, and a traffic offender fund generated \$721,000 in administrative fees and collected an additional \$1 million from vehicle registration, citations and towing fees. The San Francisco program resulted in increased DUI enforcement and a 26 percent reduction in total fatal and injury crashes (ICADTS 1997).

Administrative procedures generally involve the license and/or the vehicle, while criminal procedures generally involve the driver. These administrative procedures do not take the place of criminal proceedings against drunk drivers. Every state has laws authorizing — and in some cases mandating — incarceration, and all DWI cases covered by these laws are handled through the judicial system. Offenders who are subject to administrative sanctions usually remain subject to a separate criminal process, which could lead to additional penalties and sanctions.

While both the criminal and administrative tracks can be effective methods for dealing with hardcore drunk drivers, the key is to use a combination of actions to bring about long-term behavior change.

Driving While Suspended: Sidestepping the System

A perpetual challenge in the fight against hardcore drunk driving is the pervasiveness of people driving while their driver's licenses are suspended or revoked. Taking a hardcore offender's license away is often not enough to keep him or her off the road. Studies have found as many as 75 percent of these drivers continue to drive during periods of suspension or revocation, albeit less often and more carefully. An observational study at one site found 88 percent of first-time DWI offenders whose licenses were suspended drove during their suspension period (McCartt, Geary, and Nissen 2002).

The number of offenders driving while suspended (DWS) has increased with the widespread use of administrative license revocation. Only a small proportion of DWI offenders reinstate their licenses when eligible because the process is time-consuming and costly in terms of fees and other requirements. Notification of the driver's insurance company of his or her suspension, attendance at education or treatment programs, or use of an alcohol interlock are often required by states before a license is reissued. Researchers also attribute the low incidence of re-licensure to a perception on the offender's part that the risk of apprehension for driving while suspended is not great enough to justify the hassle of reinstatement (Voas 2001).

This reluctance on the part of the offender to reinstate his or her license poses several threats to addressing the drunk driving and driving-while-suspended problem. Low rates of license reinstatement weaken the authority of motor vehicle departments to motivate safe driving since re-issuance of the license is the only incentive they can offer. Offenders' lack of interest in driving legally also threatens mandatory interlock laws.



Reduction in the number of offenders who drive while suspended or revoked is important because research shows these offenders are over-represented in crashes. In California, drivers with suspended or revoked licenses have 3.7 times the fatal crash rate as the average driver (NHTSA Traffic Tech 1998). The National Transportation Safety Board (NTSB) found drivers with suspended or revoked licenses and a prior DWI are 4.43 times more likely to have been drinking at the time of a crash than those with a valid license and no prior DWI. Another study found the percentage of drivers in fatal crashes under the influence of alcohol was 56.7 percent for suspended drivers and 74.1 percent for revoked drivers (Griffin and DeLaZerda 2000).

According to NHTSA, 43 percent of fatally injured drivers in 1998 with a positive BAC had at one time or another had their licenses revoked or suspended. A 2003 study found overall, drivers without a valid license have a much higher percentage of alcohol involvement preceding a fatal crash than drivers with valid licenses (Scopatz et al.).

The 2003 AAA Foundation for Traffic Safety follow-up study on unlicensed driving found the proportion of drivers in fatal crashes whose licenses had been revoked, expired or canceled declined by a small amount between 1993 and 1999. However, the statistics for suspended drivers were not so encouraging: the proportion of suspended drivers involved in fatal crashes increased slightly from 4.5 percent in 1993 to 5 percent in 1999 (Scopatz et al.).

"Unlike speeding, non-use of safety belts or driving while impaired, driving with a suspended or revoked license is an offense that cannot be observed by patrol officers and clues cannot be articulated to justify a legal traffic stop" (Moser 1998).

Effective Deterrents for Driving While Suspended

Deterrence of DWS can be increased by ensuring a swift application of severe penalties. Jail is one often-used penalty. However, cost and sporadic prosecution for DWS has limited its use.

A number of studies have found sanctions against an offender's vehicle can be an effective countermeasure to driving while suspended or revoked. Minnesota has a vehicle license plate impoundment program allowing for license plate seizure at the time of arrest for driving-while-revoked recidivists. In the year after the law went into effect, drivers whose plates had been impounded had a 50 percent lower recidivism rate than those whose plates were not (Moser 1998).

Some states are adopting tougher measures to crack down on DWS. As part of Michigan's recently enacted Repeat Offender Package, DWS offenses will be punished by immobilization and plate seizure. These laws apply even to vehicles not owned by the offender if the owner knowingly let him or her drive (Michigan State 2002).

A study in Ohio found the DWS recidivism rate of offenders whose vehicles were not immobilized was 100 percent higher than those whose vehicles were (Voas 1998). Another study found an 18 percent reduction in recidivism among DWS offenders in



Christchurch, New Zealand, who participated in a cognitive behavioral therapy treatment program emphasizing anger management, stress management and communication skills (Bakker, Hudson, and Ward 2000).

Based on interviews from six states with DWS countermeasures in place, the 2003 AAFTS study on driving without a valid license recommends states do the following to combat DWS:

- Implement and enforce administrative license revocation and suspension laws;
- Establish vehicle impoundment, seizure and immobilization programs for DWS;
- Implement plate removal at the scene;
- Implement special plates or stickers as probable cause for a traffic stop;
- Establish mandatory jail time for multiple offenders;
- Establish ignition interlock programs;
- Establish a separate law enabling license status checkpoints;
- Block registration of vehicles by drivers lacking a valid license;
- Establish strong administrative control of license actions;
- Establish driver assistance programs and informational campaigns on relicensing;
- Reduce the use of plea-bargaining of DWS charges; and
- Create links between driver and vehicle registration files (Scopatz et al.).

Where to Go for More Information on DWS

Moser, Jr., A.N. 1998. *Guidelines for a Suspended or Revoked Operator Enforcement Program*. Washington, DC: National Highway Traffic Safety Administration and National Sheriffs' Association.

Griffin, L.I., and DeLaZerda, S. June 2000. *Unlicensed to Kill*. Washington, DC: AAA Foundation for Traffic Safety.

Prosecution of DWI Cases

For some prosecutors, DWI cases may be their first assignment following law school. In a 2002 study almost half (48 percent) of prosecutors surveyed reported they were not provided with adequate training or preparation before handling DWI cases in their jobs as prosecutors, and over one-third (34 percent) of judges believe prosecutors do not have the same knowledge or expertise about DWI as defense attorneys do (Robertson and Simpson 2002). Coupled with inexperience and high turnover, prosecutors also face the additional burden of inadequate staff and resources for the number of DWI cases they are charged with handling.

In an attempt to provide more effective and efficient prosecution and adjudication of drunk driving offenses, South Carolina utilizes federal grant funding to provide special prosecutors for DWI offenses. Prosecutors operate in seven selected counties in the state.



The South Carolina Commission on Prosecution Coordination also receives grant funding to provide DWI prosecution training to law enforcement officers, solicitors and summary court judges.

Jury trials — an option allowed in some jurisdictions — present special prosecution challenges. Unlike other crimes, many jurors will admit to having driven while intoxicated and may be inclined toward leniency for the drunk driving offender on trial. This, combined with a talented defense attorney's arguments, can lead to jury identification with the offender (Robertson and Simpson 2002).

Witness testimony is a vital part of the evidence in a jury trial. Police officers need to be able to properly articulate their cases. Omissions or insufficiently detailed testimony can lead to the dismissal of a case or acquittal of the defendant. This is especially important since repeat offenders are more likely to opt to go to trial.

In a 2001 study by Simpson and Robertson, police officers said their credibility as witnesses was undermined by a lack of opportunity to prepare for cases, a lack of experience testifying in general and the difficulty of providing the court with the desired level of specificity upon cross-examination.

Officers' testimony could be improved by training seminars run by officers with experience testifying, mock trials for skill development and greater testimony guidance by prosecutors.

Sentencing Objectives

Sentencing of hardcore drunk drivers may have several objectives, including retribution, specific and general deterrence, incapacitation and rehabilitation (NHTSA 1996):

- **Retribution**, which is the foundation of criminal law, seeks to punish the offender, primarily by confinement and fines.
- **Specific deterrence** refers to keeping the offender from repeating the offense through the experience of past punishment and the fear of future punishment.
- **General deterrence** is aimed at changing the behavior of the general driving public by making the community aware drunk driving will result in stiff penalties.
- **Incapacitation** means denying the offender the chance to repeat the offense, which can be accomplished by sentencing the driver to jail, home confinement with electronic monitoring or a dedicated detention facility. Other attempts at incapacitation include license revocation, immobilization or confiscation of the offender's vehicle, and in-vehicle devices prohibiting the use of a vehicle if the driver has been drinking. Incapacitation needs to be lengthy enough to provide an opportunity for the offender to recover from his or her alcohol problem before returning to full driving privileges.



- **Rehabilitation** refers to offender reform through sentences including DWI education, alcohol assessments, alcoholism treatment and aftercare in tandem with intensive monitoring, supervision and probation.

Sentencing imposed on hardcore drunk drivers usually includes financial penalties as a restitution of losses or as a means to support court costs.

According to research, more than two-thirds of drunk driving offenders who come before the court are hardcore drunk drivers (Voas and Fisher 2001). When these offenders come before the judicial system and are found guilty of DWI, it may be one of the only opportunities for the system to address the offender's problem and the reasons for his or her recidivism. Research has shown alternative sentencing methods, DWI courts and sentences tailored to each offender can have a profound effect on an offender's ability to avoid re-offending (Jones and Lacey 1998). Likewise, drunk driving sentences handed down without regard for the source of a hardcore drunk driver's problem can result in another DWI offense or worse, death or injury.

Issues in Adjudication

Certain, consistent and coordinated sentencing is key to reducing DWI recidivism. As noted previously, when it comes to sanctions, certainty and consistency have greater impact than severity. Additionally, communication among the courts, evaluators, probation officers and treatment providers must be coordinated to ensure compliance with the sentence. NHTSA lists five factors that help reduce DWI recidivism:

- Evaluating offenders for alcohol-related problems and recidivism risk;
- Selecting appropriate sanctions and remedies for each offender. No single sanctioning and treatment strategy is effective for all offenders;
- Including provisions for appropriate alcoholism treatment in the sentencing order for offenders who require treatment. Treatment alone never substitutes for sanctions or remedies, and sanctions and remedies do not substitute for treatment;
- Monitoring the offender's compliance with sanctions and treatment; and
- Acting swiftly to correct noncompliance.

Arkansas state sentencing guidelines for offenders illustrate the judicial discretion affecting sentencing: "Defendants who immediately stop and cooperate with the police may be due lighter sentences than those who flee, resist arrest, or otherwise challenge officers in the field. A defendant with no record and a .08 BAC may merit less punishment and be in less need of rehabilitation than one with a .20 BAC and prior convictions" (Little Rock Traffic Court 2003).

Judges have an obligation to comprehensively sentence the hardcore drunk driver in order to protect the public while restricting



and rehabilitating the offender. Judicial seminars may help make judges aware of the menu of effective sentencing options available to them.

Test Refusal

A significant issue affecting sentencing is the problem of implied consent BAC test refusal. When an offender refuses to consent to a blood alcohol concentration test, he or she deprives the court of evidence necessary to prove the offender was driving drunk. A 2002 survey reported 73 percent of prosecutors considered a BAC the single most convincing piece of evidence in a jury trial, and 92 percent of prosecutors reported test refusal was more common among repeat offenders. A companion study on judges found 73 percent of judges surveyed believe evidence of a refusal should be admissible at trial, and 47 percent believed it should be admissible during sentencing (Robertson and Simpson 2002).

Even if an offender refuses to be tested, he or she can still be brought to trial for a DWI offense. However, prosecution is more difficult and relies on an officer's observation and testimony. Four states — Hawaii, Massachusetts, Rhode Island and Oregon — do not allow information concerning test refusal to be presented in court. Because evidence in DWI trials is so complex, it is often the chemical test result that provides the most compelling case for conviction. Hardcore drunk driving offenders who refuse the test are often trying to circumvent the system. *For a more in-depth discussion, see test refusal in the Swift Identification section.*

Failure to Appear

Failure of defendants to appear at hearings is another serious problem in prosecuting hardcore drunk driving cases, yet typically, only nominal penalties apply.

Failure to appear reduces the court's ability to determine guilt and to devise sanctions for an offender who is found guilty. Failure-to-appear cases cannot plead guilty. When a defendant fails to appear, an arrest warrant is often issued, but the defendant may cross state lines and never be found. Offenders who live near state lines and commit crimes in a neighboring state may be tracked only if the two states have a linked, computerized system of warrants.

A 2002 survey of prosecutors revealed 22 percent of defendants in drunk driving cases fail to appear during some point in their case, and the percentage is even higher in border states and jurisdictions with large immigrant populations, where some offenders may not have legal status in the United States.

Sixty-five percent of prosecutors and a majority of judges surveyed believe failure to appear is more common among hardcore repeat offenders than among non-hardcore. Prosecutors suggest defendants who fail to appear be held in custody until trial or released on bail to ensure appearance. Judges have also supported these solutions, along with transportation and cost-sharing



agreements to encourage jurisdictions to make it cost efficient to hold defendants on bench warrants (Robertson and Simpson 2002).

Some judges have proposed innovative solutions such as telephone reminders. Judge David Admire in King County, Washington, sends defendants a telephone reminder prior to their scheduled court appearances. Failure-to-appear rates have dropped from 42 percent to 18 percent (Robertson and Simpson 2002).

Ultimately, penalties must be increased for failure to appear at court. Studies recommend penalties for failure to appear reflect the severity of the crime (Robertson and Simpson 2002; Jones, Lacey, and Williszowski 1998).

The Todd Program: Customized Sanctions Reduce Recidivism in Rockdale County, Georgia

Judge William Todd's program in the State Court of Rockdale County, Georgia, combines traditional and alternative sanctions that are individually tailored to the drunk driving offender's needs. The program works to ensure consistency by keeping detailed records of the facts of each drunk driving case, including the sentence handed down. These records provide the court with a valuable resource when encountering cases similar to previous cases handled by the court.

The program carefully includes a pre-sentence investigation done by Judge Todd, who draws upon a database his court created and maintains. Judge Todd considers specifics of a case (i.e. the past record, BAC, presence of other drugs, crash/injuries) in determining jail time. In sentencing, Judge Todd uses rehabilitative measures such as counseling, victim impact panels, Alcoholics Anonymous meetings and essays.

For those offenders sentenced to probation, Judge Todd works to monitor compliance with probation conditions by employing restrictive measures such as work release, house arrest, frequent meetings with a parole officer, random alcohol and drug testing, alcohol treatment, ignition interlock devices and the seizure of license plates. He backs up his program with swift punishments for parole violations, including arrest warrants, weekly hearings and stricter probation modifications. Conversely, compliance is rewarded with gradual easing of restrictions.

Judge Todd's program was evaluated for the National Highway Traffic Safety Administration (NHTSA). The study compared Judge Todd's court with another local court where only the minimum sentence was imposed. The study found recidivism in Judge Todd's program was far lower (about one-half) than the other local program using minimum sentences. The study also concluded the Todd Program could be implemented in other courts interested in developing a program to reduce recidivism among drunk driving offenders (Jones and Lacey 1998).



Records

As is the case with every other aspect of the battle to reduce hardcore drunk driving, complete and accurate records are crucial for appropriate sentencing, yet record keeping is spotty. Without complete records, the judge cannot reference previous sanctions imposed on the offender or determine whether the sentence was completed. This information also needs to be available at the time the court sets bail or bond for offenders. All too often hardcore offenders are not identified, slipping through the system with a sentence geared toward a first-time offender. Improvements in record keeping can enable courts to sentence hardcore offenders more comprehensively and appropriately.

Helpful Tools. Tools do exist to help judges determine appropriate sentences for offenders. One such tool is the DWI Sentencing Calculator for Magistrates. The interactive program from the University of New Mexico Judicial Education Center provides the minimum and maximum sentencing requirements and options according to state statute after the judge enters the circumstances of a particular case. The program allows judges to quickly calculate the sentence ranges applicable to a particular case (New Mexico Judicial Education Center 2003).

However, for hardcore offenders, no automated approach can replace reasoned judgment based on a careful evaluation of the nature of the offender's problem.

Pre-Sentence Investigations

By conducting pre-sentence investigations or interviews with drunk driving offenders, a judge is able to review the offender's record, the previous sanctions imposed and the offender's compliance history. This information enables the judge to choose sanctions that effectively reduce recidivism and protect the public while also imposing rehabilitation requirements to treat the offender for alcohol problems. "This type of comprehensive sentence is more likely to effect behavior change" (Judge William Todd, Lifesavers Conference remarks 2002).

DWI Courts

The high volume and lack of resources in many courts risk the development of a "fast food" justice system where offenders are processed quickly and without regard for their individual rehabilitation and restriction needs. Courts experiencing DWI case overload can be helped by a variety of resources such as a court manager, a special facility dedicated to hardcore drunk drivers or a judge who works only on DWI cases.

In many courts, a heavy caseload of DWI offenders is intermingled with a variety of proceedings ranging from car theft to murder. DWI courts allow the judge and prosecutor to specialize in DWI cases and keep those cases from getting lost on the docket. DWI



courts provide extended judicial monitoring of hardcore drunk driving offenders and have been developed to place drunk driving offenders into programs designed to promote recovery, reduce recidivism and effect behavioral change. These courts usually include close supervision from judges and treatment providers, including regular BAC testing and offender accountability. This approach is relatively new and has yielded promising results in various parts of the country. It is supported by a majority of judges surveyed, who recommended the use of DWI courts be expanded (Voas and Fisher 2001).

According to the National Drug Court Institute, there are at least 60 DWI courts in the nation and 10 more in the planning stages. The nation's first drug court focusing on alcohol offenses was initiated in Bakersfield, California in July 1993 (Mays, Ryan, and Bejarano 1997). In 1995, the Las Cruces Municipal DWI Drug Court became the second program in the nation and was the first to incorporate an outpatient approach to DWI Court. The City of Chicago has dedicated DWI Courts provided through the Traffic Center. These centralized, specific courtrooms are staffed by state judges and prosecutors whose sole responsibility is the adjudication of DWI offenders.

Diversion Programs

A number of states have programs allowing certain DWI offenders to be diverted from criminal sanctions by entering alcohol education or treatment programs. Diversion programs (DPs) are intended for first offenders and may be referred to by a number of different terms: deferred prosecution, deferred judgment, deferred adjudication, deferred sentencing, pre-trial diversion, probation before judgment, continued without a finding, etc.

With strong supporters and harsh critics, DPs generally allow charge dismissal after successful completion of a treatment or education program and can prevent or delay information about an offense from appearing on the offender's driving record. While the programs may require offenders to seek treatment for drinking problems, opponents say too often they are used in place of sanctions with known effectiveness in reducing crashes and violations.

Individually Tailored Sanctions for Each Offender, Hancock County, Indiana Superior Court #2

Judge Richard D. Culver's program receives all of the DWI and alcohol offenses as the result of a local rule that routes those cases to Superior Court #2. Three full-time alcohol and drug certified probation officers assist Judge Culver by overseeing the alcohol and drug offender cases.

The goal of Judge Culver's program is to achieve rehabilitation without endangering public safety. Alternatives to facilitate rehabilitation include abstinence, Alcoholics Anonymous, outpatient substance abuse counseling, inpatient treatment and a jail intervention program that provides counseling for those in custody. The court also utilizes a sober life program that includes counseling and antabuse. The goal of each sentence is to impose a fair penalty for the defendant, protect society from relapse and provide treatment to break the cycle of recidivism.

Programs are tailored to each individual offender and center on personal responsibility. If an offender's drug test shows a violation, a warrant officer will arrest the offender within 48 hours. The program integrates involvement from the entire community — law enforcement, defense counsel and prosecuting attorneys, as well as the offenders' families, who agree to provide support for Culver's efforts.



Diversion programs make it more difficult to identify hardcore drunk drivers. Most offenders seek DP status to avoid having a driving record or criminal history showing a DWI conviction. In some states, diversion allows the offender to retain a valid driver's license. This means no increase in insurance premiums. Also, professionals who are licensed by the state or federal government, including pilots, truck drivers, police officers and lawyers, can avoid damage to their licenses or certifications.

A 2002 AAA Foundation for Traffic Safety study recommends the elimination of diversion programs allowing offenders to escape license suspension and to have the DWI offense removed from the driving record. The report recommends every convicted drunk driver have at least a 30-day license suspension and that drivers should not be allowed to obtain hardship licenses immediately.

In general, diversion programs allowing a dismissal of charges after completion of treatment programs do not appear to reduce recidivism. A 1991 study also found deferring prosecution as an incentive for entering a treatment program to be ineffective (Jones and Lacey 2001).

The National Transportation Safety Board and others have recommended the elimination of diversion programs. One criticism is that without proper record keeping and centralized reporting, a repeat offender could be classified as a first offender multiple times.

However, proponents say many states use diversion programs to the benefit of both the system and offenders by channeling the offender into treatment while relieving a strain on the courts. Such programs are primarily for first offenders, with safeguards prohibiting an individual from benefiting twice. However, just as hardcore offenders have found ways to circumvent the system in other areas, they can and do dodge these safeguards, in some cases benefiting from diversion programs numerous times. In the event good records are kept, many states return the original offense to a conviction if the offender is subsequently re-arrested.

A 1997 study conducted on an El Paso, Texas, pre-trial intervention (PTI) program found offenders who were convicted of DWI and then put on probation had a 47 percent greater risk of re-arrest for DWI than individuals who completed the PTI program post-arraignment and had the charges dismissed (Lucker and Osti 1997). The PTI program included caseworker supervision, state certified alcohol abuse and DWI classes, and an alcohol interaction group with alcohol evaluation.

Connecticut has a pre-trial diversion program for high BAC offenders, allowing them to attend rehabilitation/alcohol education in return for dismissal of the charges. If the driver is a repeat offender, he attends more sessions at a higher cost than other offenders.

Other states do not allow diversion for high BAC offenders. Iowa does not allow high BAC offenders to participate in a deferred judgment program resulting in a dismissal of charges after the fulfillment of an alcohol education/treatment program (McCartt et al. 2001).

The state of Washington is unusual in that the program there is not specifically designed for any particular level of offender (i.e., first, second, third, etc.) but is for alcoholic and drug addicted offenders exclusively. Washington's "deferred prosecution" is available to an



offender only once. The program requires the offender to spend two years in treatment, attend a self-help group, and if the offender is successful, the judge will dismiss the charges. The offender agrees when going into the program to waive the right to further argument in the case, and if he or she drops out or otherwise fails to finish treatment, a guilty verdict is summarily pronounced. Also, following successful completion and the dismissal of charges, the offender's license is placed on probationary status for five years. A study prepared for the Washington Traffic Safety Commission in 1993 found offenders who participated in the program repeated their offenses at a rate of only 22 percent as compared to 48 percent for convicted drivers who did not participate.

Pennsylvania's Accelerated Rehabilitative Disposition (ARD) is available only to first offenders. Satisfactory completion of this program can lead to dismissal of DWI charges. The court determines acceptance into the program, and the offender must incur all costs of alcohol assessment, education and treatment, and restitution to victims. Offenders can be subjected to between one and twelve months' license suspension and court supervision for six to twelve months. Duration of the program cannot exceed two years, and if the offender violates ARD terms, his or her participation in the program will be terminated and the prosecutor can proceed with the DWI charge. Eligible first offenders must have no prior DWIs in the past seven years, no accidents involving serious injuries, no other major offenses, and must not have been driving while suspended. About 70 percent of all DWI cases in the state are processed through ARD (Pennsylvania Rules of Criminal Procedure 2002).

Factors Influencing Sentencing

Court Monitoring

According to the National Highway Traffic Safety Administration, the purpose of court monitoring is to gather statistics that can provide an analysis of sentences handed down by judges for particular offenses. Court monitoring also tracks the number of DWI cases heard within a particular timeframe. Finally, it tracks the number of DWI cases that actually go to trial (Shinar 1990).

A study conducted in Maine (NHTSA 1990) found court monitoring by concerned citizen groups is an effective tool in strengthening the adjudication process. When court monitors are present, the conviction rates of DWI offenders, including hardcore offenders, are higher and their case dismissal rates are lower than those of drivers not court-monitored. Also, once convicted, the likelihood of a jail sentence is higher and the length of the jail sentence is longer for court-monitored DWI drivers than for non-monitored drivers.

In Mississippi, a statewide court monitor paid with federal funds monitors the courts for adjudication of DWI offenses. If the monitor notices the law is not being followed correctly, the monitor reports any non-compliance to the correct authorities (the Judicial Performance Commission for judges, the Attorney General for prosecutors and the Mississippi Bar Association for defense attorneys), who then take appropriate actions. For example, when Mississippi first instituted vehicle immobilization/impoundment for second offenders, judges were hesitant to impose such sanctions. Due in large part to the court monitoring system, enforcement of this sanction has risen considerably.



Plea-Bargaining

Plea-bargaining agreements by prosecutors and defense attorneys can reduce DWI offenders' sentences to those of non-alcohol-related offenses such as reckless driving and failure to keep to the right. Such unlimited plea-bargaining can have significant negative consequences. First, it undermines the penalties of the initial charge and any specific deterrent value the arrest might have had. Second, it exempts the defendant from participating in alcohol education, screening for alcohol dependence, and, if appropriate, referral for treatment. And third, it deprives law enforcement officials of a standard method of identifying recidivists.

Placing limits on plea-bargaining can lead to more accurate identification of repeat offenders and more appropriate sanctions being imposed. According to a 2002 survey, prosecutors support the idea of restricted plea-bargaining, such as removing the opportunity to plead down to a non-alcohol offense and discontinuing plea-bargaining in high BAC cases. Prosecutors also support stating the reasons for a plea agreement on the record (Robertson and Simpson 2002).

In Pitkin County, Colorado, DWI cases, by statute, may not be reduced to a non-alcohol related offense unless the District Attorney states in open court that he/she does not have a prima facie case (Jones et al. 1999). Florida does not allow high BAC offenders to plead guilty to a lesser charge (McCart 2001). Ten states — Arizona, Arkansas, Colorado, Kansas, Kentucky, Maine, Mississippi, New Mexico, New York and Wyoming — have enacted plea-bargaining restrictions, and other states do not permit plea negotiations in specific circumstances, such as cases involving serious injury or death or high BAC offenders (Robertson and Simpson 2002).

Plea-bargaining is common in other jurisdictions, with a preliminary analysis showing about half of the high BAC offenders in Washington State were pleading guilty to a lesser charge and avoiding enhanced penalties. A 2002 survey of prosecutors found approximately 67 percent of offenders pleading guilty do so with a negotiated plea agreement in place (Robertson and Simpson 2002). Widespread plea-bargaining significantly weakens the coordinated system to combat hardcore drunk drivers by allowing them to avoid classification as such (McCart 2001).

A meta-analysis of 52 studies on plea-bargaining restrictions combined with other policies found an 11 percent reduction in crashes and injuries, suggesting plea-bargaining restrictions are a vital part of an effective strategy for reducing drunk driving (Wagenaar et al. 2000).

However, in Wisconsin, the possibility of receiving a lighter sentence is the motivating factor for offenders participating in the Milwaukee County Pre-trial Intoxicated Driver Intervention Project. The voluntary program available for second and subsequent offenders, is a pre-trial intervention program and continues until conviction, which could last six to nine months. The offender is encouraged to participate in hopes of receiving a reduced jail sentence. *For more information, see intensive supervision probation in the Sanctions section.*



Judicial DWI Seminars

A number of states hold DWI workshops and seminars for judges, but hardcore drunk drivers are rarely the main focus. However, the complexities of cases involving hardcore drunk driving pose distinct judicial challenges that sentencing seminars, workshops, and conferences focusing on the hardcore drunk driver would help address.

Most judges are trained to handle a large number of DWI cases, but they should also be trained to deal with the special issues presented by hardcore drunk drivers, beginning with recognizing the signs of a hardcore drunk driver. These signs include drivers who repeatedly refuse to take blood-alcohol tests or standardized field sobriety tests; drivers whose blood alcohol levels are substantially higher than the limits allowed by law; and underage and adult drivers with multiple DWI convictions.

Cases involving hardcore drunk drivers typically are litigated with intensity and require the judge be prepared to resolve vigorously contested factual disputes. Judges note the value of learning how to handle such cases through peer-to-peer education taught by experienced judges.

The National Association of Judicial Educators (NASJE), The Century Council and the National Hardcore Drunk Driver Project (NHDDP) have listened to judges from across the nation who express the need for judicial education as a key to future success in controlling the hardcore drunk driver. NASJE and NHDDP are working together to develop materials promoting effective judicial interventions and strategies for handling hardcore drunk driving offenders. These materials will incorporate the most innovative, promising, and effective judicial approaches in the country as model programs for handling the hardcore drunk driver.

Where to Go for More Information on Adjudication of DWI

Hedlund, J., and McCartt, A. May 2002. *Drunk Driving: Seeking Additional Solutions*. Washington, DC: AAA Foundation for Traffic Safety.

Lucker, G.W., and Osti, J.R. 1997. Reduced recidivism among first-time DWI offenders as a correlate of pre-trial intervention. *Journal of Offender Rehabilitation*. 24 (3-4): 1-17.

Voas, R.B., and Fisher, D.A. 2001. Court procedures for handling intoxicated drivers. *Alcohol Health and Research World* 25: 32-42.



Sanctions

As noted in the sentencing section, the objectives of sanctions include punishment and deterring future offenses. This section divides sanctions into two broad categories:

- Driver-based sanctions, such as licensing suspensions, incarceration, supervisory programs and victim impact panels; and
- Vehicle-based sanctions, including ignition interlock devices, license plate seizure, vehicle impoundment, vehicle immobilization and vehicle forfeiture.

Included here are sanctions identified as critical tactics in the web to combat hardcore drunk driving. They are most effective when used in combination with each other and in conjunction with effective treatment.

Sanctioning Hardcore Drunk Drivers: A Graduated System

Graduated Sanctions Based on Number of Offenses. The most common means of identifying and punishing hardcore offenders is by determining repeat offenses. Multiple convictions with increasing sanctions and rehabilitation requirements are strong indicators of hardcore behavior — repeatedly driving drunk and being highly resistant to change. The vast majority of states treat repeat drunk driving more severely and have statutory provisions for graduated penalties based on number of offenses. States differ, however, as to how long they maintain records on repeat offenses and the timeframe applicable to be considered a repeat offender.

BAC-based Graduated Penalties. Almost all states have graduated penalties based upon prior convictions, and 31 states, plus Washington, D.C., and American Samoa, have graduated penalty systems based on blood alcohol concentration (BAC) at the time of arrest. The severity of the penalty increases with BAC, and sanctions are the most severe for multiple offenders. The system recognizes that drivers with high BACs — most often defined as .15 and above — warrant stiffer sanctions because they are more dangerous on the highway and may also be more likely to repeat the behavior. Plus, many treatment professionals associate a high BAC at arrest with a higher likelihood of alcohol abuse. The primary objective of strong sanctions for high BAC offenders is to reduce recidivism by increasing the certainty and severity of punishment and by reducing loopholes in the system. (McCartt and Shabanova 2002).

States' high BAC sanctioning systems vary greatly, with enhanced sanctions including:

- longer or more intensive alcohol education or treatment;
- limitations on plea reductions or deferred judgments;
- driver-based punitive sanctions such as license suspensions;



- vehicle-based punitive sanctions such as ignition interlocks; and
- courts' consideration of a high BAC in sentencing as an aggravating or special factor (McCartt 2001).

In a few states, there are no graduated penalties based on BAC, but first offenders with a high BAC must have an alcohol assessment or they can be precluded from programs oriented to less dangerous offenders. Research suggests an effective policy is to treat first-time offenders with extremely high BACs (.20 or higher) as hardcore offenders relative to sanctions, fines, treatment and rehabilitation. Two reasons are cited for this: first, the risk of a crash is much greater at high BACs; and second, driving with an extremely high BAC may indicate the driver has developed a high alcohol tolerance, which also may be an indication of an alcohol problem (Transportation Research Board 1995). Additionally, in a number of states, a high BAC decreases the likelihood of a favorable plea bargain or is taken into account by the judge at sentencing.

Where Are Graduated BAC Systems Used?

According to the National Hardcore Drunk Driver Project Survey, 31 states and Washington, D.C., and American Samoa had graduated BAC systems and enhanced sanctions for high BAC offenders. According to McCartt's 2001 study, most states with graduated systems report few problems with implementing high BAC sanctions and believe the sanctions have had a positive impact on the state's DUI system.

In Colorado, high BAC offenders at .15 and above are subject to a fine of \$500–\$1,500 and a mandatory incarceration of 90 days for first and subsequent offenses. The mandatory incarceration time can be reduced to 10 days if the offender participates in an alcohol education/treatment program.

In Connecticut, convicted offenders with BAC levels of .16 or above are subject to increased administrative licensing actions. On a first offense, the license is suspended for 120 days. On a second offense, it is suspended for 10 months and on a third offense, the license is suspended for two years and six months.

In Minnesota, first-time offenders with a high BAC level of .20 and above at the time of arrest or within two hours of the time of the offense are charged with third-degree drunk driving (a gross misdemeanor), and the driver's license and license plates are impounded administratively upon arrest. For second offenders at .20 BAC and above, the charge is second-degree drunk driving (a gross misdemeanor), the driver's license and license plates are impounded administratively, and the vehicle is forfeited upon arrest. Additionally, license suspension/revocation periods are doubled for those offenders charged with driving at .20 BAC and above.

In American Samoa, the offenders' BAC is multiplied by a certain constant figure to determine the monetary fines. Offenders with higher BACs are required to pay increased fines.



27 STATES, WASHINGTON, DC AND AMERICAN SAMOA HAVE TIERED BAC SYSTEMS

| State | 1st Tier BAC | 2nd Tier BAC | 3rd Tier BAC | 4th Tier BAC | Resulting Action |
|------------------|--------------|-------------------|--------------|--------------|---|
| Arkansas | .08 | ≥.15 | | | Increased licensing actions, may order ignition interlock installed |
| Arizona | .08 | ≥.15 | | | Increased incarceration and mandatory ignition interlock |
| California | .08 | ≥ .20 | | | Ignition interlock installation may be ordered, mandatory alcohol assessment |
| Colorado | 0.1 | ≥ .20 | | | Subject to same sanctions as repeat offenders and mandatory treatment |
| Connecticut | .08 | ≥ .16 | | | Increased licensing actions |
| Idaho | .08 | ≥ .20 | | | Increased licensing actions, fines, incarceration, and mandatory alcohol assessment |
| Illinois | .08 | ≥ .16 | | | Increased fine and incarceration, and mandatory treatment |
| Indiana | .08 | ≥ .15 | | | Increased fine and incarceration |
| Iowa | .10 | ≥ .15 | | | Increased fine, mandatory alcohol evaluation. Diversion programs and probation not allowed |
| Kentucky | .08 | .18 or above | | | Increased incarceration and mandatory alcohol assessment |
| Louisiana | .08 | ≥ .15 | | | Increased incarceration and mandatory alcohol assessment |
| Maine | .08 | ≥ .15 | | | Increased incarceration and mandatory alcohol assessment |
| Minnesota | .10 | ≥ .20 | | | Increased fine, licensing actions doubled, drivers license and license plate impoundment, and possible vehicle forfeiture |
| Nevada | .10 | ≥ .18 | | | Mandatory alcohol treatment |
| New Hampshire | .08 | ≥ .16 | | | Increased fine, mandatory vehicle registration revocation, and ignition interlock may be ordered |
| New Mexico | .08 | ≥ .16 | | | |
| North Carolina | .08 | ≥.16 | | | Increased penalties and mandatory ignition interlock |
| Ohio | .10 | ≥ .17 | | | Increased incarceration |
| Oklahoma | .08 | ≥ .15 | | | Mandatory treatment and aftercare, ignition interlock and community service |
| Pennsylvania | .10 | .16-.19 | ≥ .20 | | Increased licensing actions |
| Rhode Island | .08 | ≥ .15 | | | Increased fine, incarceration, and community service |
| South Carolina | .10 | ≥ .15 | | | Subject to pre-conviction licensing actions |
| South Dakota | .08 | ≥ .17 | | | Mandatory alcohol evaluation |
| Tennessee | .10 | ≥ .20 | | | Increased incarceration |
| Virginia | .08 | ≥ .20 | ≥ .25 | | Increased incarceration and mandatory treatment |
| Washington | .08 | ≥ .15 | | | Increased licensing actions, fine, incarceration, and mandatory treatment |
| Washington, D.C. | .08 | .20-.24 | ≥ .25 | | Increased incarceration |
| Wisconsin | .10 | .17-.19 | .20-.24 | ≥ .25 | Increased fines |
| American Samoa | .08 | No specific level | | | Increased fines that are correlated to the BAC level |

This table lists those states using a graduated, or tiered, system to assign sanctions and treatment based on BAC levels of .08 and above. Greater sanctions and/or increased treatment are required when an offender's BAC level reaches the second tier level, and the increased penalty or treatment is noted under *Resulting Action*.

How Effective Are BAC Graduated Systems?

According to recent study of Minnesota's high BAC law, "high BAC sanctioning systems are viewed as one of the few promising approaches for reducing recidivism among 'hardcore' impaired drivers" (McCartt and Shabanova 2002). Minnesota's high-BAC law appears to have successfully increased the severity of case dispositions for high-BAC offenders, and evidence suggests an initial reduction in recidivism.



Though a specific reduction in recidivism cannot be attributed directly to a tiered BAC system, experts in the field say the graduated penalty system results in increased efficiency and effectiveness in identifying and processing drunk drivers. In 1999, the National Hardcore Drunk Driver Project called for graduated penalties of aggravated DWI and hardcore DWI for high BAC offenders and high BAC repeat offenders, respectively. In its proposal for a model program to reduce hardcore drunk driving, the National Transportation Safety Board (NTSB) recommends all states adopt legislation defining a high blood alcohol concentration (.15 percent or greater) as an "aggravated" DWI offense requiring strong intervention similar to that ordinarily prescribed for repeat DWI offenders (NTSB 2000).

Where to Go for More Information on Graduated Systems

McCartt, A. Spring 2002. Enhanced sanctions for higher BACs: Addressing the high-risk offender. *Impaired Driving Update*. Kingston, NJ: Civic Research Institute, Inc.

McCartt, A., and Shabanova, V. 2002. *Effects of Enhanced Sanctions for High BAC DWI Offenders on Case Dispositions and Rates of Recidivism*. Trumbull, CT: Preusser Research Group, Inc.

McCartt, A.T. et al. 2001. *Evaluation of Enhanced Sanctions for Higher BACs: Summary of States' Laws*. Washington, DC: National Highway Traffic Safety Administration.

Simpson, H.M., Mayhew, D.R., and Beirness, D.J. 1996. *Dealing With the Hard Core Drinking Driver*. Ottawa, Canada: Traffic Injury Research Foundation.

Driver-Based Sanctions

Licensing Actions/Administrative License Revocation (ALR)

Most states administratively revoke the offender's driving privileges without waiting for a conviction on a DWI charge. Because this allows a driver's license to be confiscated immediately, punishment is swift and sure.

The primary purpose of license suspension is not to serve as a punitive measure or as a deterrent threat, but as a way of protecting the general public from a potentially dangerous driver. Licenses can be suspended or revoked. Although the terms often are used interchangeably, suspended licenses are automatically reinstated at the termination of the suspension, whereas revoked licenses must be replaced through renewed applications after the revocation period has expired. Retesting may be required for restoring revoked licenses.



A DWI arrest can result in two kinds of licensing actions. The first is pre-conviction administrative license suspension (ALS) or revocation (ALR), which is carried out by the arresting officer as an administrative action on behalf of the motor vehicle administration. The second is a judicial post-conviction action ordered by the court. A single DWI arrest frequently will result in both an ALR suspension and a mandatory post-conviction suspension action.

Although details of ALR laws vary from state to state, once the licenses are confiscated, drivers are given a notice of suspension, which serves as a temporary permit for seven to 45 days, depending on the state. During that time, the suspension may be appealed at an administrative hearing. If there is no appeal, or the appeal is not upheld, the license is suspended for a prescribed period of time. Regardless of the outcome of the appeals hearing, the arrestee is still subject to a separate criminal process, which can lead to additional penalties, including judicial licensing actions.

For first offenders, suspensions vary from seven days to a year, but most often last 90 days. Repeat offenders usually receive longer suspensions. The National Highway Traffic Safety Administration recommends ALR laws impose at least a 90-day suspension or a 30-day suspension followed by 60 days of restricted driving.

As part of a TEA-21 incentive grant program, a state can qualify for a grant if it mandates a "hard" administrative license revocation system requiring a 90-day suspension for first offenders, a one-year suspension or revocation for repeat offenders, and that suspensions or revocations begin within 30 days after the offender refuses to submit to a chemical test or receives notice of having failed the test. A "hard" suspension entails complete revocation of driving privileges, without restricted driving privileges or a hardship license. Some states require the completion of an education or treatment program prior to re-licensure.

Where Are ALR Laws in Effect?

According to the 2002 National Hardcore Drunk Driver Project Survey, 41 states, the District of Columbia and one territory have ALR laws.

Post-conviction Licensing Actions. Following formal charging and pleading, post-conviction licensing actions for hardcore drunk drivers depend on conviction for the driving offense and are contingent upon a judicial finding of proof beyond a reasonable doubt that a crime (in this case, drunk driving) was committed. Plea-bargaining and diversion programs allow many offenders to keep their licenses, and the criminal process generally is slow and, due to the stringent standards of proof, likely to err toward leniency. This is unlike the administrative process, which requires only that the balance of evidence indicate the sanction is warranted. However, most states do have provisions for court-ordered suspensions, which may or may not run concurrently with ALR/ALS.



How Effective Are ALR Laws?

ALR laws are recognized as having a strong, general deterrence effect on drunk drivers because the mandatory punishment is swift and sure. Results of a self-reported survey in Ontario found a 35 percent reduction in people reporting drinking and driving after the administration of a widely publicized administrative license suspension law (Mann et al. 2000).

A study by Voas and Tippetts found ALR laws reduced alcohol-related fatal crashes overall in the United States by about 30 percent between 1982 and 1997. A study by the Insurance Institute for Highway Safety found ALR laws reduce the number of drivers involved in fatal crashes by about 9 percent during nighttime hours (IIHS 1996). NHTSA reports that, among 17 states implementing ALR either alone or in combination with other laws, the median effect is a 6 percent decrease in crashes likely to be alcohol-related (IIHS 1996).

ALR has also been shown to have a specific deterrence effect by delaying or deterring repeat offenses even once the period of suspension has concluded (NTSB 2000). A 1997 study of an ALS law in Manitoba, Canada, found DWI recidivism in the four years following an offense was reduced from 22.7 percent to 12.8 percent after a law was enacted allowing a 90-day suspension (Voas, Tippetts, and Taylor 1998).

A 2002 survey in a nationally representative sample of Americans found mandatory license revocation is the only policy tool to significantly and consistently affect perceptions of punishment severity. The study's authors suggest the threat of losing driving privileges influences attitudes more than the threat of fines or incarceration (Richardson and Houston 2002).

Unfortunately, licensing actions are often circumvented by offenders who choose to drive despite suspension or revocation of their licenses. Additional policies are needed to detect unlicensed drivers and to integrate ALR laws with other sanctions to reduce the numbers of those who ignore their suspensions. *For more information, see the Driving While Suspended section.*

Indirect evidence suggests hardcore drunk drivers are more likely to violate the conditions of license suspension and also are more likely to be drinking when they do. According to research (Simpson, Mayhew, and Beirness 1996), drivers involved in serious crashes whose licenses have been suspended or revoked are more likely to have been drinking and to have high BACs. For example, among fatally injured drivers whose licenses were valid at the time of crash, 46 percent had been drinking and 62 percent of these had a BAC in excess of .15. By contrast, among fatally injured drivers whose licenses were suspended, 72 percent had been drinking and 62 percent of these had BACs in excess of .15. Among drivers whose licenses were revoked, 90 percent had been drinking and 79 percent of these had BACs in excess of .15.

Although ALR laws are among the most useful and most common for targeting drunk drivers, they are effective only as part of a systematic approach to deterring hardcore drunk driving. The combination of licensing sanctions with alcohol treatment is considered one of the most promising strategies for dealing with the hardcore drunk driver, with a 2000 study suggesting the



combination had the potential to reduce recidivism by as much as 50 percent (Jones and Lacey 2001).

One argument against ALR has been the contention that license revocation leads to loss of employment, which in turn impacts the offender's dependents and, subsequently, societal welfare costs. A 1996 NHTSA study of four jurisdictions found ALR does not have a pronounced impact on the DWI offender's job and income (Knowbel and Ross 1996). One reason may be that the DWI offenders continued to drive, although presumably more carefully than when they were licensed. The main alternative for those who lost their licenses was riding with others. When 233 DWI multiple offenders were asked how they got to work while waiting for license reinstatement:

- 41 percent said someone else drove them;
- 22 percent said they drove themselves;
- 15 percent took a taxi;
- 15 percent walked or rode a bicycle; and
- 7 percent responded "other."

Studies demonstrate ALR laws are effective in reducing alcohol-related crashes by contributing to a 13 to 19 percent reduction in adult drivers in fatal crashes. A 2002 study in Ontario found ALS was associated with an estimated 17.3 percent fewer fatally injured drivers over the legal alcohol limit (Mann et al. 2002). This lifesaving effect is confirmed by NHTSA studies estimating 1,359 lives were saved in 1997 in states with ALR laws, and between 266 and 402 additional lives could have been saved in 1997 if ALR laws had been adopted in the 11 states without ALR laws at that time (NHTSA 2002).

How Much Does Implementation of ALR Laws Cost?

ALR laws can be self-sufficient. In most states, offenders must pay a reinstatement fee to receive a new license at the end of the suspension period. For example, the fee for reissuing a revoked or suspended license in Washington state recently increased from \$50 to \$150 (Olalla Recovery Centers 2003). These fees can cover or exceed the cost of the program. A National Highway Traffic Safety Administration study of ALR laws in Nevada, Mississippi and Illinois found increased revenues from license reinstatement fees more than offset costs associated with implementing the law. Additionally, reductions in crash-related costs were well over 100 times the cost of implementation.

Where to Go for More Information on ALR Laws

National Highway Traffic Safety Administration. April 2002. *State Legislative Fact Sheet: Administrative License Revocation*. Washington, DC: National Highway Traffic Safety Administration.



Knowbel, K.Y., and Ross, H.L. 1996. *Effects of Administrative License Revocation on Employment*. Washington, DC: National Highway Traffic Safety Administration.

Mann, R.E., Smart, R.G., Stoduto, G., Adlaf, E.M., Vingilis, E., Beirness, D., and Lamble, R. 2000. Changing drinking-driving behaviour: The effects of Ontario's administrative driver's license suspension law. *Canadian Medical Association Journal* 16(2): 1141–1142.

Mann, R.E., Smart, R.G., Stoduto, G., Beirness, D., Lamble, R., and Vingilis, E. 2002. The early effects of Ontario's administrative driver's license suspension law on driver fatalities with a BAC >80mg%. *Canadian Journal of Public Health* 93(3): 176–180.

Conditional Licensing

Conditional licenses (also referred to as limited, restricted, hardship or probationary licenses) are often granted to offenders so they can continue to drive to work or care for their family, while at the same time limiting their recreational driving. They generally restrict the driver to daylight-only driving and prohibit the consumption of any alcohol while driving. Twenty-two states require the installation of ignition interlock devices prior to conditional licensing.

In a number of states, conditional licenses are not available to hardcore drunk drivers. In states where repeat offenders may obtain conditional licenses, additional restrictions may apply, and a longer period of complete suspension may be required before the conditional license is granted. For example, Florida law says a hardship license is unavailable to people refusing to take breath tests until at least 90 days have passed and a 30 day temporary driver's permit has expired (*Impaired Driving Update 1999*).

Where Is Conditional Licensing Used?

Information from the National Hardcore Drunk Driver Project Survey indicates 38 states, the District of Columbia and every American territory have some form of conditional licensing.

In Minnesota, a restricted license is issued upon license reinstatement for people with three drunk driving offenses within 10 years or four offenses on record. Prior to being reinstated, rehabilitation, including treatment and one year of abstinence, must be completed. The restricted license requires a lifetime condition of abstinence from alcohol or drugs. Failure to comply with this restriction invalidates the driver's license.

In California, second offenders may be allowed restricted licenses following a one-year minimum suspension period at the discretion of the court. However, third offenders are not eligible for a conditional license prior to serving a minimum 18-month license revocation.

In Illinois, restricted judicial driving permits (RDP) are issued to first offenders after they provide proof of hardship circumstances



and a current alcohol evaluation and after they complete the 30-day mandatory period of license suspension/revocation. Repeat and high BAC offenders may apply for an RDP after a mandatory license suspension with the installation of an ignition interlock device.

In New Mexico, conditional licensing is allowed on first offenses for education purposes, provided the driver is also enrolled in a drunk driving school and an alcohol screening program. Conditional licensing is allowed on second or subsequent offenses after 30 days if the vehicle is equipped with an ignition interlock device.

How Effective Is Conditional Licensing?

Research suggests conditional licenses are not as effective as more stringent licensing sanctions and that they work better when coupled with at least one month of total license suspension (Nichols and Ross 1990; Popkin and Wells-Parker 1994). The conditions of the licenses can be difficult to enforce. Some jurisdictions require the installation of a breath alcohol ignition interlock device on the offender's car to help ensure compliance. The driver must blow into the device before the car can be started. If the BAC level is above the predetermined level, the vehicle will not start.

What Is the Cost Associated with Conditional Licensing?

Conditional licensing fees for offenders vary greatly from state to state, ranging from \$10 in Delaware, to \$125 in Michigan, to \$1,000 in Massachusetts for third and fourth offenders.

Where to Go for More Information on Conditional Licensing

Popkin, C.L., and Wells-Parker, E. 1994. A research agenda for the specific deterrence of DWI. *Traffic Medicine* 22: 1–14.

Nichols, J.L., and Ross, H.L. 1990. The effectiveness of legal sanctions in dealing with drinking drivers. *Alcohol, Drugs and Driving* 6(2): 33–60.

Impaired Driving Update. Winter 1999. Appellate court does not have authority to order department of highway safety and motor vehicles to issue hardship license. *Impaired Driving Update*. Kingston, NJ: Civic Research Institute, Inc.

Community Service

In some states, offenders are required to pay restitution through community service programs, such as picking up litter on the roadways. Some jurisdictions attempt to optimize the public's benefit by tailoring the particular skills of the offender to meet the



needs of the community. Additionally, public awareness of, and approval for, DWI enforcement may be increased by having specially uniformed offenders perform highly visible work. Anecdotal responses from the National Hardcore Drunk Driver Project Survey indicate having offenders perform especially disagreeable jobs may have some deterrence value, especially if they are in public view.

In its 2000 Safety Report, the National Transportation Safety Board says, "While community service may help relieve the problem of limited jail space, existing research has not identified any significant effects of community service on recidivism or crashes."

Where Is Community Service Used?

Community service is available in most states and is mandatory in some, including Colorado and Georgia. Connecticut makes community service (100 hours) mandatory in all cases. While a few states require longer terms of community service in certain circumstances, most either do not require it, allow it as an alternative to incarceration, or apply it only for certain offenses (Fazzalano 2001).

At the judge's discretion, community service may be used in lieu of jail or fines in some states, particularly on a first offense. It also can be used as a condition of probation.

In a program in Arizona, uniformed DWI prison inmates perform highly visible community service work, such as litter abatement and improvements to parks and recreation facilities. Minimum-security inmates are paid 75 cents per hour, of which 50 cents is withheld to pay for program costs, making the program 100 percent self-supporting. The program has received broad-based public approval.

How Effective Is Community Service?

Community service as a stand-alone alternative to harsher sentencing appears to have little beneficial effect on hardcore offenders. Both the NTSB and MADD recommend eliminating the federal traffic safety provision establishing community service as an alternative to incarceration as outlined in TEA-21. Difficulties of the program include finding suitable jobs, liability risk, the cost of supervision and the offender's failure to provide the service. Treatment professionals note community service may not be effective because it focuses on punishment without addressing underlying patterns responsible for alcohol abuse.

Some jurisdictions utilize community service as part of the treatment process. This is especially true in those jurisdictions practicing restorative or community justice. *For more information on restorative justice, see the Effective Treatment section.*

Where to Go for More Information on Community Service

Mothers Against Drunk Driving. 2002. *It's time to get MADD all over again: Resuscitating the nation's efforts to prevent impaired driving: A report from the MADD impaired driving summit.* Irving, TX: Mothers Against Drunk Driving.



National Transportation Safety Board. 2000. *Safety Report: Actions to Reduce Fatalities, Injuries, and Crashes Involving the Hard Core Drinking Driver*. Washington, DC: National Transportation Safety Board.

Fazzalano, J.J. 2001. *Office of Legislative Research Research Report: Drunk Driving Penalty Comparison*. Hartford, CT: Connecticut Office of Legislative Research.

Victim Impact Panels

To increase drunk drivers' understanding of the consequences of their actions, many communities use victim impact panels (VIPs) as one sanction against DWI offenders. VIPs are community meetings where victims and/or witnesses describe the experiences they or loved ones have endured due to the actions of drunk drivers. Drunk driving offenders can be required to attend the meetings as part of their court sentences. In some jurisdictions, attending VIPs is part of a diversion program for first offenders only. In others, such as Snohomish County, Washington, it is part of the sentence for DWI conviction. The meetings usually convene for a couple of hours about once a month.

Where Are Victim Impact Panels Used?

Hundreds of counties in as many as 34 states, the District of Columbia and the Navajo Nation hold victim impact panels. In Texas in 2001, there were 60 impact panels conducted with 110 panelists participating (Texas Department of Criminal Justice 2002).

Victim Impact Panels are used in some jurisdictions practicing restorative justice as rehabilitation for offenders.

How Effective Are Victim Impact Panels?

A 2000 study in New Mexico found these panels have no measurable and consistent impact on recidivism (C'de Baca). Another 2001 study followed two groups, one attending DWI school and one attending DWI school and VIP, and found no additional effect of the VIP on recidivism (Polascek et al.). Other reports do identify a positive benefit to victims participating as panelists, in that they experienced reduced anxiety and depression and improved psychological well-being.

How Much Do Victim Impact Panels Cost?

Some states charge offenders for the cost of these programs. In Louisiana, offenders pay \$50.00 to MADD to attend a victim impact panel (Louisiana Department of Public Safety). In the state of Oklahoma, a fee of \$15 paid by the offender has made the program conducted by Victim Impact Panels of Oklahoma, Inc., self-sufficient. The VIP programs are operated throughout the state, and a study conducted after the first year showed a recidivism rate of less than 10 percent in Oklahoma County, where the program was initiated.



Where to Go for More Information on Victim Impact Panels

C'de Baca, J., Lapham, S.C., Paine, S., and Skipper, B.J. 2000. Victim impact panels: Who is sentenced to attend? Does attendance affect recidivism of first-time DWI offenders? *Alcoholism Clinical and Experimental Research* 24(9): 1420–1426.

Fors, S.W., and Rojek, D.G. 1999. The effect of victim impact panels on DUI/DWI re-arrest rates: A twelve-month follow-up. *Journal of Studies on Alcohol* 60(4): 514–520.

Polacsek, M., Rogers, E.M., Woodall, W.G., Delaney, H., Wheller, D., and Rao, N. 2000. MADD Victim Impact Panels and stages-of-change in drunk driving prevention. *Journal of Studies on Alcohol* 62(3): 344–350.

Louisiana Department of Public Safety website. 2002. *Louisiana Victim Impact Panels*. <http://www.dps.state.la.us/tiger/victim.html>.

Fines and Other Financial Sanctions

Fines are a common element in most DWI sanction combinations. Other financial sanctions include insurance penalties or surcharges and the offender assuming costs of assessment and treatment.

Where Are Fines and Other Financial Sanctions Used?

According to the National Hardcore Drunk Driver Project Survey, 31 states, two territories and the Navajo Nation have mandatory minimum fines, particularly for repeat offenses. Based upon 1992 data from five states, NHTSA estimated the average assessed fine for DWI was \$705.

How Effective Are Fines and Other Financial Sanctions?

The deterrent value of fines has received little study in the United States. Their effectiveness appears minimal, largely because they generally are not very costly and often are not collected. Fines also can be paid in increments over a lengthy period of time. In Sweden, where the offender's fine is linked to annual income and the severity of the offense, fines are associated with reductions in fatal crashes.

Studies generally show fines are more effective in Europe, where they are higher than in the United States. European fines were frequently one and a half month's salary (Brooker 2001).

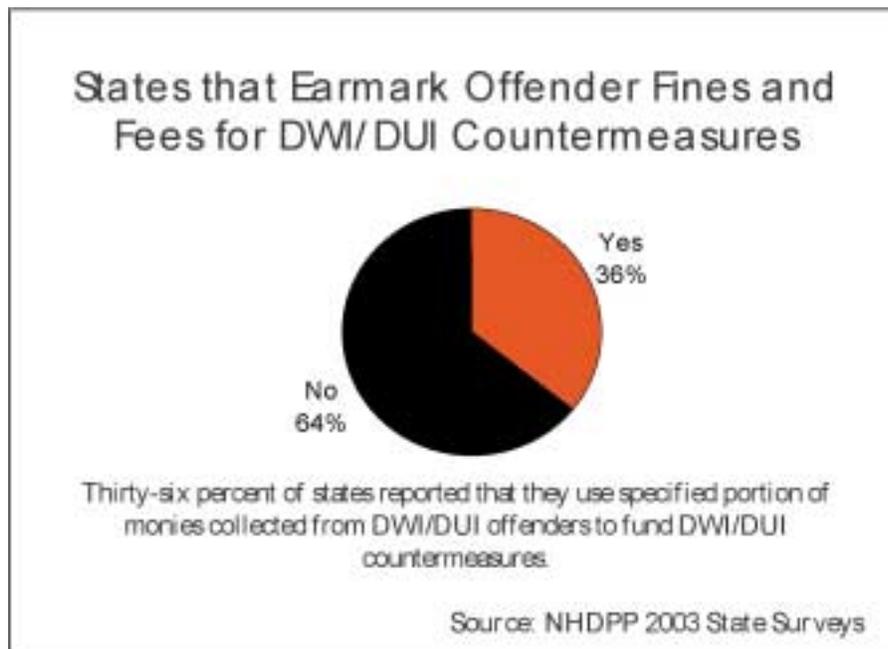
In Quebec, a study found the only drunk driving law with statistically discernible effects was a fine for driving while suspended. On average, there was a reduction of one driver fatality for every \$200 increase in fines enacted by a province in a given year (Sen 1999).



While their deterrent value appears minimal, fines and other financial sanctions serve as retribution, which is one of the objectives of sentencing. Fines also may play an important role in helping pay for other costs associated with hardcore drunk drivers, such as enforcement efforts and treatment.

A fine collection program in Polk County, Iowa, has proved highly successful. In 1991, Polk County had the greatest number of alcohol-related injuries and fatalities in the state, as well as a large number of uncollected fines for Operating While Intoxicated (OWI). The delinquent OWI Fine Collection Program was initiated out of concern that, without adequate fine collection procedures, the impact of the OWI penalty on impaired driving was compromised. With the help of an investigator and a media awareness program, which included a listing of delinquent offenders in the state's largest newspaper, the project collected from 2,479 offenders. Between 1991 and 1993, the project collected over \$309,000 at a cost of only \$45,000. The success of the project, substantially aided by citizen support, media involvement, and the judiciary, led to legislation for the implementation of the program throughout the state.

In Arizona, repeat offenders and extreme DUI offenders must pay a \$250 DUI Abatement Council fine. The money is used for DUI enforcement and innovative program implementation. This fine generates \$600,000 to \$700,000 a year.



Offender Funded Programs

In some jurisdictions, fines help pay for DWI countermeasures and treatment programs, but they often cover only a small portion of the total cost of a DWI conviction.



The state of New York has one of the most comprehensive self-financed programs in the United States and has been cited by the National Highway Traffic Safety Administration as a national model of excellence.

The program is called STOP-DWI (Special Traffic Options Program for Driving While Intoxicated) and is based entirely on mandatory minimum fines. The state legislature passed a law in 1981 establishing the STOP-DWI program, which laid the foundation for the development of effective, locally-based programs.

The law allows each county to establish a STOP-DWI program, develop a comprehensive plan and appoint a coordinator. In turn, counties receive all fines collected for alcohol- and other drug-related traffic offenses within their jurisdictions. Counties have the flexibility to develop local programs tailored to their unique needs. Every county in New York has opted to participate in the program.

When the law was passed, the average DWI fine was \$11. The legislature increased the mandatory fines to a minimum of \$300 and a maximum of \$500 for DWI. Additionally, drivers who refused to submit to a blood alcohol concentration (BAC) test were subject to a \$100 fine (now \$300). Each year an average of \$22 million is generated through fines and is retained by the counties.

The following results from the STOP-DWI program were documented by NHTSA:

- Alcohol-related traffic crashes decreased from 16,607 in 1981 to 10,167 in 2000;
- Alcohol-related traffic crash deaths decreased from 1,107 (44.1% of the total traffic crash deaths) in 1981 to 334 (23.1% of the total traffic crash deaths) in 2000;
- Alcohol-related traffic crash injuries decreased from 21,633 in 1981 to 9,251 in 2000; and
- State collected fines increased from \$500,000 to \$22 million annually.

Where to Go for More Information on Fines and Other Financial Sanctions

Brooker, R.G. July 2001. *Evaluation of Alternatives to Incarceration for Repeat Drunken Driving. Phase 1: Database Search*. Milwaukee, WI: The Dieringer Research Group.

Sen, A. 1999. Will Stricter Penalties Deter Drunk Driving? *Policy Options*. September 1999. Montreal, Quebec, Canada: Institute for Research on Public Policy.



Supervisory and Probation Programs

Probation

Probation is one of the judicial community's keys to post-conviction management of drunk driving offenders (Voas and Fisher 2001; Judge Karl Grube, TCC Judicial Education Summit Meeting 2002). Long-term probation — especially intensive supervised probation — allows the judge to hold the offender accountable for completing the sentence imposed and for demonstrating responsible, law-abiding behavior. Long-term probation is one of the most effective ways to manage hardcore drunk drivers following a conviction (Voas and Fisher 2001; Jones, Lacey, and Wiliszowski 1997; DeYoung 1997).

Probation supervision has its roots in the monitoring of alcohol-related offenders. The concept originated in 1841 with John Augustus, a Boston shoemaker who convinced the court to let him take into his own custody — rather than send to jail — people appearing before the court on drunk charges. Since then, probation has allowed offenders to be under a period of supervision in lieu of incarceration. The terms of probation for DWI vary depending on the jurisdiction and the specific offense.

Probation is available to offenders in at least 29 states, the District of Columbia, two territories and the Navajo Nation. A 1999 Maruschak study of DWI offenders under correctional supervision in the United States found most DWI offenders — 89 percent — were on probation, with 11 percent incarcerated (8 percent in jail and 3 percent in state prison). A 2002 report from the Bureau of Justice Statistics found approximately 707,895 DWI offenders were on parole in 2001.

The goals of probation are to assist probationers in altering their lifestyles to become productive, law-abiding citizens, while also protecting public safety. Probation also affords the offender time to make restitution to victims and pay any fines. Offenders on probation may undergo alcohol testing and counseling and education or employment requirements. Probationers are required to report to their probation officer on a regular basis. Probation officers also make additional contact with the probationer's family members, employers and other case counselors. Offenders who violate the terms of their probation are subject to escalating sanctions including incarceration.

One promising strategy for hardcore offenders is the use of intensive supervision probation. These programs usually require an offender to meet with a probation officer two or three times a week and use several interventions, which can include alcohol abuse treatment, ignition interlocks, home detention, victim impact panels and community supervision. An average duration of the program is four to five months and may be followed by a period of "normal" probation.

Probation is not without drawbacks. Probation supervision requires extensive manpower. According to the Community Forums Report, it is not unusual for jurisdictions to have only three probation officers to monitor up to 600 drunk driving offenders.



Where to Go for More Information on Probation

The Century Council. 1998. *From the Grassroots to a National Agenda: Community Forums Report — Issues and Insights on Hardcore Drunk Driving*. Washington, DC: The Century Council.

Voas, R.B., and Fisher, D.A. 2001. Court procedures for handling intoxicated drivers. *Alcohol Health and Research World* 25: 32–42.

DeYoung, D. 1997. An evaluation of the effectiveness of alcohol treatment, driver license actions and jail terms in reducing drunk driving recidivism in California. *Addiction* 92(8): 989–997.

Intensive Supervision Probation (ISP)

A critical factor in the success of treatment programs for DWIs is the monitoring of the offender to ensure he or she carries out the therapeutic plan. This is particularly important for the hardcore drunk driver who, by repeated DWI offenses, has demonstrated an unwillingness to change his or her behavior. Typically, a number of the offenders assigned to treatment will fail to report for treatment or will drop out before completion. In most courts, the responsibility for following up with these offenders falls to the treatment provider. Offenders are reported to the probation officer so the court can take action to bring them back into compliance.

As the name implies, intensive supervision programs provide for more intensive supervision of probationers. They offer more frequent monitoring, more treatment services and smaller caseloads per probation officer. One strength of ISP is offenders can be required to see a court monitor and/or counselor two to three times a week in combination with an individual assessment and referral to appropriate treatment providers. Monitoring and frequent contact appear critical to the success of ISPs. ISP programs use several interventions, which can include alcohol abuse treatment, ignition interlocks, home detention, victim impact panels and community supervision. An average duration of the program is four to five months and may be followed by a period of "normal" probation.

Where Is ISP used?

ISPs are used in a number of states, including Kansas, Delaware, Nebraska and Minnesota. In Kansas, the program is conducted at the county level for some repeat offenders. The probation period typically lasts two to five years at a cost of \$7.65 per day per offender. Offenders in this program would otherwise face incarceration in a state penitentiary at significantly higher expense. Testing, electronic monitoring and community service are part of the program, which calls for treatment sessions three times a week for 30 days, followed by a risk assessment that determines whether the offender will continue treatment two times a week, once every two weeks, or once a month. In Wisconsin, the success of a Milwaukee County ISP program led to the establishment of programs in nine other counties (Brooker 2001).



A Milwaukee County, Wisconsin program often identified as an ISP uses pre-trial treatment and frequent, regular monitoring for repeat offenders prior to conviction. Because the length of time from arrest to conviction can be as much as nine months, the program is designed to provide early intervention. Participation is voluntary and offers offenders hope of a reduced jail sentence. The Milwaukee County ISP program is an alternative to incarceration, not because it eliminates jail time entirely but because it reduces jail time.

In Minnesota, the legislature created an incentive grant for counties choosing to implement intensive probation programs. There are currently about 10 intensive probation programs located in various parts of the state. The Anoka County model program, created in 1987, is for drunk drivers convicted of a third or subsequent DWI offense. These offenders are given a choice of one year in jail or participation in the intensive probation program. All program participants are required to work 40 hours a week while participating in the program. Participants in the intensive probation program are sentenced to one year in jail with approximately 9 months of the sentence suspended on the condition the offender participate in and complete the intensive probation program.

The Anoka County program has four stages:

- Stage one consists of 30–90 days in a minimum-security work release facility where alcohol assessment is conducted and treatment begins.
- Stage two begins after the completion of the jail sentence and lasts a minimum of two months. During this time, offenders are on house arrest and are placed on probation for 4–6 years. The offender must report each day after work and on weekends to the intensive probation facility until 9 p.m. Each day offenders take a breathalyzer test, receive alcohol treatment on-site and work to maintain the facility.
- Stage three begins after the primary treatment (or relapse treatment) is completed. Offenders are referred to aftercare, which often consists of on-site participation in Alcoholics Anonymous (the AA program is maintained on-site so as not to disrupt community AA groups, and to verify attendance among participants). During this stage, the number of days the offender is required to spend at the intensive probation facility gradually decreases to one day per week. This stage of the program lasts a minimum of five months. The offender's sentence is reduced over time based on compliance. There is an immediate response for non-compliance.
- Stage four is traditional probation and it lasts for the remainder of the offender's sentence. Violation of the terms of probation can result in a return to a previous stage of the program. Offenders are required to pay for a portion of this program.

A 2000 survey of jail time for DUI offenders in Minnesota found some courts impose jail sentences meeting or exceeding mandatory minimum sentences and then stay the entire sentence, even for hardcore offenders, pending successful completion of the county's intensive supervision program (Cleary 2000).

How Effective Is ISP?

Intensive supervision probation programs have been found to be effective and, for those otherwise requiring incarceration, have the



advantage of not contributing to an already overcrowded jail population. ISP also has the benefits of reducing the offender's ability to meet other criminals in jail and offering an incentive to work or attend educational or treatment programs. ISP in Kansas has been found to be effective with certain high-risk populations.

A 1996 study of the Milwaukee County, Wisconsin, ISP program found the probability of recidivism was cut in half (Jones et al. 1996). Several clients told researchers that one reason for the apparent success of the program was the repeated contact with the program and its staff forced them to remember their offense and the reasons they were in the program. The close contact helped them avoid falling back into old patterns of behavior and provided them with direction and support over an extended period of time.

Further evaluation of the Milwaukee program found offenders who did not participate in the ISP program were 10 times more likely to be arrested for driving while suspended or revoked, seven times more likely to be arrested for other types of offenses and nine times more likely to skip court hearings during the pre-trial period.

A 1997 study compared repeat offenders on home confinement with electronic monitoring with offenders on intensive supervision probation and offenders in traditional jail. The study found those on home confinement and ISP with treatment had lower one-year recidivism rates than those who were in jail (Brooker 2001).

A two-year study of the DUI Intensive Supervision Program (DISP) in Multnomah County, Oregon, is currently underway. The study's goal is to determine if long-term sanctions provided by the DISP program and similar programs are effective.

Participating repeat offenders will be randomly assigned to one of four groups: one subject to periodic breath testing and electronic monitoring; one subject to sale of all offender-owned

vehicles; one subject to all of the aforementioned sanctions; and a final group subject to only probation. Researchers hypothesize that the group facing the greatest number of sanctions will be the least likely to recidivate.

DWI Intensive Supervision Program (DISP) 4th Judicial District in Oregon

Judge Dorothy Baker works exclusively with drunk driving offenders. Her approach to handling drunk drivers is called the DWI Intensive Supervision Program (DISP). The focus of this program is to treat each case individually and tailor the sentence to the individual in order to change that person's life.

The first step for any offender in Judge Baker's program is to become and remain sober. A change in lifestyle is the program's second step. Before any of this can occur, the offender must submit to a plea agreement. Judge Baker then reviews the case with the offender from a broad legal perspective, followed by an in-depth examination of the offender's lifestyle, including the nature of the offender's alcohol abuse. The information gleaned from the interview aids Judge Baker in determining an effective sentence.

During the three years of Judge Baker's program, offenders must abide by the following regulations:

- Work at least 35 hours per week;
- Be involved in a non-alcohol related social activity;
- Undergo lie-detector tests;
- Meet with a parole officer;
- Participate in a follow-up meeting with Judge Baker 45–90 days after sentencing; and
- Sign a pledge, along with the rest of the offender's household, that there will be only one car per licensed driver and that all keys to the car will be kept away from the offender. Additionally, no drugs or alcohol will be allowed in the home.

The results of Baker's program are encouraging. In the past three years her program has maintained a slightly greater than one percent recidivism rate.



Staggered Sentencing With Intensive Probation: District Court, Isanti County, Minnesota

Justice Jim Dehn's approach to DWI sentencing splits an offender's jail sentence in thirds. The offender serves the first segment immediately. After the first segment of incarceration is completed, the offender leaves jail on intensive supervision probation for a year before serving the second segment. Following this the offender receives another year out of prison on intensive supervision probation before serving the last portion of his or her sentence.

The process can be ended prematurely in the event that the offender proves to Justice Dehn that he or she has reformed and has remained sober. When this occurs, Justice Dehn waives the rest of the offender's sentence. However, if the offender commits another DWI offense while out of jail, he or she is sent immediately to jail to serve out the remainder of the sentence.

Judge Dehn has used this staggered sentencing approach on an experimental basis only. Out of 60 persons sentenced in this manner, only three (as of April 2002) have committed subsequent DWI offenses in four years. Other Minnesota judges (as many as 15) are planning to implement staggered sentencing as way to reduce recidivism.

What Is the Cost of ISP?

The Milwaukee County program operated by the Wisconsin Correctional Service was not designed to be self-sufficient, and the costs it saved by reducing jail time did not at first outweigh the cost of the program. The net cost for the first 216 clients entering the program was \$91,000, or about \$421 per client. Researchers note that for this cost, the client's recidivism probability was cut in half, which implies a substantial cut in drinking-driving exposure and, ultimately, alcohol-related crashes and system costs (Jones and Lacey 2001).

The Milwaukee County program was initially funded by federal grants, matching funds and short-term corporate sponsorship and is now funded by state dollars set aside by the Wisconsin legislature. An intensive supervision program in Isanti County, Minnesota, is funded by client fees — a court ordered amount of \$520 — and a state grant of \$54,000.

A New Mexico report estimated that ISP costs \$2,500 per offender per year compared to \$27,500 in jail costs per offender per year. This cost savings led the New Mexico Criminal and Juvenile Justice Coordinating Council to recommend allocating funds for 60 additional intensive supervision probation slots.

Where to Go for More Information on ISP

Boyle, M.D. 1999. Wisconsin's intoxicated driver intervention program: Decreasing recidivism among repeat offenders through pre-trial intensive supervision. *Impaired Driving Update*. Kingston, NJ: Civic Research Institute, Inc.

Brooker, R.G. July 2001. *Evaluation of Alternatives to Incarceration for Repeat Drunken Driving. Phase 1: Database Search*. Milwaukee, WI: The Dieringer Research Group.

Weddig, R. May 1, 2002. DWI offenders get a chance to change through county program. *Isanti County News*: Isanti, New York.



Home Confinement with Electronic Monitoring

Home confinement with electronic monitoring is an intermediate sanction in that it exerts more control on the offender's behavior and freedom than regular probation, but it provides less control than incarceration. Home confinement is not a sentence in and of itself but may be a condition of probation, parole or supervised release, as well as a condition of pre-trial release (Federal Corrections 2000). Home confinement with electronic monitoring is used in some areas as an alternative to jail to help relieve overcrowding.

The National Hardcore Drunk Driver Project's National Agenda calls for home confinement in conjunction with treatment and close supervision. Under this sanction, offenders are under court order to be at home during specified hours. They may leave for pre-approved activities, such as work or to attend a treatment program. The electronic monitoring device is usually a tamper-resistant transmitter attached to the offender's ankle. The transmitter emits a radio frequency signal detected by a unit connected to the home phone. When the transmitter comes within range of the unit, the unit calls a monitoring center to indicate the participant is at home.

In other monitoring systems, random programmed telephone calls are made to the offender. A camera takes a picture of the offender to ensure identity, and breathalyzer information is relayed by telephone to a computer.

Electronic monitoring is not a sanction in and of itself. Rather, it is a technology used to ensure compliance with the sanction of home confinement. The home confinement program requires more than just electronic monitoring; treatment and close supervision to bring about lifestyle changes are crucial.

Electronic monitoring permits the offender to stay in the community, maintain employment and avoid the stigma of incarceration. A 2002 evaluation of offenders on electronic monitoring in Minnesota found almost 75 percent of participants were employed full or part-time, both upon enrollment in electronic monitoring and after discharge (Minnesota Department of Corrections 2002).

Where Is Home Confinement with Electronic Monitoring Used?

Based on information gathered from the National Hardcore Drunk Driver Project Survey, 36 states and the District of Columbia permit this sanction. According to a 2000 report by the National Transportation Safety Board, an estimated 75,000 people are on electronic monitoring each day. In Minnesota, high BAC offenders may be released from jail only if they abstain from alcohol and undergo daily electronic monitoring.



How Effective Is Home Confinement with Electronic Monitoring?

A study of the Los Angeles County Electronic Monitoring/Home Detention program found one year after entering the program, the recidivism rate for offenders was cut by about 33 percent. Offenders said the program was effective because it offered monitoring, structure and support for an extended time period (Jones, Lacey, and Wilizowski 1996).

The Western County, Pennsylvania, house arrest with electronic monitoring program experienced a 98 percent success rate in keeping electronically monitored offenders from drinking and driving. In the first year of operation only one offender was removed from the program. The study found successful attendance at treatment and employment were significantly related to success while on electronic monitoring (Courtright, Berg, and Mutchnick 2000).

A 2002 Minnesota Department of Corrections study found only a slight percentage (between one and two percent) of offenders were arrested for a new DWI offense while participating in the state's pre-sentence electronic monitoring program. A 1998 study of both pre- and post-sentence electronic monitoring participants in Minnesota found 85 percent of pre-sentence offenders and 95 percent of post-sentence participants successfully completed the program. Only one of the 945 participants was re-arrested for an alcohol offense (Minnesota Department of Corrections 2002).

What Is the Cost of Home Confinement with Electronic Monitoring?

Some programs are self-sufficient, with costs paid by the offenders, based on ability to pay. In several states, the cost ranges from \$3 to \$10 a day. Offenders in the Western County, Pennsylvania, program pay \$8 a day to participate. The Los Angeles County program costs participants an average of \$15 a day. A 1996 study involving 639 offenders in the Los Angeles County program found placing them on the electronic monitoring program instead of sending them to jail resulted in a savings of nearly \$1 million (Jones, Wiliszowski, and Lacey 1996).

"A benefit of the home confinement program is that it costs about one-third the cost of custody. In providing an alternative to incarceration, it allows defendants and offenders to continue to contribute to the support of their families and pay taxes. Moreover, courts may order program participants to pay all or part of electronic monitoring costs" (Federal Corrections and Supervision Division 2000).

Where to Go for More Information on Home Confinement with Electronic Monitoring

Schmidt, A.K. 1998. Electronic monitoring: what does the literature tell us? *Federal Probation: A Journal of Correctional Philosophy and Practice* (December): 10–19.

Federal Corrections and Supervision Division, Administrative Office of the U.S. Courts. 2000. *Court and Community: An Information*



Series about U.S. Probation and Pre-trial Services. Washington, DC: Federal Corrections and Supervision Division, Administrative Office of the U.S. Courts.

University of Arkansas at Little Rock. Department of Criminal Justice. 1998. *Arkansas Crime Poll. Electronic Monitoring.* Little Rock, AR: University of Arkansas.

Incarceration

Studies on the effects of incarceration have produced mixed results, and its effectiveness is the subject of intense debate. Increasingly, the public is demanding longer periods of incarceration for hardcore drunk drivers, despite research showing long-term incarceration alone does not lower the rate of recidivism among repeat offenders. Jail sentences often result in a high cost to the judicial and correctional systems, where overcrowding is a national concern.

Regardless of incarceration's effect as a deterrent, studies imply jail sentences may serve notice that drunk driving will not be tolerated and, in that respect, play an important role in shaping public attitudes toward drinking and driving (Davies 1996).

The U.S. Department of Justice found 89 percent of DWI offenders in the nation's justice system in 1987 were on probation rather than being incarcerated. Of the eleven percent of offenders who were incarcerated, 8 percent were in jail and 3 percent in state prison. DWI offenders serving time in jail had an average sentence of 11 months (Maruschak 1999).

A major obstacle to longer jail sentences is the pervasive problem of jail overcrowding. As one judge put it, "The amount of jail time was, frankly, a matter of how much space we had in jail."

When confinement is necessary, researchers recommend counseling and treatment to deal with addiction and lifestyle changes as deemed necessary by a thorough assessment of the offender. Incarceration alone, although feared, does not teach alternative behavior for individuals with alcohol-related problems. A research study in California found first-time offenders sentenced to jail had almost double the number of DWI reconvictions as offenders assigned to treatment and license restriction (DeYoung 1997).

As an alternative to traditional correctional institutions, there is a growing number of detention facilities dedicated to multiple DWI offenders. They provide confinement in conjunction with supervised alcohol treatment services. Detention usually ranges from two weeks to 90 days. An example of an alternative to incarceration is Chicago's Haymarket House, which is a Rehabilitative Confinement Program (RCP) combining detention, community service, treatment and payment of fines or monetary sanctions. Offenders in the Chicago area are sentenced to these RCPs in week-long increments, with a maximum period of 28 days. The RCPs are housing facilities with fully supervised detention capacity; offenders are monitored at all times. Offenders also participate in the Sheriff's Work Alternative Program (SWAP) as a form of community service. *For more about alternatives to incarceration, see the Dedicated Detention Facilities section.*



Where Is Incarceration Used as a Hardcore Drunk Driving Sanction?

Most states have adopted some form of mandatory jail sentences for drunk driving. According to the National Hardcore Drunk Driver Project Survey, 24 states, the District of Columbia and one territory have mandatory terms of imprisonment for first-time drunk drivers, and 48 states, the District of Columbia and four territories impose mandatory minimum sentences for repeat offenders.

How Effective Is Incarceration in Reducing Hardcore Drunk Driving?

In general, studies suggest that as a specific deterrent, jail terms are no more effective than other sanctions in reducing DWI recidivism among either first-time or repeat offenders. Lengthy sentences are not associated with lower recidivism among repeat offenders.

Researchers Michael Weinrath and John Gartrell (2001) examined the relationship between length of incarceration and recidivism and found offenders receiving sentences of four months or less had the greatest likelihood of a repeat DWI. They also found the deterrent value of longer sentences peaks between four and six months. Based on this research, the authors recommended increasing or decreasing jail sentences to a length of six months.

However, a 2001 Wisconsin study found long-term incarceration alone is not effective in changing the attitude or behavior of repeat offenders and widespread long-term incarcerations would be cost-prohibitive (Brooker 2001).

Some studies have found extensive public awareness of the risk of incarceration can have a short-term effect as a deterrent aimed at the behavior of the general driving public. Additionally, a few studies suggest incarceration for two days has some beneficial effect on first-time offenders, although its effect on hardcore drunk drivers is not known.

How Much Does Incarceration Cost?

The daily rate varies according to the jurisdiction. In King County, Washington, the legislature voted to mandate DWI prisoners pay the cost of incarceration, about \$53 a day, if the offender can afford it. Nevada projected the cost of keeping an inmate in prison for fiscal year 1998 was \$16,084. Alaska has a statutory provision requiring offenders to reimburse up to \$1,000 of their incarceration expenses. In Maricopa County, Arizona, it costs \$36.79 per day per individual to keep an offender in jail (Jones and Lacey 2001). The cost of incarceration in Ohio is estimated at \$20,267 per inmate per year.

Where to Go for More Information on Incarceration

Davies, B.T. 1996. *Evaluation of Administrative License Revocation as a DWI Countermeasure*. College Station, TX: Texas Transportation Institute and Washington, DC: National Highway Traffic Safety Administration.



Maruschak, L.M. 1999. *DWI Offenders Under Correctional Supervision*. Washington, DC: U.S. Department of Justice, Bureau of Justice Statistics.

Brooker, R.G. July 2001. *Evaluation of Alternatives to Incarceration for Repeat Drunken Driving. Phase 1: Database Search*. Milwaukee, WI: The Dieringer Research Group.

Vehicle-Based Sanctions

The main purpose of vehicle-based sanctions is to separate the offending drivers from their vehicles and restrict their access. In this way, the sanctions both punish the offenders and protect the public from their continued drunk driving behavior. In the case of alcohol interlocks, the sanction can also contribute to the offender's treatment objectives by reinforcing the choice to abstain from alcohol. Limiting access to the vehicle increases the effectiveness of licensing penalties. As with ALR, swift and certain action is assured by applying these sanctions administratively following arrest, leaving the offender little opportunity to evade punishment.

The coordination of sanctions and their effectiveness as deterrents is greatly improved by accurate tracking and record keeping. Unfortunately, often vehicle records are not cross-referenced against driver records. As a result, vehicle sanctions may fail to appear in the hardcore offender's driving history.

Vehicle Registration Cancellation and License Plate Seizure

This sanction is used as an alternative to vehicle impoundment and is intended to result in vehicle immobilization. The plate can be administratively confiscated by a police officer during a DWI arrest, and the registration of the vehicle used in the offense may be revoked. *For more information on immobilization, see the Vehicle Immobilization section.*

| VEHICLE SANCTIONS BY STATE | | | | | | | |
|----------------------------|--------------------|--|---|---------------------------|------------------------|---------------------|-------------------------------|
| 2002 | Ignition Interlock | License Plate Confiscation, Suspension, or Impoundment | Vehicle Registration Cancellation or Suspension | Special License or Plates | Vehicle Immobilization | Vehicle Impoundment | Vehicle Forfeiture or Seizure |
| Alabama (AL) | X | | | | | | |
| Alaska (AK) | X | | | | | | |
| American Samoa | | | | | | X | X |
| Arizona (AZ) | X | | | | | | |
| Arkansas (AR) | | | X | | | | |
| California (CA) | X | | | | | X | X |
| Colorado (CO) | X | | | | | | |
| Connecticut (CT) | | | | | | X | |
| Delaware (DE) | X | X | X | | | X | X |
| Florida (FL) | | | | | X | X | X |
| Georgia (GA) | X | X | | X | | | X |
| Hawaii | | | | | | X | X |
| Idaho (ID) | | | X | X | | | |
| Illinois (IL) | X | | | | | X | X |
| Indiana (IN) | X | | | | | | |
| Iowa (IA) | X | X | X | | | X | |
| Kansas (KS) | X | X | | | | | |
| Kentucky (KY) | X | X | | | | | |
| Louisiana (LA) | X | | | | | | X |
| Maine (ME) | X | X | X | | | X | X |
| Mariana Islands | | | | | | | |
| Maryland (MD) | X | | | | | | |
| Massachusetts (MA) | | | | | | | |
| Michigan (MI) | X | X | X | | X | | X |
| Minnesota (MN) | | X | | | | | X |
| Mississippi (MS) | X | | | | X | X | X |
| Missouri (MO) | X | | | | | | |
| Montana (MT) | X | | | | | | X |
| Navajo Nation | | | | | | | |
| Nebraska (NE) | X | | | | X | | |
| Nevada (NV) | X | | X | | | | |
| New Hampshire (NH) | X | | X | | | | |
| New Jersey (NJ) | X | | X | | | X | |
| New Mexico (NM) | X | | | | | | |
| New York (NY) | X | | X | | | | X |
| North Carolina (NC) | X | | X | | | | X |
| North Dakota (ND) | X | X | | | | | X |
| Ohio (OH) | X | X | X | | X | X | X |
| Oklahoma (OK) | X | | | | | | |
| Oregon (OR) | X | | X | | X | | X |
| Pennsylvania (PA) | X | | | | | | X |
| Puerto Rico (PR) | | | | | | | |
| Rhode Island (RI) | X | | X | | | | X |
| South Carolina (SC) | X | | | | | | X |
| South Dakota (SD) | X | | X | | | | |
| Tennessee (TN) | X | | | | | X | X |
| Texas (TX) | X | | | | | | X |
| Utah (UT) | X | | | | | | |
| Vermont (VT) | | | | | X | | X |
| Virgin Islands (VI) | | | | | | X | X |
| Virginia (VA) | X | | X | | | X | X |
| Washington (WA) | X | | X | | | | X |
| Washington, DC | X | | | | | X | |
| West Virginia (WV) | X | | | | | | |
| Wisconsin (WI) | X | | | | X | | X |
| Wyoming (WY) | | | X | | | X | X |

These sanctions take effect at various BAC levels. See state profiles for details.



Administrative plate seizure is inexpensive and efficient. At the time of arrest, the police remove the plates and the state invalidates the vehicle's registration. In some states, a grace period allows the offender up to 15 days to turn in the plates themselves or face additional penalties. When there are family members who are dependent on the car, special tags can alert police to potential violators. Since the license plate is the property of the state, no infringement of property rights is in question. Three states — Iowa, Minnesota, and Ohio — issue special license plates to permit the use of the vehicle by the family members of convicted DWI offenders (NHTSA State Legislative Fact Sheet, Jan. 2001).

Minnesota has administrative license plate impoundment. People arrested for drunk driving who have a previous offense within 10 years or who have a BAC of .20 or higher will have their license plates impounded and destroyed. Replacement plates are issued only when the license revocation order has been rescinded after the mandatory minimum impoundment period.

In some cases, special license plates can be substituted. These plates contain a special sequence of letters for drunk driving offenders. Minnesota law also allows an officer to stop at any time a vehicle bearing the special license plates to check the status of the driver's license.

In 2000, Minnesota passed a law making it a separate crime for an offender subject to plate impoundment order to drive a vehicle without a special plate or for a transferee of the vehicle to allow the previously registered owner to drive during the impoundment period. The maximum penalty for violation of this law is a fine of \$1000 and 90 days in jail.

Where Are Registration Cancellation and License Plate Seizure Used?

In 19 states and the District of Columbia, vehicle registration is withdrawn upon conviction of a DWI offense or a driving-while-suspended offense that originated from a DWI charge, according to the National Hardcore Drunk Driver Project Survey. In Georgia, offenders may be subject to plate seizure on a third conviction. In Minnesota, police can seize plates of drivers who have had three or more DWIs within a five-year period. They may also confiscate the plates of any other vehicles owned by the same person.

In Ohio and Minnesota, violators are required to turn in their plates but could apply for "family plates" that allow another family member to use the vehicle (Voas and DeYoung 2002).

How Effective Are Registration Cancellation and License Plate Seizure?

Studies show administrative-based plate seizure for hardcore drunk drivers is a low-cost and effective procedure that can significantly reduce recidivism. Minnesota's administrative-based plate impoundment program showed a 50 percent decrease in recidivism over a two-year period when compared with DWI violators who did not experience impoundment.



In general, however, license plate seizure laws are poorly enforced. A study of Minnesota offers a good comparison of judicial vs. administrative application of license plate seizures. During the 29 months when the plate seizure law was managed through the judicial system, only 465 — or 6 percent — of the 7,698 eligible, third-time offenders had their license plates impounded. During the 21 months after the law was applied administratively in 1991, 3,136 — or 68 percent — of the 4,593 third-time DWI offenders had vehicle plates impounded.

Where to Go for More Information on Vehicle Registration Cancellation and Plate Seizure

National Highway Traffic Safety Administration. April 2002. *State Legislative Fact Sheet*. Washington, DC: National Highway Traffic Safety Administration.

Jones, R.K., and Lacey, J.H. 2001. *Alcohol and Highway Safety 2001: A review of the state of knowledge*. Washington, DC: National Highway Traffic Safety Administration.

Voas, R.B., and DeYoung, D.J. 2002. Vehicle action: effective policy for controlling drunk and other high risk drivers? *Accident Analysis and Prevention* 34: 263–270.

Vehicle Immobilization

Immobilizing an offender's vehicle has the advantage of preventing the vehicle from being used by the hardcore offender while avoiding the procedural problems and costs involved with vehicle confiscation and storage. The vehicle can be immobilized on the offender's property by using a locking device to secure the steering wheel or a "boot" to lock the wheel. This reduces the cost to the offender and eliminates the problems of the state disposing of unclaimed vehicles.

Where Is Vehicle Immobilization Used?

According to data gathered by the National Hardcore Drunk Driver Project Survey, there are nine states (Florida, Iowa, Michigan, Mississippi, Nebraska, Ohio, Oregon, Vermont and Wisconsin) using this type of sanction.

How Effective Is Vehicle Immobilization?

A 1996 study by Voas was conducted on a Franklin County, Ohio, program with a combination vehicle impoundment/immobilization law. The study suggests preventing the use of the vehicle for a period from one to six months is a promising sanction for hardcore drunk drivers. It found the sanction, whose primary component is immobilization, appeared to reduce recidivism even after the sanction was no longer in effect. During the immobilization/impoundment period, recidivism by repeat offenders was reduced by 49 percent. After the vehicles were returned to offenders, they still demonstrated a 24 percent lower recidivism level than those who had never been immobilized or impounded.



What Is the Cost of Vehicle Immobilization?

Administrative vehicle immobilization, cheaper than impoundment or forfeiture, uses a boot or a club to keep the car from moving. Generally, the vehicle is seized and impounded at the point of arrest but very shortly is released and taken to the offender's property where the police put a club or boot on it. The police remove the license plate, and the vehicle remains immobilized for a specified period. In Ohio, where immobilization is an administrative sanction, defendants pay a fee to the Department of Motor Vehicles, which then returns the money to the arresting agency. The vehicle immobilization law requires the fee be paid prior to law enforcement's release of the vehicle to its owner. In many counties, those fees cover the cost of buying clubs, which average about \$30, or boots, which cost about \$200. Ohio has strengthened its law to require vehicle forfeiture on a third offense within six years. On a fourth offense, DUI becomes a felony.

Where to Go for More Information on Vehicle Immobilization

Ohio Department of Public Safety, Charles D. Shipley Building, 1970 W. Broad Street, P.O. Box 182081, Columbus, Ohio, 43218-2081.

Voas, R.B., Tippetts, A.S., and Taylor, E. 1996. *The Effect of Vehicle Impoundment and Immobilization on Driving Offenses of Suspended and Repeat DWI Drivers*. 40th annual proceedings of the Association for the Advancement of Automotive Medicine. Vancouver, British Columbia.

Voas, R.B., Tippetts, A.S., and Taylor, E. 1997. *Evaluation of the Vehicle Immobilization Law in Franklin County (Columbus) Ohio*. Proceedings from Lifesavers 15, Orlando, Florida.

Vehicle Impoundment

In employing this sanction — which is applied primarily against hardcore drunk drivers — an offender's vehicle is seized and stored in a compound. In most states, a DWI offender's vehicle can be impounded overnight. The impoundment is longer if the offender is a recidivist or is caught driving with a suspended license. Application of the sanction varies among jurisdictions. Some target drivers who violate license suspension, while others use the sanction only after repeated DWI convictions. In San Francisco, police can impound the vehicles of unlicensed or suspended drivers for up to 30 days. Those who claim their vehicles must pay towing and storage fees, plus a \$150 administrative fee. The total for a 30-day impoundment can reach \$1,000. In some jurisdictions, impoundment is a component of a vehicle impoundment/forfeiture law.

Where Is Vehicle Impoundment Used?

Until recently, few jurisdictions operated active impoundment programs. However, in the past few years there has been a dramatic increase in new program implementation. Fifteen states, the District of Columbia and two territories use vehicle impoundment as a



sanction, according to the National Hardcore Drunk Driver Project Survey. In California, a pilot vehicle impoundment program was developed by the Santa Rosa Police Department and modified by San Francisco. Based on the success of the San Francisco program, the state's Office of Traffic Safety has awarded grants to 13 more cities to start vehicle impoundment programs.

How Effective Is Vehicle Impoundment?

Although the San Francisco program is not aimed solely at drunk driving offenders, safety officials credit the vehicle impoundment law with having a tremendous impact on drunk driving. In the San Francisco program's first two years, it is credited with a 63 percent drop in alcohol-related fatal and injury collisions and a 43 percent reduction in hit-and-run fatal and injury collisions. Police say a key to the program's success is its violator-paid administrative fees, which fund a district attorney to prosecute resulting cases. Through San Francisco's program, 7,016 vehicles were impounded in 1995 and 7,293 in 1996.

A study in California of more than 6,300 unlicensed, suspended or revoked drivers whose vehicles were impounded found they had fewer subsequent traffic convictions than those whose vehicles were not. Repeat offenders whose vehicles were impounded had 22 percent fewer traffic convictions and 38 percent fewer crashes than those whose vehicles had not been impounded.

A 1998 study in Hamilton County, Ohio, which keeps the offender's vehicle impounded throughout the entire sanction period, found an 80 percent reduction in DWI recidivism among repeat offender participants. Encouragingly, recidivism reductions experienced during impoundment appear to continue even after the driver and vehicle are reunited. The Hamilton County study also found a 58 percent reduction in recidivism by repeat offenders once the sanction was lifted.

Other researchers have suggested vehicle impoundment be handled administratively by the state licensing agency. This move would leave courts free of the pressure to plea-bargain offenders away from this sanction.

Problems traditionally associated with vehicle impoundment include:

- a judicial reluctance to punish the offender's family by depriving them use of a vehicle;
- inability of offenders to pay towing and storage costs;
- insufficient value of the vehicles seized to recoup the costs to the state when offenders fail to pay impoundment charges; and
- the lack of adequate storage facilities.

What Is the Cost of Vehicle Impoundment?

The cost is usually paid by the offender, but research shows the cost of storing the vehicles frequently exceeds their value, resulting in abandoned vehicles for which the locality must then pay the towing and storage bill.



In San Francisco, the vehicle impoundment program collected \$1.5 million in violator-paid administrative fees in 1995 and 1996, an amount program administrators consider break-even. Among other expenses, the fees provide reimbursement for the costs of the program, police officers' time, the dedicated district attorney and two clerks' salaries. However, the city makes money by requiring offenders to pay outstanding parking tickets and to get valid registrations before the city will release the vehicles. Police estimate the city collects \$500,000 yearly in parking fines alone through the impoundment program. Registration fees bring in additional revenues.

Where to Go for More Information on Vehicle Impoundment

National Highway Traffic Safety Administration. July 1998. California impounds the vehicles of motorists caught driving without a valid license. *Traffic Tech* 180. Washington, DC: National Highway Traffic Safety Administration.

Voas, R.B., Tippetts, A.S., and Taylor, E. 1998. Temporary vehicle impoundment in Ohio: A replication and confirmation. *Accident Analysis And Prevention* 30(5): 651–655.

California Office of Traffic Safety, 7000 Franklin Blvd., Suite 440, Sacramento, CA 95823; 916-262-0990.

Vehicle Forfeiture

Vehicle forfeiture allows the state to confiscate permanently the vehicle of repeat DWI/DWI offenders or those who drive repeatedly with a suspended license. A Portland, Oregon, ordinance requires forfeiture of vehicles of offenders arrested for driving with a license suspended as a result of drunk driving. The forfeiture ordinance also applies to those arrested as habitual offenders who have committed three or more serious traffic offenses, at least one of which was driving while intoxicated. The flexibility included in some forfeiture ordinances results in a de facto combination vehicle impoundment/forfeiture law.

New York City began a DWI forfeiture initiative in early 1999 allowing the police to begin forfeiture actions against all offenders arrested for drunk driving, including first-time offenders. The forfeiture initiative is authorized by a provision of the New York City Administrative Code, which allows forfeiture of the proceeds and instrumentalities of a crime.

Where Is Vehicle Forfeiture Used?

Several states have legislation allowing vehicle forfeiture, but most rarely use it. In many jurisdictions, forfeiture is a discretionary sanction imposed by the courts (NTSB 2000). There are a few notable exceptions of well-utilized programs, including:

- Bend, Oregon, seizes vehicles of repeat offenders and of vehicles owned by others if they knowingly allowed the driver to use the vehicle (City of Bend, Oregon 1993).
- In Ohio, laws allow forfeiture for the fourth DWI, third DWS, or the first offense of driving an immobilized or plate



impounded vehicle within five years. If forfeiture occurs, the offender cannot register or title any vehicle in his or her name for five years (Ohio Bureau of Motor Vehicles 2003).

- The state of Michigan allows forfeiture for crimes ranging from a second DWI in seven years to felony DWI causing death or injury (State of Michigan 2002).
- New York City initiated a first offender vehicle forfeiture ordinance in February 1999; the city seized 1,458 cars in the first year of operation.
- In Portland, Oregon, 286 vehicles were permanently forfeited as of May 1997.
- Deschutes County, Oregon, has an ordinance allowing drivers to regain their vehicle if they pay an administrative fee and sign an agreement forfeiting their rights to the vehicle on a future arrest for DWI or driving while suspended.
- Anchorage, Alaska, has an impoundment/forfeiture ordinance that seeks 30 days impoundment for a first offense and forfeiture for a second or subsequent offense.
- Santa Barbara, California, also has an impoundment/forfeiture ordinance for unlicensed drivers that started January 1, 1995.

A 2002 survey found most California jurisdictions enforced vehicle impoundment for first-time DWS offenders, but very few enforced the vehicle forfeiture law for repeat offenders. Reasons for this included a perception the forfeiture law was too time consuming or not a priority among prosecutors. Also, in some cases, vehicle impoundment is tantamount to forfeiture because many drivers fail to retrieve their vehicle at the end of the impoundment period. Other issues limiting the widespread use of forfeiture are non-offender owners, low value of the vehicle seized, costs of storing vehicles and legal costs of seizing and selling vehicles (Peck and Voas 2002).

How Effective Is Vehicle Forfeiture?

A 2000 study found after New York City began a vehicle forfeiture program for first time offenders, DWI arrests declined by 22 percent and traffic crashes declined by 14 percent from the previous year. These declines, however, could not be attributed solely to the vehicle forfeiture ordinance (Peck and Voas 2002).

A 1995 study of a forfeiture program in Portland, Oregon, found offenders whose vehicles were seized re-offended only half as often as those whose vehicles were not seized (Crosby 1995). From 1990 through 1994, the recidivism rate for offenders whose cars were seized was only four percent.

Police officers in Santa Barbara, the sheriff's department in Deschutes County and Anchorage city officials all consider their impoundment/forfeiture programs to be effective.



What Is the Cost of Vehicle Forfeiture?

In San Diego, the program has seized over 1,064 forfeitures since 1997 and is funded entirely by a \$72 unlicensed driver assessment fee. There is also a \$53 fee imposed on impounded vehicles, which is allocated to a negligent driver improvement fund (Peck and Voas 2002).

The 1995 study of vehicle forfeiture in Portland found the program was more costly to administer than it was to receive sales of seized property, although program proponents say it now operates close to break-even.

According to the Deschutes County Sheriff's Department, the vehicle forfeiture program there has returned about \$150,000 to area law enforcement agencies. And in the Anchorage program, revenues from administrative fees, attorneys' fees, net auction proceeds and vehicle return bond forfeitures covered approximately three-fourths of the costs in 1996.

From its inception in January 1995 until mid-1997, Santa Barbara's impoundment/forfeiture program impounded 4,338 vehicles, of which 243 met the criteria for forfeiture. Each vehicle was assessed a \$45 administrative fee upon release. The net receipt from the sale of forfeited vehicles — after payment of liens, towing, release fees and additional administrative program costs — was over \$66,000. The revenue was divided between the state and the city police department.

Where to Go for More Information on Vehicle Forfeiture

Crosby, I.B. 1995. *Portland's Asset Forfeiture Program: The Effectiveness of Vehicle Seizure in Reducing Rearrest Among "Problem" Drunk Drivers*. A joint project by Reed College Public Policy Workshop and the City of Portland Bureau of Police Asset Forfeiture Unit.

Simpson, H.M., Mayhew, D.R., and Beirness, D.J. 1996. *Dealing with the Hard Core Drinking Driver*. Ottawa, Ontario: Traffic Injury Research Foundation.

Peck, R., and Voas, R.B. 2002. Forfeiture programs in California: why so few? *Journal of Safety Research* 33: 245–258.

National Transportation Safety Board. 2000. *Safety Report: Actions to Reduce Fatalities, Injuries, and Crashes Involving the Hard Core Drinking Driver*. Washington, DC: National Transportation Safety Board.

Breath Alcohol Ignition Interlock Devices

This device is a popular, effective and relatively inexpensive mechanism for allowing the hardcore offender to drive legally. The purpose is to prevent a person who has consumed alcohol from driving a vehicle. The device measures alcohol concentration in the



breath and is attached to a vehicle's ignition system. The driver must blow into the device before the car can be started. If the BAC level is above the predetermined level, the vehicle can't be started.

Most of the devices have a number of anti-circumvention features, including a data recorder, which documents all vehicle uses as well any attempt to tamper with the device, and a rolling retest feature, which requires the driver, after starting the vehicle, to supply at least one other breath sample. This feature helps prevent circumvention of the interlock by having someone else provide the initial breath sample.

Where Are Breath Alcohol Ignition Interlock Devices Used?

At least 41 states, the District of Columbia and Puerto Rico have either mandatory or discretionary interlock laws. Eight (Beirness 2001) different device manufacturers are marketing BAIDs in states with enabling legislation, and about 30,000 (Voas et al. 2002) devices are installed in the United States and Canada. West Virginia and Maryland are the only states where the DMV controls and administers the ignition interlock program, which is voluntary and incentive-based for eligible offenders. To be eligible, offenders must be enrolled in, or have completed, a safety and treatment program.

How Effective Are Breath Alcohol Ignition Interlock Devices?

These devices can significantly reduce recidivism, at least while the restriction is in place. A 1999 meta-analysis of research on DWI recidivism while interlocks were installed found offenders with interlocks were 15–69 percent less likely to be re-arrested for DWI than those without interlocks (Coben and Larkin 1999). After 12 months of use, interlock users were 16 times less likely to recidivate than non-interlock offenders (Marques et al. 2001). Once interlocks are removed, recidivism rates are generally comparable between interlock participants and non-participants, although an Alberta study has shown the five-year re-offense rate for repeat offenders on interlocks was half that of those not using interlocks (Beirness 2001).

Research has also shown 60 percent of repeat offenders can be predicted by the number of repeat DWI offenses and the number of ignition interlock breath test failures and warnings. This research suggests using breath test records obtained from the interlock's data logging system recorder could help to further identify those likely to recidivate once the interlock is removed. A longer period of interlock use would be appropriate for these offenders (Marques et al. 2001).

"Attempting to start an interlock-equipped vehicle on more than a couple of occasions with a BAC of at least 0.08 percent is a discrete and reasonably good predictor of repeat offenses" (Marques et al. 2001).

In addition to the reduction in recidivism, a study by Dussault and Gendreau (2000) found a 60 percent reduction in injury and property damage crashes during and after interlocks were installed in offenders' vehicles in Quebec, Canada.



Interlocks as part of a comprehensive system. Studies recommend interlocks be part of an integrated program aimed at offender rehabilitation and not thought of merely as a device installed in an offender's vehicle. Research indicates they can substantially reinforce the effectiveness of alcohol treatment and should be required during the entire treatment and follow-up period. In Calgary, case managers were available to meet with interlock clients during their regular visits to the service center to help prevent a relapse after the interlock was removed.

Drivers at the Calgary intervention site were regularly interviewed about their drinking and driving choices and educated on how to better plan their drinking choices so they would not coincide with driving. Interlock participants were also offered supportive counseling and service referrals along with the motivational support. A study by Marques, Voas, Tippets and Beirness in 2000 found interlock participants in cities offering this type of intervention had a lower rate of failed interlock breath tests than participants in cities without intervention.

"A comprehensive interlock program should emphasize the beneficial, rehabilitative aspects of the program over its punitive and deterrent aspects. Although it may be difficult for participants not to view the program as punitive, every effort should be made to help participants understand the goal of the program is to prevent subsequent drinking-driving problems and have them become fully reinstated licensed drivers with little risk of recidivism" (Beirness 2001).

This system is not foolproof. It obviously does not keep offenders from operating other vehicles not fitted with interlock devices, such as rental cars. There is some evidence the devices can be circumvented, but technological improvements, such as the rolling re-test, have greatly reduced this possibility.

It is important to note research doesn't recommend the use of ignition interlocks as a substitute for licensing sanctions but rather as a condition of licensing reinstatement after a period of suspension.

How Much Do Breath Alcohol Ignition Interlock Devices Cost?

The cost of the program is usually paid for by the offender. The national average cost to rent the equipment is about \$60 a month. In West Virginia, there is a \$25 application fee and the device costs approximately \$105.

Where to Go for More Information on Breath Alcohol Ignition Interlock Devices

Beirness, D.J. 2001. *Best Practices for Alcohol Interlock Programs*. Ottawa, Canada: Traffic Injury Research Foundation. www.trafficinjuryresearch.com.

Coben, J.H., and Larkin, G.L. 1999. Effectiveness of ignition interlock devices in drunk driving recidivism. *American Journal of Preventive Medicine* 16.



Dussault, C., and Gendreau, M. 2000. *Alcohol ignition interlock: One-year's experience in Quebec*. Proceedings of the Fifteenth International Conference on Alcohol, Drugs, and Traffic Safety, Stockholm, Sweden.

Voas, R.B., Blackman, K.O., Tippetts, A.S., and Marques, P.R. 2002. Evaluation of a program to motivate impaired driving offenders to install ignition interlocks. *Accident Analysis & Prevention* 34(4): 449–455.

Marques, P.R. et al. 2001. Predicting repeat DUI offenses with the alcohol interlock recorder. *Accident Analysis and Prevention* 33(5): 600–619.

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EFFECTIVE TREATMENT

Effective treatment is the third essential component to combat hardcore drunk driving. Most hardcore drunk drivers have a variety of serious problems, ranging from substance abuse or addiction to violent behavior patterns. Many won't be affected by a solitary driving-related sanction, such as license revocation. Treatment for substance abuse and related problems, along with aftercare, provides a chance for them to address their problems with professional help and guidance. When combined with identification and sanctions, treatment is critical because it helps keep the hardcore drunk driver from repeating the behavior, thereby protecting him or her and also protecting the public.

When addressing treatment of hardcore drunk drivers, the pivotal question is: What most effectively will keep them from repeatedly driving while drunk?

There is no one right answer. Although there are numerous alcohol treatment programs, the number dwindles dramatically when broken down further to treatment programs for the hardcore drunk driver. A great many studies have been done on alcoholism treatment in general, but only a limited number address hardcore offenders.

It has been estimated 30 to 75 percent of DWI offenders have serious alcohol problems (Simpson et al. 1996). A 2001 survey found 85 percent of female and 91 percent of male offenders in a New Mexico screening program had a life-long alcohol use disorder (Lapham 2001). The survey also found drunk driving offenders need assessment and treatment not only for alcohol problems but also for drug use and psychiatric disorders. A study done by Siegal confirms that the lifetime and current rates of psychiatric disorders for hardcore offenders is much higher than what is found in the general population (2000). Overall, 69 percent of the inmates in Siegal's study experienced a psychiatric disorder at some point in their lives.

Because so many of the hardcore drunk drivers are alcohol dependent, treatment and rehabilitation programs should be an essential part of any strategy to combat the problem. Estimates of treatment referral rates in most states range from well over 60 percent for first-time offenders to over 90 percent for multiple offenders (Kuhl 1997).

While many hardcore drunk drivers are alcohol dependent, others are not. Currently, a handful of states offer intensive education programs targeting the non-addicted multiple offender. These programs are sometimes used in conjunction with treatment, but because education programs are not aimed at those who are alcohol dependent, they are not intended as a replacement for treatment.

This section provides an overview of the different components of DWI treatment, highlights research findings and describes DWI correctional/treatment programs for hardcore drunk drivers. As a first step in the treatment process, the topic of assessment is introduced and discussed. Assessment may occur at several stages in the swift identification, certain punishment and effective treatment process, including at court prior to sentencing and upon intake at a treatment facility.



Assessment: Evaluating the Problems of the Hardcore Drunk Driver

Often viewed as the first step to rehabilitation, the assessment process helps focus time, attention and treatment on the offenders who need it the most. It is particularly critical in dealing with hardcore drunk drivers, since it is a key source of information about their drinking and driving habits. A major purpose of assessment is to reduce recidivism by determining the nature of a drunk driver's alcohol involvement so appropriate treatment options can be identified and assigned.

Assessment procedures are either mandated by law, ordered by the court or required as a condition of license reinstatement. In some cases, offenders volunteer to be assessed and then participate in the recommended treatment program in order to reduce the length of license suspension. In some states, the certified counselor can adjudicate the offender into Alcoholics Anonymous or a medical treatment or counseling program. The re-licensing of the offender is contingent upon following the guidelines outlined by the assessor (About, Inc. 2003).

Research suggests an assessment — or minimally a screening — should be ordered prior to sentencing (NHTSA 1996), and a number of states do this. In jurisdictions where high caseloads preclude pre-sentencing assessments, an assessment can be made a condition of probation.

According to a 2001 study, most courts have a system for screening offenders into at least two groups: those considered social drinkers — those not generally seen as abusing or being dependent on alcohol — are assigned to a 10- to 14-hour education program, which tends to focus on better decision making skills relating to alcohol; and those who are problem drinkers — those who abuse alcohol and frequently experience negative consequences — are assigned to a 3- to 12-month treatment program for alcohol abuse. In some courts screening is based entirely on offense status — first offenders receive the educational program, while multiple offenders receive the treatment program. Other courts have screeners on their staffs who conduct a pre-sentence screening interview using one of the short inventories designed to identify problem drinkers (Voas and Fischer 2001).

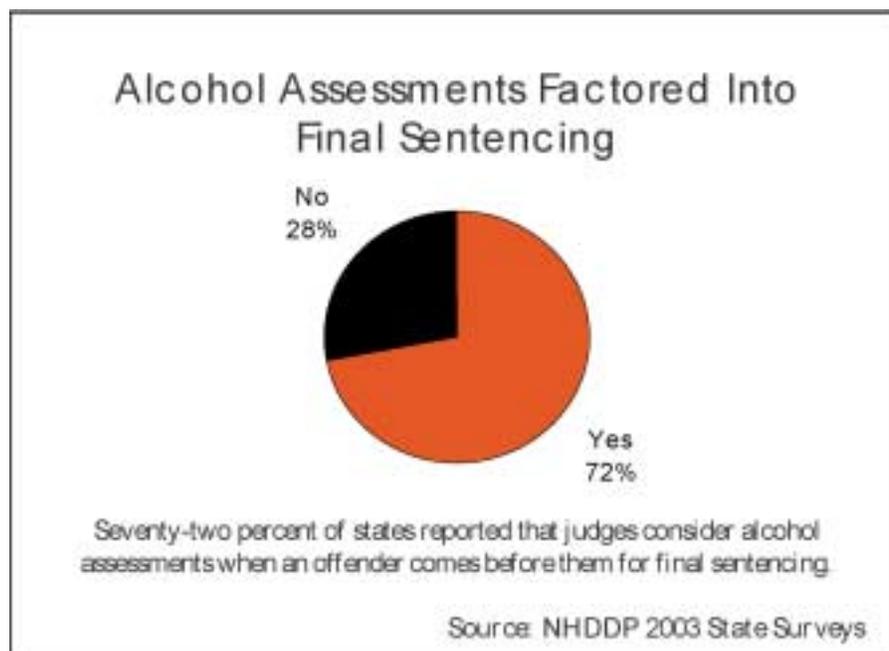
Some courts have the resources to go beyond the rough screening described above and provide for a more detailed assessment of the offender's needs. This assessment will normally consider the treatment programs available in the offender's community, the offender's employment and family and health status, in addition to the specific nature of his or her drinking problem. In addition, treatment agencies themselves typically conduct an assessment as part of their intake process to determine what type of therapeutic program is most likely to be effective with each client.

In some states a non-profit, state-certified organization conducts assessments and reports back to the court so the specific needs of the offender can be considered during the sentencing process. In other states, the assessment is carried out post-sentence and only used by the treatment provider.



An assessment usually includes a standardized assessment test and a personal interview by a trained evaluator. Minimally, an assessment should include an evaluation of the offender's alcohol and drug use and a determination of the risk of recidivism. Additional information should be obtained from family members about the offender's alcohol use and from the courts regarding the offender's criminal and driving history.

Standardized techniques for assessment are available that take into account personal and social problems as well as alcohol abuse that may trigger drunk driving behavior. Researchers suggest all offenders — but at the very least those with high BACs — undergo a complete assessment as early as possible after the arrest so appropriate sanctions can be applied and the recommended intervention and recovery can begin.





Weekend Intervention Programs. One of the more intensive assessment methods is the Weekend Intervention Program (WIP). These residential programs, which range in length from two to three days, provide a comprehensive assessment of clients' alcohol and drug involvement, confront denial and encourage self-evaluation, and prepare the clients for further treatment. In some jurisdictions, WIP is used as a treatment and education tool rather than as an assessment method (Siegal 1990). The Connecticut WIP provides alcohol education to second or subsequent DWI offenders. These offenders also attend three quarterly group sessions and one individual session upon completion of the weekend program.

An evaluation of Ohio's Weekend Intervention Program showed it was effective in lowering recidivism rates among repeat offenders. In a one to two year follow-up 21.8 percent of WIP participants recidivated compared to 26.8 percent of those in jail and 30.4 percent of offenders with suspended sentences (Siegal 1987).

Where Are Assessment Programs Used?

Some form of alcohol screening or assessment is required for offenders in most states under certain circumstances. The circumstances triggering the assessment requirement vary greatly and may be mandated by law or by administrative procedures.

Assessment requirements can apply:

- to all those arrested;
- to all those convicted;
- only as a condition of probation or of a suspended sentence;
- only for offenders who do not receive an incarceration sentence;
- as a condition of license restoration or for a conditional license; and
- as part of a diversion program.

The National Hardcore Drunk Driver Project Survey found 41 states and three territories require assessments for first offenders. Of these, nine states require only first offenders with high BACs (above .15, .17, or .18) to undergo assessment, and five states have the requirement only for those participating in a diversion program. For hardcore offenders, assessment is required in 14 states on a second or subsequent offense, depending on various circumstances, as described above. In Colorado, each probation department has an Alcohol and Drug Driving Safety Program (ADDS). These offices are staffed with alcohol and drug evaluation specialists who evaluate and recommend treatment for defendants convicted of alcohol or drug-related driving offenses. Defendants are most often referred to weekly outpatient groups, individual therapy or daily outpatient sessions. For chronic alcohol abusers, ADDS evaluators may recommend hospitalization along with antabuse treatment or urinalysis (Colorado Judicial Branch 2002).

In New Jersey, assessments occur post-sentencing. They are conducted by county-based public or private providers and are overseen by the state. Upon conviction, first, second and third offenders are remanded by the court to their local Intoxicated Driver Resource Center (IDRC), which implements the Intoxicated Driving Program throughout the state. During detention, all offenders



attend an alcohol and highway safety education program. Offenders are assessed at the center and, based on need, can be referred to a 16-week to one-year treatment program. The offender may also attend a self-help group for that time period. Offenders must participate in order to be re-licensed, and if they do not, their licenses are further suspended and they may face jail. The fees for attendance are \$100 plus a \$200 second offender fee and \$50 license restoration fee (New Jersey Department of Transportation, Motor Vehicle Commission 2002).

Many of the initial assessments are offender-funded. In the Missouri Department of Mental Health, Division of Alcohol and Drug Abuse Program, participants in the Substance Abuse Traffic Offender Program (SATOP) pay a \$125 fee at the time of the initial screening interview. These funds are used to pay for the intervention and counseling programs for repeat DWI offenders who are unable to pay. Anecdotal evidence suggests assessments and treatment may be cost-efficient because, over the long run, the system might be less burdened. By reaching first offenders who are likely to recidivate early, costs can be saved later.

How Effective Are Assessments?

As stated earlier, the goal of assessment as it relates to hardcore drunk driving is to determine when, and what type of, alcoholism treatment is warranted, in the hope of reducing recidivism. Because assessment and treatment go hand-in-hand, little research has focused solely on the effectiveness of assessments in reducing recidivism. A 2001 study in North Carolina suggests assessments do prove useful for the offender and found a majority of offenders completed the amount of treatment recommended by the assessor, with a number of people completing more than the recommended treatment (Baker 2001).

However, a 2002 AAAFTS study which evaluated the accuracy of several commonly-used screening instruments found even highly rated screening instruments lack a high level of accuracy. According to Chang, Gregory and Lapham, "the screening methods developed to date cannot accurately predict who will recidivate and who will not. Even the best assessments accurately detected only approximately 70% of recidivists and identified approximately 50% of offenders as problem drinkers." The report indicates a critical need for further research on the predictive validity of screening instruments and screening instruments in general.

The University of Illinois at Springfield, the Illinois Department of Transportation Division of Traffic Safety and a number of other agencies involved in working with DUI offenders are engaged in a long term study of the impact of risk assessment for the hardcore drunk driver. The study and subsequent piloting of a new risk reduction assessment program will feature a series of mini-studies to obtain a clearer understanding of the hardcore drunk driving offender and effective assessment criteria that can be used in DUI assessments and subsequent treatment programs.



Where to Go for More Information on Assessment

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Mothers Against Drunk Driving. 2002. *It's time to get MADD all over again: Resuscitating the nation's efforts to prevent impaired driving: A report from the MADD impaired driving summit*. Irving, TX: Mothers Against Drunk Driving.

Rosnow, M. 1997. *Milwaukee County Pretrial Intoxicated Driver Intervention Pilot Project: Four-Year Follow-Up Evaluation*. Milwaukee, WI: Wisconsin Correctional Service.

What Should Treatment Programs for Hardcore Drunk Drivers Include?

The first major federal effort to address the treatment of "problem" drinking drivers began in the 1970s with the development of Alcohol Safety Action Projects (ASAPs) in 35 states. Those programs attacked the drunk driver dilemma at the community level with an emphasis on rehabilitation. Prior to that time, a few judges ordered integrated treatment programs for problem drinkers, but most legislation relied on deterring the drunk driver through the use of licensing and jail sanctions.

From their inception, the ASAPs established a common operational definition of the problem drinker primarily based on BAC and prior offenses. Additional indicators included a record of prior treatment for alcohol problems, admission of drinking problems, or an alcohol-related criminal record. This ambitious project established the principle that an effective sanctioning system required a provision for treatment.

Treatment programs, in general, can range from brief classroom discussion to participation in self-help groups such as Alcoholics Anonymous, to outpatient counseling sessions, to long-term residential programs. Offenders with serious alcohol problems require more intensive and longer rehabilitation programs. Treatment may be combined with confinement or close monitoring ordered by the courts to ensure compliance with the treatment requirements.

At present, there seems to be no one treatment approach that is clearly the most effective with the hardcore offender. However, some general characteristics of treatment have been found to be associated with more successful outcomes. Research focused on the hardcore drunk driver (Wiliscowski 1996; TRB 1995) suggests treatment should:

- Be based on a personalized assessment process, which is needed to accurately evaluate an individual's use of, or dependence on, alcohol. It may be valuable for the clinical assessment to be different from any assessment conducted by the courts, so offenders will not feel there is any benefit to be obtained from distorting information;
- Be individualized to meet the needs of each offender. Components of the treatment plan could include a combination of



elements, such as residential treatment programs, outpatient treatment programs, interlock devices, AA meetings, or other follow-up. However, any form of treatment activity can be individualized through focusing on the specific needs and plans of each offender;

- Be based on a combination of strategies, such as education and therapy with follow-up. Treatments combining strategies, such as education plus therapy plus follow-up, are most effective for hardcore drunk drivers;
- Be provided over a sufficient period of time for meaningful behavior change to occur and be monitored. This may require a minimum of 9 to 12 months, when follow-up or monitoring is included; and
- Not be used as a substitute for other sanctions, especially license suspensions. Instead, treatment has its largest impact on recidivism when it is combined with sanctions, such as license suspensions and interlock requirements.

The vast majority of treatment programs suitable for hardcore offenders are considered outpatient programs. In a typical outpatient program, offenders regularly meet (either individually or in group sessions) with a therapist or counselor once a week for a period of three months to a maximum of one year.

Researchers also point to a need for treatment of the multiple problems facing most repeat offenders. A U.S. Department of Justice report states over half of DWI offenders in jail or on probation reported a domestic dispute while under the influence of alcohol. These same DWI offenders also had high incidences of losing their jobs and getting into fights while drinking (Maruschak 1999).

Multiple DWI offenders have higher levels of alcoholism, hostility, psychopathic deviance and depression than first-time offenders (Siegal et al. 2000). This broad range of problems calls for different treatment tracks tailored to meet an offender's individual needs. One study suggests grouping offenders by psychological pathologies has therapeutic implications for inmate interactions and housing (Siegal et al. 2000).

How Effective is Treatment?

Although treatment is sometimes given short shrift, on average, education and treatment have a significant positive influence in reducing drunk driving, resulting in a 7–9 percent reduction in DWI recidivism and alcohol-related crashes (Wells-Parker 1995). Although the reduction might appear somewhat small, the benefits are similar to the deterrence effects of other strategies to address drunk driving and other traffic safety measures as well: 6–9 percent for administrative license revocation (Hedlund 1995); and 6–8 percent for .08 BAC per se limit laws (NHTSA 2001).

Treatment appears to be most effective when it is combined with long-term counseling, education, and closely monitored supervision, including probation, education, and structured interaction in self-help groups. Best results are produced by this kind of treatment strategy combined with fines, penalties, and sanctions. Under these conditions, research suggests the impact of treatment can be larger, with a reduction in recidivism and related problems of 20 percent or more (Mann et al. 1994).



- A 1997 study in California found a combination of treatment and driver's license action was associated with reduced recidivism for both repeat offenders and first offenders.
 - In California, second offenders could be sentenced to attend an 18-month program of at least 12 hours of education, 52 hours of counseling and bi-weekly face-to-face interviews.
 - Third and subsequent offenders were mandated to participate in a 30-month program with a minimum of 18 hours education, 117 hours counseling, 120-300 hours of community service, and frequent face-to-face interviews.
 - For repeat offenders with one prior conviction, those receiving license revocation alone were about 50 percent more likely to recidivate as those receiving license revocation and the 30-month program.
 - For repeat offenders with three or more prior convictions, those receiving license revocation alone had about a 70 percent greater risk of recidivating than those receiving license revocation and the 30-month program (DeYoung 1997).
- A 2001 study of recidivism of offenders receiving assessment and treatment in North Carolina found offenders completing their mandated programs were 64 percent less likely to re-offend in one year (Baker 2001).
- A 2002 meta-analysis of treatment programs throughout the United States found evidence of reductions in crashes and DWI convictions after the completion of substance abuse treatment. A Kentucky treatment outcome report found a 66 percent reduction in DWI arrests post-treatment. In Montana, DWI arrests declined from 45 percent in the 24 months prior to the program to 6 percent in the six months following treatment. Programs in South Dakota and Wisconsin also demonstrated a decline in arrests and crashes (National Association of State Alcohol and Drug Abuse Directors 2002).

Early Intervention

Treatment programs involving brief interventions by medical care providers at emergency rooms after traumatic drunk driving crashes have also shown promise. These interventions usually involve a brief alcohol assessment followed by a short counseling session (15–20 minutes) or referral to an alcohol treatment provider for further assessment and treatment. One study at emergency rooms found reductions in alcohol use, injuries and DWI citations in the year following this intervention (Gentilello et al. 1999). Another study found this type of emergency room intervention increased the proportion of patients seeking follow-up assessment and treatment for alcohol problems (Runge et al. 2002).

Researchers report repeat DWI offenders frequently say all they want to do is forget about the offense and get on with their lives. This often means a quick return to drinking and driving. Early intervention that engages the offender in regular reminders of his or her unacceptable behavior keeps the impact of the arrest fresh and makes it more difficult to just forget about it.

However, in many areas, backlogs in the court system have caused the time elapsed from arrest to sentencing to grow to nine months or more. This delay runs counter to the principle that sanctions applied soon after arrest are a more effective deterrent than those imposed after long delays.



This time lag is a primary reason for the adoption of administratively imposed sanctions. In addition, some localities have had success with oversight programs designed to offer supervision and rehabilitation in the interval between arrest and adjudication.

Early intervention may prevent several other problems occurring with repeat offenders. Evidence suggests offenders who fail to appear at trial are an increasing problem that is further burdening the justice system and leaving a number of cases unresolved. This may be occurring more frequently with unlicensed/suspended hardcore offenders who supply false identity information at arrest and later "disappear." A pre-trial supervision program for multiple offenders in Milwaukee County, Wisconsin offers a promising model for providing drug and alcohol monitoring, support services and court notification for the hardcore awaiting trial.

The Milwaukee Pre-Trial Intoxicated Driver Intervention Project places recidivists in intensive alcohol treatment programs shortly after arrest instead of after a conviction. Caseworkers screen, review, and assess repeat drunk drivers and provide intensive supervision from arrest to trial. Program evaluations show participants are 50 percent less likely to recidivate on drunk driving charges (Rosnow 1997).

One drawback of early intervention programs is they may not always reach the intended population. A study of hardcore offenders in Ohio found 62 percent of repeat offenders in the prison system never attended Ohio's early intervention program for alcoholism and substance abuse. The early intervention program began in 1983 and was established to identify convicted DWI offenders with drinking problems and refer them to service (Siegal et al. 2000).

Mandatory Participation: Treatment and Aftercare

Hardcore offenders should be required to participate in treatment as determined by the assessment. The length of mandated treatment should be sufficient to produce meaningful, noticeable change. However, given the choice, too many hardcore offenders opt for jail rather than participate in a treatment program addressing the issues that cause them to drink and drive.

According to two studies (Siegal 1999; BOTEK 1998), hardcore drunk drivers often resist treatment and even spend some time in jail to avoid it. An in-depth study of hardcore offenders found that, despite a large number of drunk driving arrests, many felony-level drunk drivers have never received treatment or even attended alcohol education classes.

Results of a study in Massachusetts by BOTEK Analysis Corporation indicate that in many cases hardcore offenders will accept treatment only when the alternative is a substantial term of incarceration. Since one of the fundamental characteristics of all addictive disorders is denial of the addiction, many offenders refuse to accept they are in need of treatment. And because behavior change can be a difficult process, even those who know they have a problem are often unwilling to undergo treatment.



Educational Programs

While remedial educational programs may have some modest beneficial impact, most researchers agree treatment and aftercare are essential to achieve significant behavioral change in hardcore offenders. Education programs typically last two to six weeks, with 10 to 16 hours of classroom time, and should be viewed as a component of treatment.

In Missouri, all persons arrested for DWI are required to complete an assessment screening of alcohol use and driving behavior. Lower risk, first-time offenders may be assigned to a 10-hour Offender Education Program (OEP), part of a larger Substance Abuse Traffic Offenders Program (SATOP) designed to help them understand the choices they made that led to their intoxication and arrest.

In North Carolina, DWI offenders can be required to attend a post-assessment Alcohol/Drug Education Traffic School (ADETS) as a condition of license reinstatement and probation. Twenty-five percent of all individuals assessed for DWI in North Carolina in a 2001 report were mandated to attend ADETS. One hundred percent of those offenders successfully completed the program consisting of an approved curriculum of 10–13 hours in a classroom setting taught by a certified ADETS instructor at a private or public facility. Offenders pay a \$50 substance abuse assessment fee and a \$75 fee for the ADETS program (Baker 2001).

In Ohio, punishment for first offenders includes three consecutive days in jail or attendance in a three-day Driver's Intervention Program (DIP). The 72-hour weekend program is designed to facilitate participants' awareness of their relationship with alcohol and/or other drugs and the consequences of impaired driving. Recommendations and referrals are made as necessary, and individualized after-care plans are prepared upon program completion. The program includes a defensive driving course containing lectures and films about driving skills and providing a 2-point reduction from the driving records of qualified persons. The jail time or time in the intervention program is doubled for violators convicted of having a BAC above .17 (Ohio Department of Public Safety 2003).

Although a 2002 report found alcohol education programs were effective in reducing DWI re-offenses among alcohol-related reckless offenders by 27.8 percent (Tashima and Helander 2002), most repeat offenders are more in need of treatment programs than merely education. A 2001 report found 74 percent of DWI offenders assessed in North Carolina completed a treatment program rather than simply an education program (Baker 2001). Other research has found in some court-mandated educational programs, more than one third of participants stop for a drink on their way home from the program meeting (Brown 1997).

Where to Go for More Information on Educational Programs

Baker, D., Helton, K., & Boone, J. 2001. *Driving While Impaired (DWI) Substance Abuse Assessment Report*. Raleigh, NC: North Carolina Department of Health and Human Services.

Brown, J. July/August 1997. A radical approach to getting drunk drivers off the road. *Impaired Driving Update*. Kingston, NJ: Civic Research Institute, Inc.



Tashima, H.N., and Helander, C.J. 2002. *Annual Report of the California DUI Management Information System*. Sacramento, CA: California Department of Motor Vehicles.

Missouri Department of Mental Health, Division of Alcohol and Drug Abuse website. 2002. *Substance Abuse Traffic Offenders Program (SATOP)*.

Restorative Justice in Ohio

Community service and victim impact panels, while not effective as a sanction, may have some benefit as part of a treatment program for hardcore offenders. Community service is used as part of the treatment process in jurisdictions practicing restorative or community justice. Restorative justice teaches that justice systems should not merely focus on offenders, but also be inclusive of community organizations and representatives, crime victims, crime victim advocates and victim organizations (Wilkinson 1998).

In restorative justice, crime is seen as something done against victims and the community, not just a violation against the state or government. Practitioners of restorative justice believe services such as victim-offender mediation, community service work, restitution and other restorative concepts might reach offenders more than past punishment.

Many statewide and local correctional agencies have implemented restorative justice principles as a method of accountability as well as a treatment component. Although exact numbers of agencies that have adopted a "restorative" philosophy are unknown, the momentum is increasing.

"Offenders often rationalize that they didn't hurt anyone or that someone else can easily pay for the damages. Community justice ensures that they bear personal responsibility to correct the damage they have done. Offenders participate in the process by paying restitution, offering an apology, performing community service work or participating in mediation. Offenders may be less likely to commit another offense if they have to face what they have done. By removing the barriers that separate the offender from his or her victim, and by making offenders face the human costs of their actions, crime is personalized for the offender." *Reginald Wilkinson*

A study (Wilkinson 2000) of the effects of community service on recidivism in the Ohio Prison System found inmates with no community service had a recidivism rate of 36.2 percent, while inmates with 100 or more hours had a recidivism rate of 26.1 percent.

Ohio also has piloted a program called Victim Sensitive Offender Dialogue in which victims meet with their offenders to help achieve closure. The Victim Sensitive Offender Dialogue operates from a similar standpoint as victim impact panels, except the dialogue is between victims and the specific inmate who affected their life.



Dedicated Detention Facilities

These facilities, dedicated to DWI offenders, offer a sentencing alternative for multiple DWI offenders and help ease overcrowding at traditional correctional facilities. They provide confinement in conjunction with supervised alcohol treatment services that can include DWI driver education and individual counseling. Detention usually ranges from two weeks to 90 days.

Some judges have shown reluctance in the past to sentencing offenders to costly privately run programs, such as Right Turn in Maryland. With time the program converted to a sliding payment scale for offenders, easing the financial burden and appeasing judges' reluctance to sentence offenders to the program.

Additionally, many states operate substance abuse treatment programs within the prison system. Details on these programs vary, and most are not limited to drunk driving offenders, but target treatment for offenders with drug and alcohol dependencies.

Here is a brief look at five dedicated detention centers, in Maryland, New York, Ohio, Pennsylvania and New Hampshire. Each operating facility has shown a reduction in recidivism.

Baltimore County's DWI Correctional Treatment Facility

Opened in 1994, this correctional treatment facility consists of a 28-day residential treatment program with 24-hour supervision and security, followed by a one-year aftercare program. All residents undergo an intensive drug and alcohol abuse assessment during the first 48 hours. An individual treatment plan is developed for the remainder of the resident's stay and continues during the following year.

How Much Does It Cost?

The 100-bed, minimum-security facility, the largest such facility in the U.S. when it opened, operates on funds from residents and grants. The cost for treatment is between \$1,500 and \$2,500 for the initial 28-day phase of the program. The cost for a 28-day private residential treatment program ranges from \$10,000 to \$18,000, according to the Baltimore County Department of Health. The Baltimore County facility is inexpensive in comparison because: the county leased the space for the facility at a very reasonable rate; the county continues to pay for building maintenance; the project didn't have the huge startup cost of constructing a facility from the ground up; and it is a no-frills program. In 2000, the cost per day was about \$37 compared to \$45 a day for incarceration.

Intensive outpatient treatment costs \$40 per day, and the aftercare outpatient component of the program costs \$25 per week. A court-imposed restitution fee is assessed to all participants.



Located in Owings Mills, the Baltimore County facility operates under a public-private partnership. Right Turn of Maryland, a for-profit organization, operates the facility under contractual agreement. The facility is monitored by the Baltimore County Bureau of Corrections, with the county health department's bureau of substance abuse monitoring the treatment component.

How Effective Is the Baltimore County DWI Facility?

Statistics supplied by the county show the facility has had a substantial impact on reducing recidivism. One year after the first 213 people completed the 28-day program, only nine had been arrested again in Baltimore County, a 4 percent recidivism rate, compared to the normal 35 percent rate for drunk drivers. Among the 152 people who completed the program 18 months ago, only six offenders (4 percent) were re-arrested.

Program Pitfalls

The program continues to face a shortage of paying customers, with program directors citing the reluctance of judges to sentence those who can afford to pay their own way to the privately-run center. County officials say many defendants enroll in privately insured programs before they come to court, and others say they can't afford the Owings Mills facility. Presently, about 25 percent of residents are full-paying DWI offenders, 25 percent are grant-funded, and about 50 percent are what they call "extended care" or "transitional" residents (non-DWI). These are people at the end of their jail sentences who have chemical/alcohol abuse problems. To remain viable, the program has opened its doors to non-DWI offenders and also to DWI offenders outside Baltimore County.

Suffolk County DWI Alternative Facility

The purpose of this New York State minimum-security facility, which opened in 1984, is to remove hardcore offenders from the streets while providing a more cost-effective alternative to traditional jail. Candidates for the program are recommended by a court prosecutor or probation officer and are otherwise jail-bound for alcohol-related offenses, usually multiple DWI offenses.

The program's other goal is to reduce recidivism by providing comprehensive correction treatment services during confinement and continuing alcohol therapy during intensive supervision probation. Offenders are sentenced to the program by the court and serve a split-sentence of incarceration, usually three to six months, and then three to five years of probation with alcohol treatment requirements. Probation treatment ranges in intensity from in-patient treatment or day reporting to visiting the probation officer for a breathalyzer test and check-in. Failure to comply with any program conditions results in the offender being returned to a traditional jail to serve the entire sentence.

How Much Does the Suffolk County DWI Alternative Facility Cost?

The program is 100 percent self-sufficient. Daily costs, including probation and aftercare costs, are significantly less than the \$180



per day it costs to house an inmate in the Suffolk County jail. Program administrators say the alternative facility's cost is much lower because it is set up more like a dormitory than a jail. In the alternative program, probationers pay \$30 a month as a probation administration fee, and they must pay for their own treatment program costs. The program handles about 200 offenders per year in the incarceration phase, and about 700 offenders per year are being treated in the probationary phase. In 2001, 122 offenders were admitted to the facility. One hundred sixteen completed the residential phase and were released to aftercare and probation.

How Effective Is the Suffolk County DWI Alternative Facility?

Program administrators say over a 10-year period, the recidivism rate for program participants is 18 percent for all criminal offenses. They credit the program's success to the combination of incarceration, probation and treatment.

North Coast Correctional Treatment Facility, Lorain County, Ohio

Modeled after the Baltimore County facility, this facility opened in 2000. The new, 552 bed DUI prison houses 545 felony DUI offenders, defined as a fourth or subsequent offense in six years or vehicular homicide. The prison term includes a comprehensive assessment of each prisoner and has a strong emphasis on community service. The North Coast Correctional Treatment Facility is considered an intensive program prison (IPP). DUI offenders in the prison system are eligible to enter the IPP if they were sentenced to terms longer than the 60-day minimum and the sentencing judge approves of their placement. Three-fourths of IPP participants are admitted to the program within three months of admission to prison. Offenders accepted into the IPP have the opportunity to significantly reduce their prison time, since the IPP program lasts 90 days and the average sentence of an IPP offender is 14.7 months (Parks 2001). Successful completion of the program converts the offender's sentence to time already served, and offenders are released to a 30-to 60-day immediate transitional detention in a halfway house (State of Ohio Department of Rehabilitation and Correction 2003).

How Much Does the North Coast Correctional Treatment Facility Cost?

According to the facility, daily costs per inmate are \$62.58. The facility is privately operated with an annual operational budget of \$12,841,962.

How Effective Is the North Coast Correctional Treatment Facility?

Preliminary figures indicate IPP offenders have lower rates of DUI recidivism than non-participants. Data indicate 16.7 percent of the IPP participants were re-arrested after release compared with 36.6 percent of non-participant DUI offenders. The reason for most of the IPP participant re-arrests was parole violation as opposed to the non-participant group, 48.9 percent of whom were returned to prison for a new DUI offense.



State Correctional Institute, Chester, Pennsylvania

The facility, which opened in 1998, is the first smoke-free facility in Pennsylvania. During the first year of operation, there were over 1,000 inmates. Drug or alcohol offenders who have 15 to 36 months remaining on their sentence are eligible for admission to SCI-Chester. Inmates at SCI-Chester receive 12 months of drug and alcohol treatment, beginning within two weeks of their arrival and ending when they are released to a Community Corrections Center or parole. The facility's treatment program of therapeutic communities, addiction counseling and education is administered by Gaudenzia, Inc., a not-for-profit addiction and mental health services organization in partnership with the Pennsylvania Department of Corrections (Gaudenzia 2003).

New Hampshire's Multiple DWI Offender Intervention Detention Center

The Multiple DWI Offender Intervention Detention Center Program has been in existence for over 13 years and has admitted over 10,000 offenders, averaging between 700 to 800 offenders a year. Unlike some states where treatment is mandated as a condition of license reinstatement only, in New Hampshire, it is mandated by a court order in addition to being tied to license reinstatement. According to assessment determination, second or subsequent offenders are mandated to enter the Multiple DWI Offender Intervention Detention Center Program within 21 days of conviction. The key to its success is that multiple offenders, who might fail to report to treatment and drive on a suspended license, are unable to avoid the multiple offender intervention program, giving the state an opportunity to reach these offenders before they advance too far as recidivists. Also, the close cooperation between state agencies (HHS, Judiciary, Department of Corrections, and Department of Safety) has been critical to the program's success.

How Much Does New Hampshire's Multiple DWI Offender Intervention Detention Center Cost?

The program costs \$1,200. Offenders may pay for the program fee through a monthly contractual agreement with the Office of Reimbursements.

How Effective is New Hampshire's Multiple DWI Offender Intervention Detention Center?

Several recidivism studies have demonstrated an average of 11 percent recidivism for offenders attending the 7-day program. Another study involved offenders who, in addition to completing the 7-day program, had also successfully completed follow up mandated counseling/treatment and had paid the program fee in full. This population demonstrated a recidivism rate of 4.8 percent 4 1/2 years after completing the 7-day program.

Where to Go for More Information on Dedicated Detention Facilities

Parks, E. 2002. Ohio's experience with DUI offenders in the adult prison system 1997–2001. *Ohio Corrections Research Compendium*, Volume 1, October 2002.



Boot Camps/Shock Incarceration

These alternative incarceration facilities are characterized by an intensely regimented military style program of physical conditioning, manual labor, drill and ceremony and military-style obedience. Sentences typically last three to six months (National Clearinghouse for Alcohol and Drug Information 2002). A meta-analysis by Petersilia revealed that many boot camps are moving away from their strict militaristic structures and adding more therapeutic services. However, there has been little evaluation on the effectiveness of boot camps and shock incarceration specifically for hardcore drunk drivers.

Where to Go for More Information on Boot Camps/Shock Incarceration

The National Clearinghouse for Alcohol and Drug Information. Substance Abuse and Mental Health Services Administration. 2002. Website. Exhibit 4-1 Forms of Intermediate Sanctions.

Petersilia, J. December 1998. A decade of experimenting with intermediate sanctions: What have we learned? *Federal Probation* 62(2): 3–9.

Collaboration between the Judiciary and Treatment Programs

Collaboration between the judicial branch and both private and public rehabilitation institutions can help to maximize the benefits of sentencing, tracking and monitoring, and treatment of repeat offenders. A good example is New Hampshire's Multiple DWI Offender Intervention Detention Center Program. The judiciary cooperates with treatment providers by imposing mandatory stays in the treatment program. One aspect of the program is all second offenders (for whom the program is mandatory) always enter jail on a Tuesday morning and are transported directly to the 7-day program on Friday morning. This allows jail time for these offenders but prevents overcrowding the jails with DWI offenders on weekends, when the facilities are most filled. The 3-day incarceration also serves as a social detox, since all offenders are required to be abstinent from all substances three days prior to entering the multiple DWI Offender residential program.



MOVING FORWARD

The battle against hardcore drunk driving has intensified during the past five years, but more needs to be done. More and more sectors of the community are recognizing that hardcore drunk drivers account for a disproportionate number of alcohol related deaths and injuries — and they are seeking ways to address this persistent problem.

This is an issue that will not resolve itself. It requires that policy makers, law enforcement, legislators and the judiciary recognize the extent of the problem and promote comprehensive, coordinated countermeasures.

The Century Council and the National Hardcore Drunk Driver Project believe a focus on hardcore drunk driving would dramatically decrease alcohol related fatalities and injuries. That focus, coupled with the adoption of strategies and tactics highlighting swift identification, certain punishment and effective treatment, would have a long term positive impact on all alcohol related crashes.

While there is no silver-bullet solution, the following action plan should be incorporated into any comprehensive effort to address the problems associated with the hardcore drunk driver.

1. States should enact and enforce laws that provide for stiffer penalties for drivers who are found to have high BAC levels and who refuse testing. Such laws should provide for graduated fines and/or penalties for drivers with BAC levels at, or above .15. Penalties for test refusal should be equal to or greater than those for drunk driving.
2. An effective driving while intoxicated (DWI) tracking system should be developed. This system should include data covering arrests, case prosecutions, court dispositions and sanctions and provide for the linkage of such data to appropriate jurisdictions both in-state and across state lines.
3. Effective sanctions for hardcore drunk drivers should be enacted. These sanctions may include electronic monitoring, ignition interlocks, intensive supervision probation, vehicle impoundment, confiscation or forfeiture and dedicated detention facilities.
4. All persons convicted of driving while intoxicated (DWI) or driving under the influence (DUI) of alcohol should undergo court ordered assessment and should be assigned to appropriate treatment as needed.
5. Tougher laws designed to reduce driving on suspended licenses for alcohol related offenses are needed. These laws should include enhanced fines and/or sentences for each time the offender is apprehended under suspension.

A strong focus on the problem of hardcore drunk driving will ultimately reduce alcohol related fatalities and injuries. The Century Council and the National Hardcore Drunk Driving Project will continue efforts in this important battle.



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