



Strategies for Addressing The DWI Offender:

10 PROMISING SENTENCING PRACTICES

A compendium of promising sentencing practices proposed at the
NHTSA National DWI Sentencing Summit at The National Judicial College
March 15-16, 2004





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Executive Summary

This compendium of promising sentencing practices is based on the National Highway Traffic Safety Administration (NHTSA) National Driving While Intoxicated (or Impaired) (DWI) Sentencing Summit, which was held at The National Judicial College (NJC) on March 15-16, 2004, in Reno, Nevada. Summit attendees included officials from NHTSA as well as judges, researchers, treatment professionals, and probation and parole officials from throughout the United States, who were selected to participate in the summit based on their expertise in dealing with DWI offenders.

The purpose of the summit was to identify innovative sentencing practices that have been used successfully by courts in dealing with DWI offenders who have not been prevented from re-offending by traditional sentencing methods.

This compendium identifies 10 promising sentencing innovations the summit participants identified as having promise for reducing recidivism by DWI offenders, whether repeat or first time offenders. These sentencing practices are listed in the order in which they may apply to an offender:

- DWI courts.
- Staggered sentencing.
- Sentencing circles.
- Vehicle and license plate sanctions.
- Ignition interlock devices.
- Electronic Monitoring and SCRAM.
- Victim impact panels.
- Cognitive behavioral therapy.
- Drug therapy.
- Reentry courts and programs.

Summit participants and other recognized judicial leaders in the field have had favorable results using these sentencing innovations with repeat and first-time DWI offenders. Some of the innovations have not been subjected to empirical studies, so their effectiveness is not yet known. Each chapter describes in detail a sentencing innovation and provides information about studies that evaluate their effectiveness, if available. Each chapter also provides “Guiding Principles,” which describe specific steps for implementing each practice.

Preface and Acknowledgment

The preface profiles how the Sentencing Summit was designed. It also identifies how this compendium was designed and explains why the 10 sentencing innovations profiled were selected. Finally, it acknowledges the contributions of the summit participants and the authors.

Design of NHTSA's National Sentencing Summit on Repeat DWI Offenders

Through funding from NHTSA, The National Judicial College invited 21 participants to a summit to identify promising sentencing practices in combating DWIs. The National Judicial College designed the summit with the following substantive components: (1) summit overview; (2) introductions and problem solving exercise; (3) problem identification; (4) breakout session: finding solutions to identified problems; (5) plenary session: sharing solutions; (6) review of shared solutions and proposed ideas; (7) breakout session; finding solutions to identified problems; (8) plenary session: sharing solutions; and (9) closing: best practices summary and next steps. During the first day, participants identified the common obstacles that judges confront in adjudicating DWI cases. Next, small groups began to identify solutions to the identified problems, which continued on the second day. Finally, the participants endeavored to identify those practices that appeared to be the most promising in reducing the recidivism rates of DWI offenders.

Summit attendees included officials from NHTSA headquarters, NHTSA's Western Regional administrator, judges, researchers from the United States and Canada, as well as treatment professionals, probation and parole experts and judges from throughout the United States.¹ They were selected based upon their expertise in dealing with DWI offenders. Their work, coupled with the expertise of the researchers and those working directly in the civil and criminal justice system, provided for a dynamic exchange of ideas.

Design of This Compendium

After the summit, The National Judicial College invited summit participants to draft chapters that addressed those sentencing practices that appeared to be the most promising from the summit. Not all of the promising sentencing practices identified in this compendium have been empirically studied, and it is recommended that those studies be conducted. This compendium is designed to give judges ideas they can implement in their communities. It is also designed to inspire them to analyze critically whether their current modes of operation are effective.

Acknowledgment

The National Judicial College and the National Highway Traffic Safety Administration, U.S. Department of Transportation, thank the many judges and other highway safety professionals who participated in the NHTSA

National DWI Sentencing Summit. The attendee's material, brainstorming, commitment, and leadership in the field of highway safety are greatly appreciated and have served as a foundation for this Compendium.

The National Judicial College thanks the many individuals who were contributing authors to this compendium. The NJC also appreciates those who offered comments and suggestions during the review of this document. The compendium is better because of those suggestions. NJC commends all the judges and other non-NJC staff who did this work without compensation and deeply appreciates their leadership, commitment, and talents.

The summit and this publication would not have been possible without funding from NHTSA. NJC appreciates and enjoys working with the committed individuals in NHTSA, who are devoted to advancing justice in highway safety cases. This compendium represents a joint effort by NHTSA, NJC, judges, researchers, probation and parole officials, treatment providers, medical professionals, and others in the field of highway safety.

In sum, NJC hopes this compendium will serve as further inspiration to judges, hearing officers, magistrates and administrative law judges to continue implementing innovative practices to tackle one of our nation's most significant problems--the DWI offender.

¹A roster of the participants and contributing authors is contained at the back of this publication.

While this compendium concentrates on the repeat DWI offender, many, if not all, of the sentencing innovations can be used for first-time offenders as well. In this introduction, the facts about repeat DWI offenders are profiled. Next, the characteristics of repeat DWI offenders are described. The introduction then summarizes the Federal sentencing requirements for repeat DWI offenders and profiles State sentencing laws. It then showcases the effectiveness of traditional sentencing sanctions in stopping repeat DWI offenders, and suggests the need for innovative sentencing sanctions. Finally, the introduction advocates that judges secure some form of assessment of offenders before they choose the sanctions to be imposed.

Repeat DWI Offenders: The Facts

The grave consequences of driving while intoxicated (DWI) have been documented by research commissioned by the National Highway Traffic Safety Administration, which notes in *Traffic Safety Facts—Repeat Intoxicated Driver Laws* (April 2004) that:

- Motor vehicle crashes are the leading cause of death for Americans age 2 through 33, and motor vehicle crash injuries are a major health care problem in the United States. Alcohol-related crashes are a substantial part of this problem.
- Alcohol was involved in 41 percent of fatal crashes and 6 percent of all reported crashes in 2002.
- Alcohol-related crashes in the United States cost the public more than \$50 billion in 2000, and 75 percent of these costs occurred in crashes in which a driver had a BAC of .10 or higher.
- Every 30 minutes, someone in the United States is killed in an alcohol-related crash.
- DWI is the most frequently committed violent crime in the United States.
- About one-third of all drivers arrested or convicted of DWI have a previous DWI conviction.
- Drivers with prior DWI convictions are over-represented in fatal crashes and have a greater relative risk of involvement in a fatal crash.
- Many second- and third-time DWI offenders who had their licenses suspended committed traffic offenses or were involved in crashes during the suspension period. In one study, 32 percent of suspended second-time DWI offenders and 61 percent of third-time offenders were cited for traffic violations during their suspensions.

Characteristics of Repeat DWI Offenders

Research has also documented the characteristics of repeat DWI offenders in *State of Knowledge of Alcohol-Impaired Driving: Research on Repeat DWI Offenders* (February 2000). Studies show that:

- The more DWI convictions an offender has, the greater the likelihood that the offender will re-offend. One study has shown that offenders with four prior convictions are four times more likely to recidivate after one year than offenders with two prior convictions; and another study has shown that each prior DWI conviction increases an offender's recidivism rate by 10 percent per year (p. 21).
- When asked why they continue to drink and drive, the most common reason given by repeat offenders is that they thought they were "OK to drive," followed by statements such as they just did not think about it, they lacked control over themselves after drinking, there was no one available to drive for them, and it would be OK if they were careful. The percentage of offenders surveyed who indicated that they planned to drink when they knew they would be driving afterward increased with the number of prior DWI



convictions: 6 percent with one prior planned to drink; 18 percent with two priors planned to drink; and 31 percent with three or more priors planned to drink (pp. 22-23).

- The report notes that because repeat offenders “are such experienced drinkers, they very often believe they are quite capable of driving after drinking and do so knowing that they may be rearrested for DWI” (p. 26).
- Repeat offenders are predominantly male and typically are under age 40, white, low income, unmarried, not college-educated, and are employed in non-white-collar occupations. Their BAC at arrest generally is slightly higher than that of first-offenders, and they commonly suffer from alcohol dependency. They are more likely than first-offenders to have personality and psychosocial problems, and to have a criminal record for other types of offenses, including serious crimes against persons and property as well as other traffic offenses (pp. 25-26).

A NHTSA-commissioned study on why some individuals repeatedly drive while intoxicated even after being convicted of DWI, which was based on interviews with 182 DWI offenders, found that:

- A large number of participants in the study described their drinking

patterns as problematic, but not their driving after drinking behavior;

- While arrests and sanctions had an impact, DWI behavior often returned after some period of time;
- A majority of individuals with revoked or suspended licenses drove anyway, and said they drove very carefully so they would not be detected;
- A large percentage of participants did not believe they were endangering themselves or others at the time of their DWI offense because they believed they were able to drive safely;
- Although participants had a strong fear of jail, many said jail alone would not alter their future behavior; and
- Contact with a caring or concerned individual (judge, probation officer, counselor, or therapist) was cited as having an impact on decisions to alter DWI behavior or drinking patterns.²

These observations contributed to the following conclusions:

- No single countermeasure can be prescribed as the magic deterrent for all repeat offenders because each person’s lifestyle, circumstances, and personality traits are unique and re-

sult in different reactions to similar situations. Conversations during the interviews confirmed that habits and patterns are difficult to change without the *desire* to change, without taking *responsibility* for personal actions, and often without help seeking *alternatives* to committing the problem behavior. While individuals cannot be forced to acknowledge the existence of problems in their lifestyles, which could very likely result in future damaging consequences, they can be forced by courts to at least examine the behaviors and events which brought them into the legal process (p. vii).

Federal Sentencing Requirements for Repeat DWI Offenders

Congress has addressed the problem of repeat DWI offenders in the Transportation Equity Act for the 21st Century (TEA-21 Restoration Act), which requires States to enact laws governing second and subsequent convictions for DWI within a 5-year period. These laws must require:

- Driver’s license suspension for repeat impaired drivers;
- All motor vehicles of repeat impaired drivers must be impounded or immobilized for a specified period

²See “Determine Reasons for Repeat Drinking and Driving,” Wiliszowski, C., et al., DOT HS 808 401, pp. vi-vii (May 1996).



during the driver's license suspension period, or an ignition interlock system must be installed on these motor vehicles for a specified period after the license suspension or revocation is completed;

- The mandatory assessment of a repeat impaired driver's degree of alcohol abuse and referral to treatment as appropriate; and
- The establishment of mandatory minimum sentences for repeat impaired drivers of not less than 5 days of imprisonment or 30 days of community service for a second offense, and of not less than 10 days of imprisonment or 60 days of community service for a third or subsequent offense.³

States that do not have such laws in place will have a portion of their Federal highway construction funds redirected to other State safety activities. Thirty-six States have adopted all of these sentencing requirements; the remaining 14 States have adopted some of these requirements.

State Sentencing Laws for Repeat DWI Offenders

State laws generally address the problem of repeat DWI offenders by:

- **Imposing Licensing Sanctions:** Most States suspend or revoke the driver's license of repeat DWI offenders for a longer period than they do for first-time offenders.
- **Imposing Vehicle Sanctions:** Some States impound or immobilize the vehicles of repeat DWI offenders, while other States require an ignition interlock system be installed on the offender's vehicle which prevents the vehicle from being started if the driver's blood alcohol concentration is above a pre-determined threshold.
- **Addressing Alcohol Abuse:** Most States require that repeat DWI offenders be given an alcohol assessment to determine their degree of alcohol abuse and to compel appropriate treatment.
- **Imposing Mandatory Sentencing:** Most States impose a mandatory minimum imprisonment and/or a community service sentence on repeat DWI offenders.

Effectiveness of Traditional Sentencing Sanctions in Stopping Repeat DWI Offenders

Stopping repeat DWI offenders with traditional sanctions appears to be unlikely. For instance, research shows that there are limits to the effectiveness of jail terms alone. Imprisonment for a long period of time, absent other measures, has been shown to produce either no significant impact⁴ or ironically, a higher number of future accidents and convictions.⁵ Very brief jail terms, however, appear to be effective with first-time offenders but it is not known whether this applies to repeat or hard-core offenders.⁶

The most prevalent sanctions imposed against DWI offenders are incarceration, community service, fines, and license suspension. Although the threat of these sanctions has been an effective deterrent for the general population, it has not always proved to be an effective deterrent for the repeat offender. NHTSA concludes that "[e]nforcement strategies that deter most law-abiding citizens are not as effective with repeat offenders.

³ See 23 U.S.C. § 164(a)(5).

⁴ See Joksch, H.C., "The Impact of Severe Penalties on Drinking and Driving," Washington, DC: AAA Foundation for Traffic Safety (1988) and Ross, H.L., and Klette, H., "Abandonment of Mandatory Jail for Impaired Drivers in Norway and Sweden," *Accident Analysis and Prevention*, Vol. 27, No. 2, pps. 151-157 (1995).

⁵ Homel, R., "Policing and Punishing the Drinking Driver: A Study of General and Specific Deterrence." New York: Springer Verlag (1988).

⁶ Compton, R., "Preliminary Analysis of the Effect of Tennessee's Mandatory Jail Sanction on DWI Recidivism," In: *Research Notes*. June. Washington, DC: National Highway Traffic Safety Administration (1986).



As a result, despite having histories of convictions and/or crashes, a majority of repeat offenders continue to drive while impaired.⁷

Need for Innovative Sentencing Sanctions

Due to the ever-increasing cost of incarceration, the alcoholic tendencies exhibited by most repeat DWI offenders, and the high recidivism rates for these offenders who have received traditional legal sanctions only, some courts have begun to use alternative sanctions, such as staggered sentencing, sentencing circles, ignition interlock devices, electronic monitoring, the Secure Continuous Remote Alcohol Monitor (SCRAM), and victim impact panels. Some courts have established DWI courts, based on the drug court model, to address the unique problems courts face with respect to DWI offenders. Others are using cognitive behavioral therapy to attempt to change offenders' attitudes about drinking and driving. The studies done to date indicate these alternative sanctions appear to be promising in reducing the recidivism

rates for repeat DWI offenders.⁸ These and other promising innovative sanctions are covered in this Promising Sentencing Practices Compendium.

Assessment of the Repeat DWI Offender in Determining Appropriate Sanctions

Each person convicted of DWI must receive a proper and thorough assessment of the nature of that person's alcohol-related problems, and of the risk factors to that person and others. Without an accurate assessment, there is no clear course of action. The need for a thorough and professional assessment intensifies when the court is dealing with a repeat offender.

After considering this assessment, the court can formulate the most appropriate sentencing plan. The sanctions ordered:

- Should be based on an individualized assessment of the offender;
- Should be based on a combination of strategies; and

- Should be imposed over a sufficient time period for meaningful behavior change to occur.

When faced with a repeat DWI offender, NHTSA suggests that judges take the following steps:

- Properly identify the offender as a repeat offender. Require a thorough records check. Determine the offender's compliance with previous sentences.
- Evaluate the offender for alcohol-related problems and risk of recidivism.
- Act swiftly to prevent further offenses, and punish the offender using sanctions and remedies appropriate for that offender. No single sanctioning strategy is effective for all offenders.
- Mandate appropriate combinations of sanctions designed to produce behavioral changes.
- Monitor the offender's compliance with sanctions.
- Act swiftly to correct noncompliance.⁹

⁷ See www.nhtsa.dot.gov/people/outreach/safesobr/ydydyl/repeatOff.html

⁸ See *infra*, within each chapter.

⁹ See "A Guide to Sentencing DUI Offenders," NHTSA and the National Institute on Alcohol Abuse and Alcoholism (NIAAA) (1996).

Promising Sentencing Practice No. 1

DWI COURTS

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Overview

This section discusses drug courts in the United States; the success they have experienced, both by reducing recidivism and costs; and how these courts can serve as models for DWI courts. It is recognized that many jurisdictions may not have the resources to fund separate DWI courts. However, if a drug court is in existence, at a minimum, DWI offenders should be eligible to participate in the drug court program. Jurisdictions should also consider the ultimate cost savings they can experience with the implementation of drug courts and DWI courts. Ideally, separate DWI courts should be the goal of the courts for the reasons discussed below.

Stand-alone DWI courts and “hybrid” drug courts that also serve an impaired driving population (DWI/drug courts) are changing the mindset of criminal justice professionals and affecting how DWI offenders are handled. Treatment with intensive supervision works with this population and promises better long-term outcomes through decreased recidivism. While the efficacy of DWI courts has been established, additional studies are currently underway to better define their effectiveness.

Establishment of Drug Courts

For more than a decade, a “quiet revolution” has occurred within the criminal justice system. Dade County, Florida, established the first drug court in the United States. Today, there are more than 1,100¹⁰ drug courts across the country, with hundreds more in the planning stage. Although program specifics and populations vary

depending on community priorities and resources, the objective of every drug court is the same—to engage defendants charged with drug-related offenses in comprehensive, enduring programs that integrate adjudication, substance abuse treatment, and close supervision.

Drug courts are part of an innovative judicial model in which offenders are held accountable for their actions, but are afforded the tools they need to break the patterns of drug abuse that damage their lives, as well as the lives of others. The major goals of most drug courts have been established with the benefit of both offenders and their communities in mind. Typically, the goals are: (1) to reduce drug use and associated criminal behavior by engaging and retaining drug-involved offenders in treatment services; (2) to concentrate expertise about drug cases in a single courtroom; (3) to

¹⁰ See Huddleston, C. West, et al., “Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States,” Vol. I, No. 1, National Drug Court Institute (May 2004).



address other defendant needs through clinical assessment and effective case management; and (4) to remove drug cases from traditional courtrooms, freeing these courts to adjudicate non-drug cases.

Success of Drug Courts

Today, there is substantial evidence drug courts are achieving what they set out to do. In reviewing some 120 evaluations of drug courts located throughout the nation, the National Center on Addiction and Substance Abuse at Columbia University concluded that:

- Drug courts provide the most comprehensive and effective control of drug-using offenders' criminality and drug usage while under the court's supervision. Drug courts provide closer, more comprehensive supervision and much more frequent drug testing and monitoring during the program than other forms of community supervision. More importantly, drug use and criminal behavior are substantially reduced while offenders are participating in drug court.¹¹

Other researchers have similarly concluded that "we know that drug courts out-perform virtually all other strategies that have been attempted for drug-involved offenders."¹²

Perhaps the most important finding is that offenders who become part of a drug court program are succeeding on completion of the program. Comparisons with other groups reveal much higher retention rates in the program, and lower recidivism and drug-use rates after the program ends, for drug court participants.¹³

The most substantial and compelling national study of drug courts to date was commissioned by the National Institute of Justice and released in 2003. This study tracked 2,020 graduates of 95 drug courts in 1999 and 2000 to establish a benchmark national aggregate recidivism rate. It found that only 16.4 percent of drug court graduates were re-arrested and charged with a serious offense after one year and only 27.5 percent were re-arrested and charged with a serious offense after two years.¹⁴ (*The NIJ study was not a comparative study but a study to establish a "benchmark national aggregate recidivism rate."*)

In 2000 a Vera Institute of Justice report found that "the body of literature on recidivism is now strong enough, despite lingering methodological weaknesses, to conclude that completing a drug court program reduces the likelihood of future arrest."¹⁵

Using Drug Courts as a Model for DWI Courts

If drug court programs can reduce recidivism among the populations they now serve, could the drug court model, applied to a wider network of offenders, have an even greater impact on crime rates? More specifically, could the drug court model work for hardcore repeat DWI offenders?

To date, it has generally been left to the traditional courts and criminal justice system to deal with DWI cases, and it has become clear that the traditional process is not working for repeat DWI offenders. Punishment, unaccompanied by treatment and accountability, is an ineffective deterrent for the repeat DWI offender. The outcome for the offender is continued dependence on alcohol; for the community, continued peril.

¹¹ See Belenko, Steven R., "Research on Drug Courts: A Critical Review," The National Center on Addiction and Substance Abuse, Columbia University (1998).

¹² See Marlowe, Douglas B., et al., "A Sober Assessment of Drug Courts," Federal Sentencing Reporter, Vol. 16, pp. 113-128 (October 2003).

¹³ See Belenko, supra.

¹⁴ See Roman, John et al., "National Estimates of Drug Court Recidivism Rates," National Institute of Justice, U.S. Department of Justice (July 2003).

¹⁵ See Fluellen, Reginald & Trone, Jennifer, "Issues in Brief: Do Drug Courts Save Jail and Prison Beds?," Vera Institute of Justice (May 2000).



A new strategy for fighting repeat impaired driving now exists, however, based on the proven drug court model. These “DWI courts” and “DWI/drug courts” hold offenders to a high level of accountability while providing them with long-term, intensive treatment and compliance monitoring. Currently, there are more than 58 stand-alone DWI courts nationwide, with an additional 30 in the planning stage. In addition, there are some 32 hybrid DWI/drug courts nationwide which are primarily drug courts that also target DWI offenders. Providing system oversight and system accountability, DWI courts and DWI/drug courts monitor the justice and treatment system, as well as the offender.

Objectives and Operation of DWI Courts

DWI courts are distinct court systems dedicated to changing the behavior of alcohol and drug dependent offenders arrested for DWI. The goal of these courts is to protect public safety by attacking the root cause of DWI: alcohol and other drug abuse.

DWI Courts use all criminal justice stakeholders (prosecutors, defense attorneys, probation officers, law enforcement agencies, and others), along with alcohol and drug treatment professionals. These individuals comprise a “DWI court team,” which

is usually accountable to the DWI court judge who heads the team. The DWI court team uses a team-oriented approach to systematically change an offender’s behavior. This approach includes identification and referral of offenders early in the legal process to a full continuum of drug or alcohol treatment and other rehabilitative services. Due to the public safety concerns with the DWI offender population, DWI courts are typically post-plea in structure and require a conviction and in many cases, incarceration before entering the program. The post-plea model allows for better community supervision during the program and prosecutorial leverage in the event the participant fails to successfully comply or complete the program. In the event of program failure, the participant would face certain incarceration.

Compliance with treatment and other court-mandated requirements is verified by frequent alcohol or drug testing, close community supervision, and interaction with the judge in non-adversarial court review hearings. During these review hearings, the judge employs a science-based response to participant compliance (or non-compliance) in an effort to further the team’s goal of encouraging pro-social, sober behaviors that will prevent DWI recidivism.¹⁶

The missions, objectives, and operations of a drug court that exclusively targets illicit drug abusers, a stand-alone DWI court that targets alcohol or other substance impaired drivers, and a hybrid type of DWI/drug court that targets a mix of DWI offenders and illicit drug abusers are nearly interchangeable. All are part of the drug court model. The structure of the three types of treatment courts is also similar. The advantage of establishing a stand-alone DWI court, however, is that it allows for the development of a more specialized treatment focus and a more case-manageable network of relevant and supportive community resources.

Benefits of DWI Courts

DWI courts shine a spotlight on the triggers and consequences of non-responsible alcohol and drug intake. They embrace the community of victims of DWI incidents and encourage the fair and sensitive inclusion of victim advocates in the treatment process. Most importantly perhaps, they serve as a potential unifying hub for the many agencies and organizations that have been part of piecemeal attempts to fill the gaps in the impaired driver control system.

DWI courts can and should serve as a unifying venue of accountability for the repeat DWI offender. By joining with State motor vehicle departments,

¹⁶ See Loeffler, Michael & C. West Huddleston, “DWI/Drug Court Planning Initiative Training Curricula,” National Drug Court Institute (November 2003).



governors' offices of highway/traffic safety, State and local law enforcement agencies, NHTSA, Mothers Against Drunk Driving (MADD), and other crash prevention and victim support groups, DWI courts can strengthen the justice system's response to repeat impaired driving.

A DWI court's coercive power is the key to admitting DWI offenders into treatment quickly and for a period of time that is long enough to make a difference. This proposition is unequivocally supported by the empirical data on substance abuse treatment programs.¹⁷ Data consistently show that treatment, when completed, is effective. However, if given a choice, most drug addicts and alcohol abusers will not enter a treatment program voluntarily. In addition, those who enter programs voluntarily rarely complete them. About half drop out in the first three months, and 80 to 90 percent leave by the end of the first year. Among these dropouts, relapse within a year is the norm.¹⁸

Accordingly, if treatment is to fulfill its considerable promise as a key component of DWI reduction policy, DWI offenders not only must enter treatment, but also must remain in treatment and complete the program. If they are to do so, most will need incentives that may be characterized as "coercive." In the context of treatment, the term "coercion" --used interchangeably with "compulsory treatment," "mandated treatment," "involuntary treatment," and "legal pressure into treatment" --refers to an array of strategies that shape behavior by responding to specific actions with external pressure and predictable consequences. Evidence shows those substance abusers who receive treatment through court orders or employer mandates benefit as much as, and sometimes more than, those who enter treatment voluntarily.¹⁹

A DWI court is the best vehicle within the criminal justice system for expediting the time interval between arrest and entry into treatment, and for

providing the necessary structure to ensure that a DWI offender remains in treatment long enough for benefits to be realized.

Monitoring Success of DWI Courts

Evaluation studies are vital in sustaining DWI court programs. Systems should conduct outcome evaluation studies to demonstrate the effect of DWI courts on the community, to assess relative costs, to assess program benchmarks, and to maintain or seek funding.

Examples of DWI Courts

A number of DWI courts have been operating for several years. Their experience may be helpful to other courts that are considering establishing DWI courts.

- **Anchorage Wellness Court** (Anchorage, Alaska) was established in 1999 as a therapeutic court for alcoholic misdemeanor defendants.

¹⁷ See Simpson, D.D., & Curry, S.J. (Eds.), "Special Issue: Drug Abuse Treatment Outcome Study," *Psychology of Addictive Behaviors*, Vol. 11 (1997); Simpson, D.D., & Sells, S.B. "Effectiveness of Treatment for Drug Abuse: An Overview of the DARP Research Program," *Advances in Alcohol and Substance Abuse*, Vol. 2, pp. 7-29 (1983); Hubbard, R.L., et al., "Drug Abuse Treatment: A National Study of Effectiveness," University of North Carolina Press (1989); Center for Substance Abuse Treatment, "National Treatment Improvement Evaluation Study, Preliminary Report: Persistent Effects of Substance Abuse Treatment -- One Year Later," Substance Abuse and Mental Health Services Administration, U.S. Department of Health & Human Services (1996).

¹⁸ See Stark, M.J., "Dropping Out of Substance Abuse Treatment: A Clinically Oriented Review," *Clinical Psychological Review*, Vol. 12, at p. 93 (1992), as cited in Marlowe, Douglas B., et al., "A Sober Assessment of Drug Courts," *Federal Sentencing Reporter*, Vol. 16, No. 1, pp. 113-128 (2003); Satel, Sally L., "Drug Treatment: The Case for Coercion," American Enterprise Institute Press (1999).

¹⁹ See Huddleston, C. West, "The Promise of Drug Courts: The Philosophy and History," National Drug Court Institute Training Presentation (2000); Breckenridge, J.F., et al., "Drunk Drivers, DWI "Drug Court" Treatment, and Recidivism: Who Fails?" *Justice Research and Policy*, Vol. 2, No. 1, pp. 87-105 (2000); Satel, Sally L., "Drug Treatment: The Case for Coercion," American Enterprise Institute Press (1999); "DWI/Drug Courts: Defining a National Strategy," National Drug Court Institute (March 1999).



Participants enter an 18-month program under plea agreements that give them reduced sentences if they complete the program. During these 18 months, they must stay alcohol- and drug-free, be monitored for sobriety, attend treatment for their addiction, take naltrexone for the first four months, attend a cognitive behavior group and Alcoholics Anonymous (AA) meetings, appear before the Wellness Court judge at regular intervals, be rewarded or sanctioned for progress, be employed, pay restitution, and pay most of their treatment costs. Nearly all of the participants are repeat DWI offenders, with an average of more than three DWI offenses. The rates of recidivism for graduates of the program are as follows: 0 percent for 2003 graduates and 25 percent for 2001 and 2002 graduates. The cost of participation in the program is less than 10 percent of the cost of incarceration.²⁰ In addition to the misdemeanor Anchorage Wellness Court, Anchorage also sustains a felony DWI court for repeat DWI offenders.

■ **Maricopa County DUI Court** (Phoenix, Arizona) is funded by NHTSA, the U.S. Department of Justice (DOJ) and the National Institute on Alcohol Abuse and

Alcoholism (NIAAA), and has been operating since 1998. After entering guilty pleas, defendants who are assigned to this court must appear in court at least once a month. At each court session, the defendant is required to enter into a contract with the DUI court judge, which details the defendant's obligations, including abstaining from using alcohol or drugs, obtaining substance abuse counseling and/or treatment, attending AA meetings, reporting to the probation office, and participating in a DUI victims program. The sentencing judge imposes a 60-day deferred jail term in addition to any mandatory incarceration term, to encourage defendants to comply with their contracts. Sanctions for non-compliance with an obligation under the contract may include imposition of some portion of the deferred jail term, as well as community service, removal from the DUI court program, and revocation of probation. The program lasts for one year. After completing the program, participants are placed on additional supervision probation for one year.

■ **Athens DUI/Drug Court Program** (Athens, Georgia) Offenders with either two DUI convictions within a 5-year period or with three or more lifetime DUI convictions are

sentenced to the DUI/Drug Court Program. The post-adjudication program operates on a team concept and involves enhanced supervision, mandatory substance abuse treatment, individual and group counseling, random and frequent drug testing, AA and NA meetings, bi-weekly appearances before the judge for either encouragement for positive participation (incentives) or, if needed, reprimand or sanctions for non-compliance. DUI/Drug Court participants receive services in 5 phases of court supervised involvement. DUI/Drug Court is a minimum period of 1 year and a maximum period not to exceed 2 years based on successful completion of all phases of the program. Except for situations of physical disabilities preventing work, DUI/Drug Court participants shall seek, obtain, and maintain gainful employment and pay a fee for their participation in the program. Presently, participant fee collections total approximately 58 percent of the annual program budget. Successful completion of the program meets treatment requirements for driver license reinstatement by the Department of Motor Vehicles. Since the program's inception in February 2001, the DUI recidivism rate for participants is 3 percent.

²⁰ For further information about the Anchorage Wellness Court, see McKelvie, Alan R., "Anchorage Wellness Court Summary of Facts: 2003 Update," Justice Center, University of Alaska, Anchorage (February 14, 2004), and "Anchorage Wellness Court: 2001-2002 Summary of Facts," University of Alaska, Anchorage (April 18, 2003).



■ **Butte County Superior Court** (Chico, California) began the ReVia project in its existing drug court in 1996. ReVia (naltrexone) is an opiate treatment that has been highly effective in reducing or stopping the cravings experienced by alcoholics. This court has found that ReVia is a particularly effective tool in aiding the recovery of repeat DWI offenders and making them more receptive to treatment. Therefore, in appropriate cases, it has ordered repeat DWI offenders to take ReVia as part of their sentences. For further discussion, see Promising Sentencing Practice No. 9, Drug Therapy.

■ **Rockdale County, Georgia** (Conyers, Georgia) has developed a program that combines traditional and alternative sanctions that are individually tailored to the DWI offender's needs. The program works to ensure consistency by keeping detailed records of the facts of each DWI case including the sentence imposed. It includes a pre-sentence investigation by the judge who uses a database created by the court. Rehabilitative sanctions that may be considered include counseling,

victim impact panels, and AA meetings. Probation conditions may include electronic monitoring, random alcohol and drug testing, alcohol treatment, ignition interlock devices, and the seizure of license plates. NHTSA's evaluation of this program found that offenders in the program had a recidivism rate that was one-half that of offenders in another local program using minimum sentences.²¹

■ **Kootenai County DUI Court** (Coeur D'Alene, Idaho) is an alcohol treatment program for persons arrested for their second DWI offense within five years or who have a BAC of 0.20 percent or higher. Potential participants are screened to determine the extent of their alcohol problems and eligibility for the program. People who are accepted into the program must sign a contract for comprehensive alcohol treatment lasting a minimum of 1 year, and are placed on extensive probation supervision and judicial monitoring by the court. NHTSA's evaluation of this program found that only 4 percent of the participants who completed the program were re-arrested for DWI.²²

■ **Michigan Sobriety Courts** treat alcohol addiction with intense treatment and heavy court supervision, imposing incarceration as a last resort. Offenders must enter a guilty plea, allowing the court to incarcerate an offender for failing to complete treatment. Participants receive 36 weeks of detoxification, urine and breathalyzer tests, AA counseling, and group therapy. They must also meet with a probation officer and an alcohol counselor once a week and with a sobriety court judge once a month. They may retain their driving privileges by installing an ignition interlock system at their own expense.

■ **Bernalillo County DWI Court** (Albuquerque, New Mexico) has been operating since 1997, with the primary goal of reducing recidivism. It is a voluntary, court-supervised treatment program, which requires regular appearances before a DWI court judge and regular contact with the probation officer. Participants are required to undergo treatment, participate in mandatory drug and alcohol counseling, attend 12-step or other self-help meetings, and submit to random drug and

²¹ See Jones, R.K., et al., "Problems and Solutions in DWI Enforcement Systems," NHTSA (1998).

²² See Crancer, Alfred, "An Analysis of Idaho's Kootenai County DUI Court," NHTSA Region X (December 2003).

²³ For further discussion, see Guerin, P., "Evaluation of the Bernalillo County Metropolitan DWI/Drug Court," University of New Mexico Institute for Social Research, Center for Applied Research and Analysis (September 2002).



alcohol screening. They are also required to attend a victim impact panel and to complete a specified number of hours of community service. A participant who violates any conditions of the program is sanctioned by a DWI court judge as soon as possible. Sanctions may include incarceration.²³

- **Rappahannock Area Alcohol Safety Action Program (RAASAP) DUI Recidivism Court** (Virginia) is a cooperative effort that includes the judge, prosecutor, defense counsel, treatment professionals, and RAASAP case manager. This team reviews the progress of each offender in the program. Frequent status hearings are conducted. The DUI court judge is

responsible for imposing sanctions; however, any team member may recommend sanctions. The judge readily responds to relapse or other violations with immediate sanctions, including increased frequency of status hearings, increased frequency of alcohol or drug screening, increased case management appointments in the RAASAP office, increased treatment attendance, referral to the ignition interlock program, removal of driving privileges, curfew, community service, or jail.²⁴

²⁴ For further information about specific DWI/drug courts, see the DUI Courts Web site (www.aca-usa.org/duicourts/home.htm), "Specialized and Problem-Solving Courts – Trends in 2002: DUI Courts," Keith, Ann L., National Center for State Courts (2002), and "DWI/Drug Courts: Defining a National Strategy," Appendix A: Advisory Panel Jurisdictions, National Drug Court Institute (March 1999).



GUIDING PRINCIPLES FOR DWI COURTS

Determine The Population

A DWI court primarily focuses on repeat offenders charged with driving while impaired by alcohol or illicit drugs and who have been diagnosed with a serious alcohol and/or illicit drug problem. Special emphasis is placed on the previously convicted DWI offender whose fear of prosecution has proven to be an ineffective deterrent to continued drunk driving. A systematic DWI offender referral process ensures that potentially eligible participants are not inadvertently or inappropriately denied the opportunity for participation. The eligibility screening process will eliminate from the pool of potentially eligible participants those offenders who are not appropriate for the program. For those who are still potentially eligible after a review of information contained in legal documents, a face-to-face screening interview is absolutely necessary.

Provide A Clinical Assessment

- The determination of whether an intoxicated driver is eligible for DWI/drug court is typically based on legal criteria related to that individual's current impaired-driving charges and recidivism

history. In addition, intake staff may administer a brief screening instrument to confirm the individual has a substance abuse problem and is potentially suitable for substance abuse treatment. This, however, is only the first step in conducting a clinically competent assessment of the impaired-driving offender.

- Effective treatment requires that the offender undergo a thorough clinical assessment to identify relevant impairments and strengths in multiple biopsychosocial domains. An objective clinical assessment should be administered to all DWI court clients, and should address the following domains: (1) severity of alcohol use/abuse; (2) level of care needed and placement in treatment; (3) drug use involvement; (4) medical status; (5) psychiatric status; (6) employment and financial status; (7) family and social status; (8) alcohol triggers and cognitions; and (9) self-efficacy and motivation for change. If the evaluator cannot characterize a client's needs, strengths, and resources along each of these dimensions, then he or she will have considerable difficulty developing a clinically competent treatment plan for that individual.

Develop A Treatment Model

When developing the treatment model, there are several factors that the DWI court team must consider. The team should: (1) rely on the expertise of treatment and mental health experts; (2) provide cross-training for all DWI court team members on substance abuse, treatment, co-occurring disorders and the criminal justice system; (3) address cultural differences when sentencing offenders to treatment programs; (4) incorporate evidence-based treatment practices; (5) provide greater availability to other intervention strategies (e.g., 12-step programs, victim impact panels, community service, aftercare); (6) address cross-addiction to prescribed medications; and (7) provide specialized cognitive-behavioral treatment modalities, residential/in-patient resources, and jail-based treatment.

Supervise The Offender

There are unique characteristics attributable to those who drive while impaired by alcohol and other drugs. Alcoholics or alcohol abusers, unlike users of illicit drugs, may not have lost the support of their families and friends, and in many cases may still have some semblance of functional



lifestyles. Similarly, while involvement with the court may be considered inconvenient or embarrassing, the alcoholic's family and friends may enable the alcoholic to continue to drink by covering up or denying the problem. As a result, the DWI offender is often in a greater state of denial than other addicts and is therefore more resistant to the goals of the DWI court team and specifically to supervision efforts. The offender who drives while impaired is extraordinarily dangerous; this coupled with the quick dissipation of alcohol from a person's biological system makes increased supervision a necessity. Public safety remains the paramount concern, and therefore more frequent monitoring by the court, the probation department, and treatment providers must occur. Since there is a potential for a greater level of danger to the public, supervision must be tighter, and the response to violations must be faster and stricter. This supervision may be accomplished through technical innovation, random and frequent drug and alcohol testing, home and other field visits, office contacts, and weekly judicial review.

Forge Agency, Organization, and Community Partnerships

While partnerships are the cornerstone of any effective collaborative program

and certainly necessary within the general drug court model, they are perhaps most important in the DWI court setting in which public safety is at great risk. Partnerships fulfill two main purposes: (1) they increase services for program participants, thereby increasing the likelihood of their long-term success; and (2) they gain the support and understanding of agencies and organizations that might otherwise be opposed to DWI courts. Groups that can assist with support or services include chambers of commerce, law enforcement agencies, victim advocacy groups such as MADD, service clubs and organizations, media organizations, defense attorneys and public defenders, other attorneys, insurance companies, treatment groups, 12-step programs, alcoholic beverage control agencies, departments of motor vehicles, schools and colleges, hospitals and medical clinics, faith-based and cultural organizations, and local pharmacies and pharmaceutical groups.

Take A Judicial Leadership Role

DWI courts require courageous judges who are committed to solving the revolving door of the courts. The judge who endeavors to implement a DWI court, or who is assigned the task of being the judge in an existing

program, ideally will have extensive experience handling DWI cases. An experienced judge with a strong and positive reputation in the legal community will be in the best position to forge the kinds of partnerships necessary to develop and implement a successful DWI court. The judge must also possess the leadership skills and motivational energy necessary to enlist the assistance and cooperation of the various entities that have a stake in the issue of DWI. The DWI court judge should be a person who tempers his or her judicial authority in a manner that encourages teamwork and empowers others to contribute to the team process. Finally, the DWI court judge must possess a heartfelt deep commitment to and strong personal belief that only by first addressing the underlying problem of substance abuse, does there come an ability to stop future incidences of impaired driving. This will require the judge to expand his or her role and delve into the lives of those who stand before the bench.

Develop Case Management Strategies

Case management--the series of inter-related functions that provide for a coordinated team strategy and seamless collaboration across the treatment and justice systems--is essential for an



integrated and effective DWI court. There are five core functions of case management in DWI courts. They are: (1) assessment; (2) planning; (3) linking; (4) monitoring; and (5) advocacy. Although various members of the DWI court team share the performance of these functions, a specially designated team member should serve as the person primarily responsible for coordinating the development and pursuit of participant case plans, linking participants to resources, and monitoring participant and service provider performance.

Address Transportation Issues

Perhaps the most unique aspect that differentiates DWI courts from drug courts is the issue of transportation. Defendants in DWI courts face the suspension or revocation of their privileges to drive as a direct result of their arrests. DWI courts must insist that defendants adhere to any and all restrictions on their driving privileges and should impose sanctions on them for violating those restrictions. DWI court defendants should not be allowed to use lack of transportation as an excuse for not meeting the court's program requirements. Courts should deal directly with defendants on the issue of transportation. Some jurisdictions have good access to

alternative means of transportation such as public transportation, taxi service, bicycle loan programs, bike trails, and so on. Some programs obtain donated bus passes or tokens, and these are distributed to program participants.

Evaluate The Program

- Many individuals and groups have a vested interest in the effectiveness of the DWI court's programs. They include the public, victims impact groups, local law enforcement agencies, advocacy groups, health care industry, local funding sources such as county commissions and local planning councils, State funding sources, and the courts. In addition, evaluation of the DWI court's program is essential to assess whether the program is meeting its benchmarks (e.g. target population, timelines, completion rates, etc.). A DWI court must establish a number of process and outcome measures and determine the best way to collect the necessary data before the court becomes operational. Measures should include: (1) sobriety; (2) re-arrest/post-program recidivism; (3) program capacity; (4) target population; (5) services provided versus accessed; (6) court requirements versus compliance; and (7) retention.

- Data on the process and outcome measures must be compiled, analyzed and reported on regular intervals to the team and community stakeholders.

Create A Sustainable Program

Sustainability is the last and most important guiding principle of DWI courts. There are several ways to ensure sustainability and to obtain funding for a DWI court: (1) direct donors (e.g., computer companies, drug companies, the insurance industry, or the automobile industry); (2) participant contributions; (3) public entities (e.g., one-time grants, grants that flow through other organizations, or endowments); (4) State funding (e.g., State authorization, legislation and appropriation, general fund or excise liquor taxes or State-regulated liquor outlets), State agencies (e.g., the department of health, mental health, Governors' Office of Highway/Traffic Safety), and local agencies (e.g., city councils, county commissions, boards of health, housing agencies, or law enforcement agencies). The best way to approach this issue is to research other DWI courts to learn how they have obtained funding and achieved long-term sustainability. Ultimately, the success of each DWI court is based on the resources in its own community, coupled with its ability to find additional resources or funding as needed.

Promising Sentencing Practice No. 2

STAGGERED SENTENCING

By Judge James E. Dehn (Minnesota)

Overview

Courts lacking the financial resources or system cooperation to develop a DWI/drug court (see Promising Sentencing Practice No. 1) may consider staggered sentencing. Staggered sentencing is a proven, low-cost, judge-driven program, devised by Minnesota Judge James E. Dehn (a rural judge who sits in multiple Minnesota counties), to reduce recidivism by repeat DWI offenders.

Staggered sentencing in DWI cases has been used by judges in Minnesota for several years. This program received the 2003 Robert Chapman Award from the Foundation for the Improvement of Justice. It has also received critical review from Time

Magazine,²⁵ and has been analyzed by Hamline University Law School.²⁶ Based on a detailed review of the program by the Minnesota Legislature House Research Department, which noted its effectiveness,²⁷ the Minnesota legislature codified staggered sentencing into statutory law in 2003.²⁸

Research shows that Minnesota offenders who are given staggered sentences are re-arrested for DWI at only 50 percent of the rate that would be expected based on the recidivism rates of comparable DWI offenders sentenced by all other Minnesota courts. The program also has resulted in 66 percent less incarceration time for the great majority of offenders who successfully comply with the program's conditions of release, thereby resulting in considerable jail cost savings. While

these studies are promising, more studies need to be conducted to assess the effectiveness of this promising sentencing innovation.

What Is Staggered Sentencing?

Staggered sentencing consists of four key aspects:

1. A Staggered Incarceration Period

Generally, when a court convicts an offender of a repeat DWI and sentences the offender to a period of incarceration, the court orders that the incarceration period is to begin on a given date and is to run continuously until it is completed. With staggered sentencing, the court places the offender on probation for a specified time period, and orders a period of incarceration to be served in two or

²⁵ April 29, 2002, Notebook.

²⁶ See Carlisle, A., "Staggered Sentencing for Repeat DWI Offenders: A New Weapon in the War Against Drunk Driving," Hamline Journal of Public Law & Policy, Vol. 25, No. 1, pp. 87-113 (Fall 2003).

²⁷ See www.house.leg.state.mn.us/hrd/issinfo/crime.htm.

²⁸ See Minn. Stat. § 169A.275.



more installments occurring during the probation period. These installments are spaced several months to one year apart. The offender must serve the first incarceration segment immediately or soon after the sentencing date, and is advised by the court of the dates on which the offender must begin serving subsequent incarceration segments.²⁹

2. Active Participation by the Offender

If the offender can maintain sobriety, as shown through input from the offender's probation officer, family, friends, AA sponsor, and employer, the offender may request a waiver of the next segment of incarceration by filing a motion with the court a specified number of days before the scheduled commencement of this segment. This motion may only be brought before the sentencing judge. This one judge/one defendant model enables the judge to develop a consistency and rapport not only with the offender, but also with family members who may accompany the offender to court.

The true innovation of this program may well be the act of giving an offender responsibility for altering the course of future consequences. Unlike traditional probation – a system under which offenders receive additional

consequences for program failures – the court informs offenders that their successes will allow the court to give the offenders additional control over their lives. Under staggered sentencing, offenders retain the responsibility for achieving the conditions of probation, scheduling court motion hearings, and convincing the court that they have adopted lifestyle changes that significantly lessen their chances of further recidivism.

An offender who does not file the required motion requesting a hearing must report to serve the next incarceration segment as scheduled. No hearing is required. A failure to appear to serve an incarceration segment is a probation violation, which could result in the court imposing additional sanctions.

3. Home Electronic Alcohol Monitoring (HEM)

At the initial sentencing hearing, the court also orders Home Electronic Alcohol Monitoring (HEM), typically in segments of 30 days per year. HEM is a non-house-arrest program that allows the offender to carry on normal daily activities. However, three times a day (generally, early morning, an hour after work, and late at night), the offender must be at home to provide a breath sample into a video monitoring

unit, connected to the phone line. A positive test for alcohol usage or a failure to test at a designated time constitutes a probation violation, and requires the offender to be brought before the sentencing judge immediately.

The staggered sentencing model tailors the frequency and timing of the monitoring to the offender's specific circumstances. For example, some offenders require closer monitoring during the Christmas and New Year's holiday period; others require closer monitoring during periods of unemployment.

If the offender can maintain sobriety, as shown through input from the offender's probation officer, family, friends, AA sponsor, and employer, the offender may request a waiver of the next HEM segment by filing a motion with the court a specified number of days before the scheduled commencement of this segment. In considering the motion, the court places heavy reliance on the monitoring results.

4. Clearly Articulated Consequences for Specific Violations

At the initial sentencing hearing,

²⁹ While 23 U.S.C. §164 allows for non-continuous imprisonment, the mandatory minimum term of imprisonment must be served. Otherwise, the State risks losing Federal highway funding.



the court advises the offender of the tremendous rewards to be gained by sobriety but also warns of the penalties that it will assess if the offender fails to remain sober or is again charged with DWI. The court typically informs an offender that any arrest for a new DWI violation will result in the revocation of the offender's probation and immediate incarceration for the entire period of the remaining stayed sentence. The court also typically informs the offender that any violation of the other conditions of probation – such as alcohol abstinence, completion of treatment, or payment of fines – will result in the execution of the next segment of incarceration that the court has already ordered the offender to serve. This “carrot and stick” approach has been very effective for the participants, as they leave the courtroom with a clear message and understanding.

Effectiveness of Staggered Sentencing

The Minnesota Legislature House Research Department has evaluated the effectiveness of staggered sentencing in reducing repeat DWI offenses.³⁰ The

initial results of this study suggest that staggered sentencing may be effective in reducing DWI recidivism. The study tracked over 50,000 days of the first 61 DWI offenders (tracked up to 4 years) who had received staggered sentences from Judge Dehn. The research revealed that these offenders experienced 49.9 percent less DWI recidivism than would otherwise be expected based on statewide recidivism rates for comparable DWI offenders in the same time frame.

In addition to the direct and indirect cost savings associated with the reduced recidivism, the research report showed a substantial direct cost savings associated with reduced incarceration terms. The research report showed that the court waived, on average, approximately 52 days of incarceration time for offenders who were successful under staggered sentencing. At the approximate per diem jail cost of \$70/day (a conservative estimate), the 52 days that were waived resulted in a direct jail cost savings of over \$3,500 per successful offender. In total, over 3,000 days of jail time were waived

(a cost savings of over \$210,000), for the first 60 offenders in the program. In addition, the nearly 50 percent reduction in recidivism translates into future law enforcement, judicial, and correctional cost savings.

While the findings of the House Research Department report are preliminary until confirmed by further application and analysis, they have been codified into Minnesota law.³¹ Minnesota judges are reporting the same results that Judge Dehn has experienced. If these findings are confirmed and courts throughout the country broadly adopt staggered sentencing, this could possibly help reduce fiscal burdens for local governments, while simultaneously enhancing traffic safety. This in turn will help alleviate pressure on State correctional budgets, by freeing up local jail space. Staggered sentencing may have the potential for broader application with other chemically involved offenders who are arrested for other types of crimes, such as low-level drug offenders and domestic abuse offenders. Judge Dehn has begun to extend staggered sentencing to these areas.

³⁰ See Cleary, Jim, “Controlling Repeat DWI Offenders with Staggered Sentencing,” <http://www.house.leg.state.mn.us/hrd/pubs/stagsent.pdf>, Minnesota House of Representatives (2003).

³¹ See Minn. Stat. §169A.275.



GUIDING PRINCIPLES FOR STAGGERED SENTENCING

Use A Team Approach

Use a team-oriented approach, as seen in DWI/drug courts, to develop the staggered sentencing program in your court. Invite prosecutors, defense counsel, probation officers, and other interested parties to participate in the program's development and ask them to help you identify, at the earliest opportunity, those repeat offenders who could benefit from the program. With their assistance, develop guidelines to identify these individuals.

MONITOR PROGRESS

- Break the sentence and electronic monitoring into separate time segments. Use the same dates

each year to avoid confusion for defendants, probation officers, and court administrators.

- Advise the defendant that you are the only judge who will hear any motions the defendant files.
- Assign the case to yourself (rationale: all motions and probation violations will come to you).

INFORM THE DEFENDANT

- During the sentencing hearing, give the offender a "Staggered Sentence Packet," which contains a form for a motion and instructions requesting a waiver of an incarceration or electronic monitoring segment. Instruct the offender that any

motion papers must be served on the prosecutor and filed with the court a specified number of days before the commencement of the next incarceration or electronic monitoring segment.

- Remind the offender:
 - If the offender is actively sober and has the backing of the probation officer, then the judge will waive the next incarceration or electronic monitoring segment.
 - If the offender commits an additional DWI offense during the probation period, then the offender will serve the entire period of incarceration.
- Encourage the offender in his or her sobriety.

Promising Sentencing Practice No. 3

SENTENCING CIRCLES

By Judge Gary Schurrer (Minnesota)

Overview

This section defines what a sentencing circle is, and discusses how these circles work, how circles can be powerful tools, and how justice systems can use circles to assist in the rehabilitation of repeat DWI offenders.

The discussion in this section is based on the author's experiences in Washington County, Minnesota. In Minnesota, sentencing circles are authorized by statute,³² and their use has been upheld by the Minnesota State Supreme Court.³³ While these anecdotal experiences appear promising, additional empirical studies need to be conducted to establish the wide-spread effectiveness of sentencing circles.

What Are Sentencing Circles?

Circles are an old way of communicating, resolving conflicts, and affecting changes. In ancient cultures, groups used this process to make decisions. Circles have been used in recent times in Native American and aboriginal cultures. Circles rely on consensus-based decision-making in which all participants are equal, and titles, rank, and power are ignored. Circles get their name from the fact that meetings are conducted by people sitting in a circular fashion, which further reinforces the idea of equality.

Sentencing circles are a part of the restorative justice concept that attempts to heal the harm caused by crime and other conflicts within a community. A sentencing circle is a

restorative process because it requires the offender to make reparation to the victim and to others harmed by the offending behavior, including the community. It also expects offenders to restore themselves by addressing those personal issues that contributed to the offending behavior, such as alcohol abuse or drug addiction. The purpose of sentencing circles is to recognize the needs of victims of crime, secure the participation of the community, and identify the rehabilitative needs of the offender. These circles provide a forum for all persons affected by the offending behavior, including victims and family members, as well as a forum for those community members who, while not directly affected by the offense, are generally concerned about safety in their community.

³² Minn. Stat. § 611A.775.

³³ See *State v. Pearson*, 637 N.W.2d 571 (2002).



Sentencing circles are premised on three principles: (1) that a criminal offense constitutes a breach of the relationship between the offender and the victim, and between the offender and the community; (2) that the stability of the community depends on healing these breaches; and (3) that the community is in a better position than the court to address the causes of crime, which are often rooted in the economic or social fabric of the community. A sentencing circle is a community-directed process, conducted in partnership with the criminal justice system, to develop a consensus on an appropriate sentencing plan that addresses the concerns of all interested parties.

Sentencing circles have been used for many years in Australia, Canada, and New Zealand. Their use in the United States is still fairly new.

Use of sentencing circles is not appropriate in all cases, but has been proved effective in cases involving motivated offenders who have the support of their communities.³⁴

How Circles Work

The goal of the circle is to develop a consensus. Thus, participants do not direct their remarks to a circle “leader,” but instead direct their remarks to the circle as a whole.

A talking piece controls the discussion in a circle. In Native American traditions, the talking piece was usually an eagle feather connecting the spiritual nature of life to the issues discussed by the circle participants. The circle requires the holder of the eagle feather to be truthful and the listeners to be respectful by listening carefully to what the holder says. In today’s circles, each community chooses a talking piece that is meaningful to it. Only the person holding the talking piece may speak; all others must listen. This form of communication is different from informal methods of discussion that involve talking back and forth, which can lead to a greater emphasis on talking rather than listening. The talking piece is passed from person to person, and each is allowed to speak and to say what the person wishes to say. Consequently, when participating in a circle, most of the time is spent listening, not talking.

The Power of Circles

One intriguing aspect of the circle is the common outpouring of private, personal, and usually emotional information. It is common for a person who has never told anyone anything personal to share very personal information in the circle. It is not entirely clear why this occurs.

Some believe that the power of the circle comes from the fact that the circle participants care about the other participants, and this supportive environment allows for these revelations. This power affects change in the participants. The willingness to be there for all involved is accomplished without compensation or salary. A common rule is that “what is said in the circle stays in the circle.” This sense of confidentiality also creates a safe environment. Participants return to circles because they provide opportunities to witness the institution of values and a sense of spirituality into the participants’ lives.

In a sentencing circle, the offender, without defense counsel to act as a buffer and to speak on the offender’s behalf, must directly address the victim and other community members of the circle and explain his or her actions. In the circle, the offender will also hear directly about the pain and fear experienced by the victim and the disappointment of the community. While expressions of remorse in a formal court setting often sound hollow and insincere, the remorse expressed in a circle is often emotional and includes a genuine apology.

A sentencing circle allows the offender to participate in shaping the sentencing

³⁴ As stated supra., empirical studies have not established the effectiveness of sentencing circles in relation to DWI offenders specifically. Nevertheless, there are other factors to consider in determining whether this approach should be used (e.g., community involvement, victim and offender satisfaction with the process, and costs savings assuming similar recidivism rates with traditional methods).



plan, thereby taking back a measure of control over his or her life. It also gives the offender the opportunity to make amends to the victim, and to the offender's community and family.

The Impact of Circles

Researchers Mark Umbreit, Robert Coates and Betty Vos performed an analysis of 63 empirical studies in 5 countries to determine the impact of circles.³⁵ They analyzed the impact with regard to four variables: (1) client satisfaction, (2) diversion, (3) recidivism, and (4) cost.³⁶ These studies did not address circles used in relationship to DWI offenses specifically, so the reader is cautioned to take that into consideration. With regard to client satisfaction (which includes impacts upon victims and offenders), they found that "[p]reliminary research efforts suggest that talking circles, healing circles, and sentencing circles have positively impacted the lives of those who have participated in them."³⁷ Nevertheless, they found that few studies have studied the impact of circles alone. They examined studies conducted in the Manitoba and Alberta Provinces and Yukon Territory in Canada, and in Minnesota.³⁸ While

offenders and victims lauded the approach, some criminal justice decision-makers found the approach to be too time consuming and only appropriate for minor cases and first time offenders.³⁹ With regard to recidivism, they found that "recidivism findings across a fair number of sites and settings suggest that restorative justice conferencing approaches are at least as viable at recidivism reduction as traditional approaches."⁴⁰ The authors caution, however, that recidivism alone should not be used to determine the success of a program: "[I]f recidivism is regarded as the most important desired outcome, it may become the only desired outcome and the 'restorative' program may over time be stripped of those qualities that make it restorative and that contribute to reduction in further offending."⁴¹

Using Circles in Sentencing DWI Offenders

How can circles be used in sentencing DWI offenders? Community sentencing circles are comprised of community volunteers who wish to deal with the problems of crime in their communities by working with others. These volunteers receive training in the

circle process and agree to participate in circles, accepting referrals of offenders from the courts.

The process begins after the offender pleads guilty to the crime charged. The guilty plea is evidence that offenders accept responsibility for their actions. Offenders must also express a desire to change their lives by changing their behavior patterns. Without this commitment by the offender, the court will not refer the case to a sentencing circle.

The offender must complete a written application form and provide it to the circle volunteers in the community. On receipt and review of the application, the circle arranges an application circle, attended by community circle volunteers, the offender, and a support person for the offender. During those circles, the discussions focus on the offenders' desire to change their lives and how the circle can assist in the process. This first circle also initiates the offender and allows the offender to experience the circle's rules, process, and values.

After the application circle, the community members decide whether to accept the case. The main criterion

³⁵ See Umbreit, M., Coates, R., and Vos, B., "The Impact of Restorative Justice Conferencing: A Review of 63 Empirical Studies in 5 Countries," Center for Restorative Justice & Peacemaking (2002).

³⁶ *Id.* at 2.

³⁷ *Id.* at 6.

³⁸ *Id.* at 6-7.

³⁹ *Id.* at 7.

⁴⁰ *Id.* at 15.

⁴¹ *Id.* at 21.



used in determining whether to take a case is whether the victim is willing to allow the offender to participate even though the victim may not ultimately join the circle. A second criterion is whether offenders manifest a serious desire to make a change in their lives. If they accept the case, they will schedule additional circles, sometimes once per month or sometimes every other week. In these circles, they begin the process of analyzing the factors that brought the offender into the criminal justice system. Those areas are not merely the chemical dependency issues for a DWI offender, but also deeper, underlying issues that may exist, such as depression, anger, and familial or relationship stress. The circles address these issues as the offender's trust level with the circle volunteers grows.

The circles are value-based. Circle volunteers agree to abide by five values: respect, humility, compassion, honesty, and spirituality. Through consensus, the circle enters into compacts or agreements with the offender that the offender will do certain things to address the factors that led to the offense. For example, the compact may require that the offender attend chemical dependency treatment and Alcoholics Anonymous meetings, and also abstain from the use of alcohol and drugs. The

compact may also require the offender to call a circle volunteer at least once per week so the volunteer can ascertain how the offender is doing with sobriety. Other requirements may also be imposed, taking into account the offender's unique circumstances and needs.

The primary role of the circle volunteers is to listen. On occasion, the circle volunteers may suggest to offenders areas in their lives that they should review and change. Offenders always play the leading role in the process of taking the steps necessary to change their lifestyles. Circle volunteers hold the offenders accountable for their actions and require them to follow through and abide by the compact's terms. As the offender proceeds through the process, the circle volunteers and the offender will often change the compact terms to meet the offender's particular needs.

When all members of the circle, including the offenders, believe the offenders have demonstrated a commitment to change their lifestyles and have begun to internalize the values of the community, the circle will schedule a sentencing circle. The court and the circle volunteers do not place a time limit on this process. In most cases, the circle volunteers engage in

a number of circles before calling for the sentencing circle after four to six months. In difficult cases, the offender and the circle volunteers can participate in circles for nearly a year before the volunteers request the sentencing circle. The circle volunteers invite the judge, prosecutor, defense attorney, offender support person, victim (if any), and the public to attend and be part of the sentencing circle. In my experience, the prosecutor and defense attorney generally waive their right to appear in the circle. At this circle, the circle volunteers and the offender discuss the offender's progress in changing lifestyle, and the group dynamics do not appear to be affected by any new members who join the circle.

Through discussion and consensus, applying the values of the circle, all participants of the sentencing circle work towards determining the offender's sentence. The sentencing circle participants do not always reach consensus in the first sentencing circle. In this event, the circle participants agree to call for an additional sentencing circle. When all participants agree on a sentence, they establish a formal sentence. The sentence requires the offender to continue in the circle for an established period of time and to abide by all the conditions of the sentence before the formal sentencing hearing.



The Court's Role

Following the sentencing circle, the offender returns to court, and the judge formally sentences the offender, imposing in court the sentence that the sentencing circle reached. On successful completion of all the conditions of the sentence, the court discharges the offender from probation, and the offender is no longer required to participate in the circles.

In courts that use a drug court or DWI court process or when the judge wishes to determine the sentence, the court

may still use circles to assist offenders. Instead of using circles to sentence offenders, courts may use them to assist offenders in transitioning from a chemical/alcohol-using community to the general community. Circles may also help offenders make life-changing decisions that lead to value-driven lives. Community volunteers may mentor and provide a model for offenders, and ease the sometimes difficult transitions that need to occur.

The community circle process makes it possible for the court to use community resources that might otherwise go

unused. In circles, offenders feel a greater accountability to community members, while the circles decrease the stigmatizing effects that occur in the traditional criminal justice system. The deep relationship created between offenders and the community in the circle triggers a profound effort on the part of offenders to truthfully analyze their lifestyles and to begin the process of becoming valued community members.



GUIDING PRINCIPLES FOR SENTENCING CIRCLES

Involve The Community

Circles, more than other rehabilitative justice practices, rely on strong community involvement. The process is community-driven, not driven by the courts. If the community is not strongly involved and committed, then circles are unworkable. You must start the process with the community.

Share Your Sentencing Power

As a judge, you will spend most of your time recruiting and encouraging community members and supporting the circles. By sharing your sentencing

power, you are showing your confidence in the community. Being a judge with a willingness to partner with the community is the key ingredient. You will act as a resource to the community by answering questions about the criminal justice system and by assisting in determining the procedures for the circle process.

Create Your Own Circle Community

What one community does may not work for another. The flexibility of circles is one of their strongest benefits. Adapt them to meet your community's needs.

Train The Circle Volunteers

Once you have located your community members and established an interest in circles, your circle community needs training. The circle process can be difficult to grasp. Use established circle trainers to provide instruction. A group called Washington County Peacekeeping Circles in Stillwater, Minnesota, is willing to train other communities, as are other organizations including The National Judicial College.

Promising Sentencing Practice No. 4

VEHICLE AND LICENSE PLATE SANCTIONS

By Judge G. Michael Witte (Indiana)

Overview

A convicted DWI offender may be prevented from driving while intoxicated by:

- Impounding the offender's vehicle;
- Installing a "club" or parking boot to immobilize the offender's vehicle; or
- Impounding the license plates for the offender's vehicle.

Federal Law

The Transportation Equity Act for the 21st Century (TEA-21) mandates that State laws regarding second and subsequent convictions for DWI must require that all vehicles of repeat DWI offenders be impounded or immobilized for some time period during the license suspension period,

or require the installation of an ignition interlock system on all of the offender's vehicles for some time period after the end of the suspension. Otherwise, the State risks losing Federal funding.⁴²

State Laws

Twenty-seven States have laws authorizing the seizure and impoundment of the vehicles of repeat DWI offenders for a specified time period. Generally, these laws allow law enforcement to impound the vehicle being driven by an offender at the time of arrest if the vehicle is owned by the offender. The vehicle is held in an impound lot until an initial court hearing to determine whether it was legally seized. If seized legally, the vehicle may remain in impound until the conclusion of the trial. The length of the impoundment period is generally 90 days for a second offense and 180

days for a third offense. For a fourth or subsequent offense, the vehicle is subject to forfeiture.

Effectiveness of This Sanction

Vehicle seizure and impoundment have been effective in reducing DWI offenses by separating offenders from their vehicles. A study conducted in Hamilton County, Ohio, found that vehicle impoundment decreased recidivism by large percentages both during and after the impoundment period. For repeat offenders with one prior DWI conviction, the reduction in DWI offenses was 80 percent during the impoundment period and 56 percent after the impoundment period. For repeat offenders with two prior DWI convictions, the reductions during and after the impoundment period were 56 percent and 58 percent, respectively.⁴³

⁴² See 23 U.S.C. § 164(a)(5)(B).

⁴³ See Voas, Robert A., et al., "Temporary Vehicle Impoundment in Ohio: A Replication and Confirmation," *Accident Analysis and Prevention*, Vol. 30, No. 5, pp. 651-655 (1998).



In California, repeat offenders whose vehicles were impounded had 34 percent fewer subsequent convictions for driving while suspended or unlicensed, 22 percent fewer traffic convictions, and 38 percent fewer crashes, as compared with another control group of repeat offenders.⁴⁴

A study that examined the recidivism rate of drivers sanctioned under the Portland, Oregon, forfeiture ordinance found that “perpetrators whose vehicles were seized could reliably expect to be re-arrested on average half as often as those whose vehicles were not.”⁴⁵

Club or Parking Boot

When impounding a repeat DWI offender’s vehicle is impractical because of the cost of storage, lack of available storage facilities, or for other reasons, some judges have ordered the installation of a club device on the steering wheel or of a parking boot as a method of immobilizing the offender’s vehicle. A study conducted in Franklin County, Ohio, found a recidivism rate of 0-2 percent by offenders during the

period their vehicles were immobilized by the club. These offenders also had a lower recidivism rate after the end of the sanction period than other DWI offenders whose vehicles had not been subject to this sanction.⁴⁶

License Plate Impoundment

Twenty States have laws allowing the license plates of a repeat DWI offender’s vehicle to be impounded. This sanction has been more widely used when law enforcement authorities, rather than the courts, are given the authority to confiscate license plates.⁴⁷

An evaluation of Minnesota’s license plate impoundment law found that offenders whose plates were impounded by the arresting officer had one-half the recidivism rate compared to similar offenders whose plates were not impounded.⁴⁸

In Michigan, the metal license plate on the vehicle being driven by a repeat offender is destroyed at the time of arrest, whether or not the offender is the owner of the vehicle, and a temporary

paper license plate is issued allowing the vehicle to be driven legally. A new metal license plate is not issued until the offender’s case is resolved in court.

“Zebra Tagging” License Plates

Oregon and Washington experimented with “zebra tag” laws intended to deter drivers whose licenses had been suspended from driving and to allow police officers to readily detect these drivers who were continuing to drive. These laws authorized police officers to place a special striped sticker over the license plate registration tag, and gave officers probable cause for stopping a vehicle bearing this sticker to check the license status of the driver. This sanction allows family members who share use of the vehicle with the offender to continue to use the vehicle.

In Oregon, zebra tagging was found to be effective in decreasing the rates of accidents, moving violations, and DWI offenses by both drivers who had received zebra tags and those at risk of receiving a tag because they had sus-

⁴⁴ See DeYoung, D., “Deterrent Effect of Vehicle Impoundment on Suspended, Revoked, and Unlicensed Drivers in California,” California Department of Motor Vehicles (1998).

⁴⁵ See Crosby, I. B., “Portland’s Asset Forfeiture Program: The Effectiveness of Vehicle Seizure in Reducing Rearrest Among ‘Problem’ Drunk Drivers,” Reed College/Portland Police Bureau (1995).

⁴⁶ See Voas, Robert A., *et al.*, “Temporary Vehicle Immobilization: Evaluation of a Program in Ohio,” *Accident Analysis and Prevention*, Vol. 29, No. 5, pp. 635-642 (1997).

⁴⁷ See Ross, H. Laurence, *et al.*, “License Plate Confiscation for Persistent Alcohol Impaired Drivers,” *Accident Analysis and Prevention*, Vol. 28, No. 1, pp. 53-61 (1996).

⁴⁸ See Rodgers, A., “Effect of Minnesota’s License Plate Impoundment Law on Recidivism of Multiple DWI Violators,” *Alcohol, Drugs, and Driving*, Vol. 10, No. 2, pp. 127-134 (1994).



pending licenses. In Washington, zebra tagging was not found to have any effect on subsequent violations or accidents by tagged drivers. The difference in results may have been due to the fact that the law was applied to twice as many drivers in Oregon as in Washington.⁴⁹ Nevertheless, the Oregon and Washington legislatures have allowed the zebra tag laws to expire.⁵⁰

Ohio recently strengthened its penalties for repeat DWI offenders by, among other things, giving the court the discretion to require a restricted license plate (“family plate”) on conviction of a first offense, but making the restricted plate mandatory on second and subsequent offenses.⁵¹

GUIDING PRINCIPLES FOR VEHICLE AND LICENSE PLATE SANCTIONS

Consider Public Safety Issues

Because many convicted DWI offenders whose licenses are suspended or revoked will continue to drive anyway, impounding or otherwise immobilizing an offender’s vehicle may be considered in the interest of public safety to prevent the offender from driving while impaired.

Consider Costs

Consider the offender’s ability to pay the costs of impoundment. If ability to pay is an issue, consider whether a club

or parking boot should be ordered as an alternative means of immobilizing the offender’s vehicle.

Consider Whether Less Drastic Sanction May Be Effective

Instead of requiring impoundment of an offender’s vehicle, consider whether requiring the installation of an ignition interlock device might be an effective sanction.

⁴⁹ See “Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws,” DOT HS 808 136, Final Report (April 1994).

⁵⁰ See National Highway Traffic Safety Administration, “Traffic Safety Facts Laws: Vehicle and License Plate Sanctions,” <http://www.nhtsa.dot.gov/people/injury/New-fact-sheet03/VehicleLicensePlate.pdf> (April 2004).

⁵¹ See House Bill 163.

Promising Sentencing Practice No. 5

IGNITION INTERLOCK DEVICES

By Judge Calvin Holden (Missouri)

Overview

While DWI sanctions have generally focused on punishing, rehabilitating, or incapacitating the drinking driver, another approach to controlling the DWI offender that has emerged in recent years is to focus on the offender's vehicle as a means of influencing the offender. One of these approaches, which has proven to be effective, is the ignition interlock device.

To prevent a convicted DWI offender from driving while intoxicated, courts may require the installation of an ignition interlock device on the offender's vehicle. Courts employ this sentencing practice because:

- Installation of the device allows DWI offenders to maintain their responsibilities (e.g., driving to work, taking children to school, running

errands, etc.), while also serving as a constant reminder that their privilege to drive is contingent on their sobriety.

- Given the fact that many offenders whose licenses are suspended or revoked will continue to drive without a license, a deterrent to DWI other than license suspension or revocation is necessary to protect public safety.

What Is An Ignition Interlock Driver?

An ignition interlock device consists of a breath-testing unit that is connected to a vehicle's ignition switch. To start the vehicle, the driver must blow into the unit. If the breath sample provided by the driver contains more than a predetermined blood alcohol concentration, the ignition interlock device prevents the vehicle from being started. To meet the model specifications set by NHTSA, the ignition interlock device must not only

require a breath test to start the vehicle, but must also require a subsequent "rolling or running retest" to prevent another person from starting the vehicle and then allowing an impaired driver to take over the wheel. The ignition interlock system records the results of all breath tests, as well as all attempts to circumvent or tamper with the device.

Federal Law

The TEA-21 Restoration Act supports the use of ignition interlock devices by mandating that State laws regarding second and subsequent convictions for DWI must require that all vehicles of repeat DWI offenders be impounded or immobilized for some time period during the license suspension period, or require the installation of an ignition interlock system on all of the offender's vehicles for some time period after the end of the suspension. Otherwise, the State risks losing Federal funding.⁵²

⁵² See 23 U.S.C. § 164(a)(5)(B).



State Laws

Forty-three States have laws providing for either the discretionary or mandatory installation of ignition interlock devices on the vehicles of repeat DWI offenders. New Mexico, for example, requires that as a condition of probation upon a first conviction for aggravated driving while under the influence of intoxicating liquor or drugs,⁵³ an offender shall be required to have an ignition interlock device installed and operating for a period of one year on all motor vehicles driven by the offender.⁵⁴

Costs

The offender is required to pay for the ignition interlock device. The average cost for installation of the device is approximately \$100-\$150, and monthly monitoring and calibration is approximately \$65.

Effectiveness Of The Device

The ignition interlock device has proved to be an effective deterrent to DWI because when properly installed and regularly monitored, the device is extremely difficult to circumvent. It has also proved to be an effective deterrent when it is emphasized to the offender that this is a lesser penalty than might be imposed (e.g., impounding the offender's vehicle) and is conditioned on the offender's correct use of the device every time he or she drives.

Studies have shown:

- A recidivism rate of 0-4 percent by offenders whose vehicles were equipped with an ignition interlock device.⁵⁵
- That offenders were 65 percent less likely to re-offend while the device was in place than those offenders who were not required to install the device.⁵⁶

- That multiple DWI offenders who were required to install ignition interlock devices were less than half as likely to have subsequent DWI convictions within three years, as compared with other multiple DWI offenders who were not required to install the devices.⁵⁷
- That after 30 months, the recidivism rate for offenders placed in an interlock group was only 1.5 percent, compared to 16.1 percent for offenders in the non-interlock group.⁵⁸
- That a program which combined an ignition interlock requirement with substance abuse treatment and license suspension was more effective in preventing recidivism than any other program.⁵⁹

⁵³ N.M. Stat. §66-8-102 (D): Aggravated driving while under the influence of intoxicating liquor or drugs consists of a person who:

- (1) has an alcohol concentration of sixteen one hundredths or more in his blood or breath while driving a vehicle within this state;
- (2) has caused bodily injury to a human being as a result of the unlawful operation of a motor vehicle while driving under the influence of intoxicating liquor or drugs; or
- (3) refused to submit to chemical testing, as provided for in the Implied Consent Act, and in the judgment of the court, based upon evidence of intoxication presented to the court, was under the influence of intoxicating liquor or drugs.

⁵⁴ N.M. Stat. §66-8-102 (N).

⁵⁵ See "The Technology Answer to the Persistent Drinking Driver," National Commission against Drunk Driving (NCADD), <http://www.ncadd.com/015.cfm>.

⁵⁶ See Beck, Kenneth H., *et al.*, "Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland," *American Journal of Public Health*, Vol. 89, No. 11, pp. 1696-1700 (November 1999); Coben, Jeffrey, and Gregory Larkin, "Effectiveness of Ignition Interlock Devices in Reducing Drunk Driving Recidivism," *American Journal of Preventive Medicine*, Vol. 16, No. 1S, pp. 81-87 (1999).

⁵⁷ See Fulkerson, Andrew, "Blow and Go: The Breath-Analyzed Ignition Interlock Device as a Technological Response to DWI," *American Journal of Drug and Alcohol Abuse*, Vol. 29, pp. 219-229 (2003).

⁵⁸ See More, Barbara J. and Delbert S. Elliott, "Effects of Ignition Interlock Devices on DUI Recidivism: Findings from a Longitudinal Study in Hamilton County, Ohio," *Crime & Delinquency*, Vol. 38, pp. 131-141 (1992).

⁵⁹ See Tashima, Helen N. and Clifford J. Helander, "1999 Annual Report of the California DUI Management Information System," *California Department of Motor Vehicles*, pp. 30, 38 (January 1999).



Other researchers have found, however, that the deterrent effect of the device generally ends once it is removed, and that the likelihood that offenders who were required to install the device will commit a repeat DWI offense following removal of the device is virtually the same as for those who were not required to install the device.⁶⁰ Research suggests that the device should remain installed until the offender can demonstrate an extended period of sobriety.⁶¹ When combined with substance abuse counseling, there is some evidence that the deterrent effect of the device may continue beyond its removal.⁶²

One court found that the practical effectiveness of the device was limited because only a small number of offenders were willing to install the device in order to be able to drive legally. Consequently, it adopted a court policy that created a strong incentive for offenders to install the device by

making traditional penalties, such as jail or electronically monitored house arrest, the alternative to participation in the interlock program. Comparison of the recidivism rates of offenders subject to this policy with offenders in similar, nearby courts, not using interlocks, indicated that the policy was producing substantial reductions in DWI recidivism.⁶³

Using Data Recorded by Device

The data recorded by the ignition interlock device may provide information regarding the offender's particular pattern of alcohol abuse that may be useful in attempting to change the offender's behavior through counseling or other means (e.g., by showing the offender's attempts to drive while intoxicated at a certain time of day or under certain circumstances).⁶⁴ Some researchers have concluded that interlock data may eventually come to

serve as a useful adjunct for monitoring offenders by alcohol counselors, as well as by courts and motor vehicle authorities.⁶⁵

Barriers to Using the Device

Judges and prosecutors who participated in a 2003 study conducted by the California Department of Motor Vehicles noted three barriers that exist to requiring ignition interlock devices:

- Many offenders are unable to pay for these devices;
- Many offenders do not own a vehicle; and
- Monitoring offenders ordered to install an ignition interlock device is time-consuming and difficult.⁶⁶

One method of dealing with offenders who do not own a vehicle is to require them to sign a waiver stating that they will not own or operate a vehicle that is not equipped with an ignition interlock device.

⁶⁰ See Raub, R., *et al.*, "Breath Alcohol Ignition Interlock Devices: Controlling the Recidivist," *Traffic Injury Prevention*, Vol. 4, No. 3, pp. 199-205 (2003); "Alcohol Ignition Interlock Devices I: Position Paper," International Council on Alcohol, Drugs and Traffic Safety (ICADTS), p. 11 (July 2001).

⁶¹ See Raub, *supra*.

⁶² See Raub, *supra*.

⁶³ See Voas, Robert A., *et al.*, "Evaluation of a Program to Motivate Impaired Driving Offenders to Install Ignition Interlocks," *Accident Analysis and Prevention*, Vol. 34, No. 4, pp. 449-455 (2002).

⁶⁴ See Marques, Paul R., *et al.*, "Predicting Repeat DUI Offenses With Alcohol Interlock Recorder," *Accident Analysis and Prevention*, Vol. 33, No. 5, pp. 609-619 (2001); Marques, Paul R., *et al.*, "Behavioral Monitoring of DUI Offenders with Alcohol Ignition Interlock Recorder," *Addiction*, Vol. 94, No. 12, pp. 1861-1870 (1999).

⁶⁵ See Marques, Paul R., *et al.*, "Behavioral Measures of Drinking: Patterns from the Alcohol Interlock Record," *Addiction*, Vol. 98, No. 2, pp. 13-19 (2003).

⁶⁶ See DeYoung, David, "An Evaluation of the Implementation of Ignition Interlock in California," Licensing Operations Division, Research Notes—2003, http://www.dmv.ca.gov/about/profile/rd/resnotes/evaluation_implementation.htm.



GUIDING PRINCIPLES FOR IGNITION INTERLOCK DEVICES

Consider Public Safety Issues

Because many convicted DWI offenders whose licenses are suspended or revoked will continue to drive anyway, an ignition interlock requirement may be considered in the interest of public safety to prevent these offenders from driving while impaired and to monitor their driving.

Determine Whether Defendant Is Motivated To Use Device

DWI offenders are not all motivated to comply with interlock restrictions and monitoring requirements. Therefore, an offender's willingness to comply with

these requirements should be carefully explored. Although a properly installed ignition interlock device is extremely difficult to circumvent, an offender who chooses to do so can easily circumvent the court's order by driving a vehicle that is not equipped with the device.

Discuss Costs

Confirm that the offender can afford the cost of installing and monitoring the device.

Inform The Defendant

- That use of the device is of benefit to the offender because it will allow

the lives of the offender and those of other family members who share use of the offender's vehicle to remain relatively undisturbed.

- That installation of the device is a lesser penalty than might be imposed (e.g., impounding the offender's vehicle) and that stronger penalties will be imposed if the offender fails to comply with the installation and monitoring requirements.

For these reasons, it is in the offender's best interests to fully comply with the installation and monitoring requirements.

Promising Sentencing Practice No. 6 ELECTRONIC MONITORING AND SCRAM

*By Judge Michael Barrasse
(Pennsylvania)*

Overview

Home detention with electronic monitoring may be used as an alternative to incarceration. It is less expensive than incarceration, and allows offenders to remain in their homes, to go to work,⁶⁷ and to maintain their other responsibilities, while their activities are electronically monitored to ensure they are complying with the conditions set by the court.

As noted by the California Department of Motor Vehicles in its annual report to the California legislature on the effectiveness of measures for reducing DWI recidivism:

- DUI countermeasure evaluations have consistently found jail

sentences to be among the least effective sanctions for reducing the subsequent crash and recidivism rates of convicted DUI offenders (citations omitted). Jail is also one of the most expensive sanctions in the criminal justice system. Given both the ineffectiveness and cost of jail as a criminal justice countermeasure, there is growing acceptance of the use of house arrest (electronic confinement) for nonviolent criminal offenders, including many DUI offenders. . . . Because it is feasible for the offender to continue to work during daytime hours, while being confined at night (when most drinking and alcohol-impaired driving occurs), the offender is often able to cover the cost of nighttime monitoring, while also continuing to provide for family members.⁶⁸

What Is Electronic Monitoring?

Electronic monitoring provides surveillance of an offender's presence within the immediate vicinity of an assigned area. There are many types of electronic monitoring devices. Some attach to the wrist, others to the ankle. Some relay a continuous signal to a computer at the probation offices or manufacturer's business; others involve equipment in addition to what is strapped to the offender and require the offender to respond to random phone calls.

DWI offenders may be required to have certain monitoring add-ons, such as breath-testing devices. These alcohol monitors enable probation offices to ensure that offenders are complying with court orders to abstain from alcohol consumption as a condition of sentencing and probation. They test

⁶⁷ Judges should be conscious of the requirements of 23 U.S.C. §164 which requires a mandatory minimum sentence of imprisonment for repeat DWI offenders. Otherwise, the State risks losing Federal highway funding. To comply, the judge could simply sentence the offender to electronic monitoring after the minimum term of imprisonment has been served.

⁶⁸ See Helander, Clifford J., "DUI Countermeasures in California: What Works and What Doesn't, With Recommendations for Legislative Reform," California Department of Motor Vehicles, pp. 8-9 (September 2002).



for alcohol on the offender's breath and transmit test results to the monitoring agency over the offender's telephone line. Typically, DWI offenders subject to this condition of home arrest must submit to multiple tests per day. Voice recognition devices ensure that the offender is the person taking the test.

Effectiveness of Electronic Monitoring

A study conducted in Los Angeles County, California, which evaluated how electronic monitoring affects recidivism, cost, and effectiveness among repeat DWI offenders, found that the recidivism rate of those offenders in the electronic monitoring program was one-third lower (one year after entering the program) than the rate for those offenders who were incarcerated, and that the cost saving to the county was significant: it saved approximately \$1 million in jail costs. The cost of elec-

tronic monitoring averaged \$15 per day for each offender and this cost was paid by the offenders themselves.⁶⁹

A seven-year evaluation of an electronic monitoring program in Palm Beach County, Florida, for repeat DWI offenders, showed that electronic monitoring was an effective alternative to incarceration: 85 percent of participants successfully completed the program at a price of approximately one-third the cost of jail.⁷⁰ Another study which compared DWI offenders sentenced to electronic monitoring with a control group sentenced to incarceration found no significant differences in the recidivism rates of the two groups.⁷¹

The Minnesota Department of Corrections annual report to the State legislature on the effectiveness of the State's Remote Electronic Alcohol Monitoring (REAM) program found that 19 percent of pre-sentence participants had

violations or arrests while enrolled in the program and 14 percent of post-sentence participants had violations or arrests while enrolled in the program; however, very few arrests for new DWI offenses occurred while participants were enrolled in the program.⁷²

SCRAM

Some courts are using an alcohol-monitoring device called SCRAM (Secure Continuous Remote Alcohol Monitor). The device is attached to the offender's ankle and monitors the offender's blood alcohol level by measuring ethanol vapor as it migrates through the surface of the skin. The device is designed to detect and record any tampering or attempts to remove it. A Smart Modem communicates test results from the subject's home to an Internet-based central monitoring station, which provides supervising parties with constant access to the alcohol readings of each subject.⁷³

⁶⁹ See Jones, R.K., *et al.*, "Evaluation of Alternative Programs for Repeat DWI Offenders," DOT 808 493, pp. 39-66 (October 1996).

⁷⁰ See Lilly, J. Robert, *et al.*, "Electronic Monitoring of the Drunk Driver: A Seven-Year Study of the Home Confinement Alternative," *Crime and Delinquency*, Vol. 39, pp. 462-484 (October 1993).

⁷¹ See Courtright, Kevin E., *et al.*, "Rehabilitation in the New Machine? Exploring Drug and Alcohol Use and Variables Related to Success Among DUI Offenders Under Electronic Monitoring—Some Preliminary Outcome Results," *International Journal of Offender Therapy and Comparative Criminology*, Vol. 44, No. 3, pp. 293-311 (2000).

⁷² See "Remote Electronic Alcohol Monitoring 2004 Report," Minnesota Department of Corrections.

⁷³ For further discussion of SCRAM, see "Reducing Alcohol-Related Crime Electronically," Phillips, Kirby, *Federal Probation*, Vol. 65, No. 2 (September 2001) and "Recent Survey Shows Need for Better Alcohol Testing in Drug and DWI Courts," Brown, Kathleen, *NADCP News* (Spring 2004). Note that this study did not use a control group citing ethical considerations.



GUIDING PRINCIPLES FOR ELECTRONIC MONITORING AND SCRAM

Determine Whether Offender Is Suitable Candidate For Electronic Monitoring

Electronic monitoring is not a suitable sanction for all DWI offenders. Suitable candidates are those who have (1) a permanent residence, (2) a working phone, (3) no history of violence or drug sales, (4) no outstanding warrants, and (5) a minimal risk of committing further serious illegal acts during the electronic monitoring period. Court staff should check for prior felony convictions, substance abuse convictions, and any history of noncompliance with court orders.

Consider Costs

Electronic monitoring can result in considerable cost savings to the court because the cost of monitoring is generally paid by the offender. Even in the case of indigent offenders for whom the court may pay the costs of monitoring, these costs will be significantly less than the costs of incarceration.

Monitor Compliance

Offenders should be required to report on a regular basis to an electronic

monitoring officer for inspection of equipment and payment of fees. This officer provides periodic reports on an offender's compliance with the terms of the sentencing order to the court's probation officer. The probation officer also checks to determine whether the other conditions of probation, such as attending treatment programs, are being met. Information about an offender's progress should also be sent directly to the court, including notification of any missed appointments.

Promising Sentencing Practice No. 7

VICTIM IMPACT PANELS

By: Judge Greg Donat (Indiana)

Overview

Judges presiding over DWI cases have teamed with community groups to develop victim impact panels as an additional sentencing practice. Community groups, such as Mothers Against Drunk Driving are often responsible for organizing and presenting the program, and the court's staff is responsible for assigning and monitoring the defendants' attendance. Victim impact panels have been successful in reducing DWI recidivism⁷⁴ through emotional appeals designed to change DWI offenders' attitudes toward drinking and driving by illustrating the real impact of DWI crashes.

What Is a Victim Impact Panel?

Victim impact panels are groups of three or four speakers who have been seriously injured, or who have lost a friend or family member, in a crash caused by an impaired driver. Panel members present their personal stories to a group of DWI offenders that does not include their own offender. Offenders are ordered by the court to attend a victim impact panel as a condition of their probation. Panels are held at regular intervals, usually biweekly or monthly.

Most victim impact panel programs contain an introduction, three or four victim's stories, and a conclusion. The

victims describe, in very personal terms, the effect on their lives of being seriously injured, or losing a friend or family member, in a crash caused by an impaired driver. The goal is to influence DWI offenders on an emotional level to change their attitudes about drinking and driving, and thus reduce the likelihood of re-offending.

Victim impact panels can help put a "human face" on the tragic consequences of DWI. They can raise empathy, allowing offenders to put themselves in the place of people harmed by impaired drivers. They can also change the offenders' focus from feeling sorry for themselves for having been caught, to the actual human consequences of their offense.

⁷⁴ At least one study has shown that victim impact panels have not significantly affected recidivism rates. See Shinar, D. and Compton, R., "Victim Impact Panels: Their Impact on DWI Recidivism," *Alcohol, Drugs and Driving*, Vol. 11, No. 1, Los Angeles: UCLA Brain Information Service/Brain Research Institute, pps. 73-87 (1995). Nevertheless, the program can be helpful to victims and can positively affect the public's perception of the justice system and encourage community involvement in the justice system.



Tips for Using Victim Impact Panels

The introduction of the program should emphasize that the victim impact panel program is not intended to be confrontational. Instead, the program should assist offenders in making better decisions in future situations. Attendees should be informed that the program's purpose is not to accuse or degrade them, but to help them understand that they are responsible for the consequences of their decisions to drink and drive. It is also important that the presenters understand the purpose of the victim panels. At the completion of each session, the offenders should complete evaluation forms that ask them to focus on how the victim information will affect their future decision-making about drinking and driving.

Selecting Victim Presenters

The victim presenters must be selected and prepared carefully. It is appropriate to wait until the civil and criminal proceedings are complete before a victim is asked to be a presenter. Victims generally find that the process of preparing and delivering their stories is extremely emotional. Consequently, the program managers must ensure that the victims have had sufficient time to work through their grieving processes, and if necessary with professional assistance, before engaging in the program. To

describe their personal tragedies is to relieve them and can be very emotionally difficult. The staff must be extremely sensitive to selecting and preparing participants. Due to the very personal emotional commitment, most victims choose to present only a few times.

Live Versus Videotaped Presentations

Since it is emotionally and personally draining, it is not always possible to arrange for live presentations. Some courts use live presentations a few times per year while some courts use videotaped presentations more frequently. Because live presentations are much more powerful than videotaped presentations, they should be used to the extent possible. Program managers may need to balance audience size with the nature of the victims and their abilities to speak in front of large and small groups.

Benefit to Victims and Offenders

Many victims have positive reactions to their participation. Although it can be both physically and emotional draining, it can be a way to openly express their grief. Many victims say that if they feel that they can do something to stop impaired driving, it will give some meaning to their personal losses and suffering. On some occasions, offenders have

also made presentations to describe how their lives were tragically affected by their bad choices to drink and drive.

Effectiveness of Victim Impact Panels

The following studies have measured the effectiveness of victim impact panels:

- A study that examined the effect of victim impact panels in an eight county, tri-state region of the southwestern United States found that the recidivism rate for offenders who attended a victim impact panel was half that of offenders who did not do so. The offenders who did not attend a victim impact panel also recidivated sooner than offenders who attended a panel.⁷⁵
- A larger study conducted in Clackamas County, Oregon, found that DWI offenders who did not attend a victim impact panel were more than three times more likely to be re-arrested within the first year compared to those offenders who had attended a panel.⁷⁶
- A study conducted in an urban/suburban county in the southeastern United States found that participation in a victim impact panel reduced the likelihood of being re-arrested for DWI by 65 percent within the first year after the panel. Those whose re-arrest records were most

⁷⁵ See Sprang, Ginny, "Victim Impact Panels: An Examination of This Program on Lowering Recidivism and Changing Offenders' Attitudes About Drinking and Driving," *Journal of Social Service Research*, Vol. 22, No. 3, pp. 73-84 (1997).

⁷⁶ See O'Laughlin, L. H., "Drunk Driving: The Effects of the Clackamas County DUI Victim Impact Panel on Recidivism Rates," Portland, Oregon (1990).



significantly affected were white men, ages 26-35, with one prior DWI arrest. Logistic regression was used to compare the importance of specific independent variables on re-arrest. Whether or not a subject attended a victim impact panel was found to be the most powerful predictor of re-arrest.⁷⁷

Many judges who have used victim impact panels for DWI offenders have

seen the positive results expressed by Judge Paul Bonin of the New Orleans Traffic Court:

- Offenders consistently inform me that the Victim Impact Panel is the single component of our sentence that causes them to appreciate the seriousness of drunk driving and helps them to resolve never to drink and drive again. Listening to the victims is an emotional experience for most offenders and diminishes

any feelings that they may have had of being 'victimized' by the criminal justice system.⁷⁸

State Laws

A number of States have laws giving judges authority to order DWI offenders to attend a victim impact panel. These States include Connecticut, Indiana, Nevada, New York, Oklahoma, Oregon, Washington, and Wisconsin.

GUIDING PRINCIPLES FOR VICTIM IMPACT PANELS

Determine Whether A Victim Impact Panel Program Exists

Determine whether a victim impact panel program exists in your community. If such a program does not exist, consider establishing one by working with local community groups. For courts interested in setting up victim impact panels, NHTSA publishes a detailed "how-to" guide.⁷⁹

Build Your Team

- To create a victim impact panel, build a team to design the program and evaluate and refine it as experiences demonstrate problems and successes.

- Contact other jurisdictions to find out more about how to develop and implement victim impact panels for your court.

Develop Guidelines

Establish guidelines for the program. Seek input from your court staff and other community volunteers, as well as from your probation and/or parole departments

Track Attendance

The court should design a system to track those assigned to attend victim impact panels and verify their attendance. Those who have a verifiable and valid reason for not attending a session can be re-assigned. However, promptly

sanction those who miss sessions or fail to participate appropriately. The judge may choose to use administrative sanctions, such as community service or road crew and avoid involving the court. Another possibility is to refer all violators to the court or file a petition to revoke probation.

Set A Location

Determine where to hold the victim impact panels. Some courts use their courtrooms or courthouse facilities and some use community or public facilities to conduct the panels. If the staffing and accommodations can be provided or donated, it may avoid the necessity of charging a user fee for participants, which greatly simplifies the program's operation.

⁷⁷ See Fors, S.W. and D.G. Rojek, "The Effects of Victim Impact Panels on DUI/DWI Rearrest Rates: A Twelve-Month Follow-Up," *Journal of Studies on Alcohol*, pp. 514-520 (July 1999).

⁷⁸ See Louisiana Victim Impact Panels, <http://www.dps.state.la.us/tiger/victim.html>.

⁷⁹ See Lord, Janice Harris, "A How to Guide for Victim Impact Panels: A Creative Sentencing Opportunity," DOT HS 809 289 (July 2001).

Promising Sentencing Practice No. 8

COGNITIVE BEHAVIORAL THERAPY

By Judge Marion Edwards (Louisiana)

Overview

The use of Cognitive Behavioral Therapy has been recognized as a critical factor in reducing recidivism for repeat DWI offenders.⁸⁰ Cognitive Behavioral Therapy focuses on changing thinking patterns and behaviors. It is based on the premise that if a repeat offender's faulty thinking is not addressed, there is little likelihood of permanent change. Research has shown that the use of cognitive interventions can enhance outcomes by up to 50 percent; however, less than half of treatment programs for offenders report having a cognitive behavior component in their programs. Additional empirical studies need to be conducted to ascertain the efficacy of different programs; nevertheless, the

programs outlined here appear to be promising.

What Is Cognitive Behavioral Therapy?

Cognitive Behavioral Therapy is an action-oriented form of psychosocial therapy, which assumes that faulty thinking patterns cause behavior that is counter-productive or that interferes with everyday living and also causes negative emotions. Treatment focuses on changing an individual's thoughts or cognitive patterns in order to change his or her behavior and emotional state.

Application of Cognitive Behavioral Therapy to DWI Offenders

Cognitive Behavioral Therapy appears "to be the most effective treatment

therapy for substance abusers . . . [Studies have] found that programs that included the cognitive component were more than twice as effective as programs that did not."⁸¹ In Cognitive Behavioral Therapy, "alcohol and drug dependence are viewed as learned behaviors that are acquired through experience. If alcohol or a drug provides certain desired results (e.g., good feelings, reduced tensions, etc.) on repeated occasions, it may become the preferred way of achieving those results, particularly in the absence of other ways of meeting those desired ends. From this perspective, the primary tasks of treatment are to (1) identify the specific needs that alcohol and drugs are being used to meet, and (2) develop skills that provide alternative ways of meeting those needs."⁸²

⁸⁰ See Kadden, Ronald M., "Cognitive-Behavioral Approaches to Alcoholism Treatment," *Alcohol Health & Research World*, Vol. 18, No. 4, pp. 279-285 (1994); Donovan, D.M., et al., "Prevention Skills for Alcohol-Involved Drivers," *Alcohol, Drugs and Driving*, Vol. 6, pp. 169-188 (1990); Connors, G.J., et al., "Behavioral Treatment of Drunk-Driving Recidivists: Short-Term and Long-Term Effects," *Behavioral Psychotherapy*, Vol. 14, pp. 34-45 (1986).

⁸¹ See Taxman, Faye S., "Unraveling 'What Works' for Offenders in Substance Abuse Treatment Services," *National Drug Court Institute Review*, Vol. II, No. 2, pp. 108-110 (1999).

⁸² See Kadden, Ronald M., "Cognitive-Behavior Therapy for Substance Dependence: Coping-Skills Training," *Illinois Department of Human Services' Office of Alcoholism and Substance Abuse* (2000).



The emphasis of Cognitive Behavioral Therapy is on teaching substance-abusing offenders core concepts of self-diagnosis, self-analysis, and self-management. Each of these concepts underlies the overall goal of assisting offenders to assume responsibility for their actions through techniques provided in therapy. The self-diagnosis phase emphasizes recognizing that problems exist, identifying feelings and situations that accompany the problems, and developing interpersonal issues. The goal of the self-analysis phase is to examine how the individual contributed to the problems, identify different solutions and the likely consequences, and identify thinking and situational factors that affect these problems. In the self-management phase, the individual uses the skills acquired in therapy (e.g., problem-solving, interpersonal skills training, and cognitive behavior modification) to address problems. The self-management phase also involves the use of support groups and reinforcement to equip the offender with the tools to prevent relapse.⁸³

Effectiveness of Cognitive Behavioral Therapy

A number of studies support the effectiveness of Cognitive Behavioral

Therapy in treating alcohol abuse, including the following:

- Alcohol abusers who received Cognitive Behavioral Therapy as a component of their treatment had better drinking-related outcomes than those who did not receive this therapy.⁸⁴
- A review of more than 24 randomized controlled trials found that Cognitive Behavioral Therapy was comparable to or more effective than other treatment for alcohol abuse.⁸⁵
- Cognitive Behavioral Therapy was found to be particularly effective in reducing the severity of relapse and in enhancing the durability of effects for substance abusers, including alcohol abusers.⁸⁶

Cognitive Behavioral Therapy Programs

Four Cognitive Behavioral Therapy programs that have been used successfully by criminal justice agencies are: (1) Moral Reconciliation Therapy (MRT); (2) Thinking for a Change (TFAC); (3) Reasoning and Rehabilitation (R&R); and (4) Relapse Prevention Therapy (RPT). Each is discussed below. For a listing

of other cognitive behavior programs used by criminal justice agencies, see “Cognitive-Behavioral Programs: A Resource Guide to Existing Services,” published by the National Institute of Corrections.

Moral Reconciliation Therapy (MRT)

MRT is a cognitive behavior program that has been used to reduce the recidivism rate of repeat DWI offenders. It combines education, group and individual counseling, and structured exercises designed to alter how participants think and make judgments about what is right and wrong. It is designed to foster moral development in individuals who have proved to be resistant to treatment.

MRT was developed in the 1980s by Drs. Gregory L. Little and Kenneth D. Robinson. It was initially used extensively with alcohol and drug offenders at the Shelby County Correction Center (Memphis, Tennessee, is the county seat of Shelby County). It is now being used in more than 40 States. For example, it is part of the therapeutic program offered by the Anchorage Wellness Court to alcoholic misdemeanor defendants.⁸⁷

⁸³ See Taxman, *supra*, pp. 109-110.

⁸⁴ See Longabaugh, R., and J. Morgenstern, “Cognitive-Behavioral Coping-Skills Therapy for Alcohol Dependence,” *Alcohol Research and Health*, Vol. 23, pp. 78-85 (1999).

⁸⁵ See Carroll, K.M., “Relapse Prevention as a Psychosocial Approach: A Review of Controlled Clinical Trials,” *Experimental Clinical Psychopharmacology*, Vol. 4, pp. 46-54 (1996).

⁸⁶ See Carroll, K.M., “A Cognitive-Behavioral Approach: Treating Cocaine Addiction,” U.S. Department of Health and Human Services, National Institutes of Health (2000).

⁸⁷ See discussion under Promising Sentencing Practice No. 1, above.



An evaluation of the Shelby County MRT program for DWI offenders with an average of three DWI convictions found that offenders who participated in the program had fewer re-arrests than offenders who received no treatment and served jail time only. For program participants, the re-arrest rate for new DWI offenses within two years after release was 4 percent, compared to a re-arrest rate of 15 percent for non-participants.⁸⁸ However, after this two-year period, the DWI recidivism rates for both groups are essentially the same.⁸⁹ Despite the fact that the developers of MRT conducted these studies, independent researchers found that MRT “works in reducing the recidivism of offenders.”⁹⁰

Thinking for a Change (TFAC)

TFAC is a cognitive behavior program for offenders developed by the National Institute of Corrections (NIC) in the U.S. Department of Justice. Since its introduction in 1997, over 30 agencies have become partners with NIC as host field test sites. These agencies include State correctional systems, local jails, community-based corrections programs, and probation and parole departments.

TFAC uses a combination of approaches to increase offenders’ awareness of self and others. It integrates cognitive restructuring, social skills, and problem solving. The program begins by teaching offenders an introspective process for examining their ways of thinking, feelings, beliefs, and attitudes. This process is reinforced throughout the program. Social skills training is provided as an alternative to antisocial behaviors. The program culminates by integrating the skills offenders have learned into steps for problem solving. Problem solving becomes the central approach offenders learn that enables them to work through difficult situations without engaging in criminal behavior.

Offenders learn how to report on situations that could lead to criminal behavior and to identify their thoughts, feelings, attitudes, and beliefs that might lead them to offending. They learn how to write and use a thinking report as a means of determining their awareness of their risky thinking that leads them into trouble. Within the social skills component of the program, offenders try using their newly-developed social skills in role-

playing situations. After each role-play the group discusses and assesses how well the offender did in following the steps of the social skill being learned. Offenders apply problem-solving steps to problems in their own lives.

TFAC was developed to be appropriate for a wide range of offenders. Further information about TFAC is available on NIC’s website.⁹¹

Reasoning and Rehabilitation (R&R)

The R&R program is a multifaceted cognitive-behavior program designed to teach juvenile and adult offenders cognitive skills and values. It was developed by Dr. Robert Ross of the University of Toronto, and by Canadian criminal justice practitioners Elizabeth Fabiano and Frank Porporino. It is widely used throughout the Canadian correctional system, as well as in a number of States in the United States. The developers created R&R as an educational, skills-based intervention that Ross has described as a “cognitive-behavioral program designed to teach offenders social cognitive skills and values which are essential for pro-social competence.”⁹²


⁸⁸ See Little, Gregory L., *et al.*, “Treating Drunk Drivers with Moral Reconciliation Therapy: A Two-Year Recidivism Study,” *Psychological Reports*, Vol. 66, pp. 1379-1387 (1990).

⁸⁹ See Little, Gregory L., “Cognitive-Behavioral Treatment of Offenders: A Comprehensive Review of MRT Outcome Research,” *Addictive Behaviors Treatment Review*, Vol. 2, No. 1, pp. 12-21 (2000).

⁹⁰ Allen, Leana C., *et al.*, “The Effectiveness of Cognitive Behavioral Treatment for Adult Offenders: A Methodological, Quality-Based Review,” *International Journal of Offender Therapy and Comparative Criminology*, Vol. 45, No. 4, p. 509 (2001).

⁹¹ [Http://www.nicic.org](http://www.nicic.org).

⁹² Ross, R. R., “The Reasoning and Rehabilitation Program for High-Risk Probationers and Prisoners,” in R. R. Ross, D. H. Antonowicz, & G. K. Dhaliwal (Eds.), *Going Straight: Effective Delinquency Prevention and Offender Rehabilitation*, p. 195 (1995).



They designed the program to assist offenders in developing self-control, social skills, problem-solving abilities, and the ability to critically assess their thinking.⁹³ The authors identified the following factors that appeared to lead to repetitive pattern of criminal behavior: (1) problems with impulsivity associated with poor verbal self-regulation; (2) impairment in means-end reasoning; (3) a concrete thinking style that impinges on the ability to appreciate the thoughts and feelings of others; (4) conceptual rigidity that inclines them to a repetitive pattern of self-defeating behavior; (5) poor interpersonal problem-solving skills; (6) egocentricity; (7) poor critical reasoning; and (8) a selfish perspective that tends to make them focus only on how their actions affect themselves instead of considering the effects of their actions on others.⁹⁴ The authors

created a program that consists of 35 two-hour sessions, which is an amalgam of content and techniques borrowed from a number of sources. The program is delivered two to four times per week to groups of 4 to 10 offenders.⁹⁵ The program avoids didactic presentations and uses role playing, video-taped feedback, modeling, group discussion, games, and practical homework review to teach the skills.⁹⁶

Relapse Prevention Therapy (RPT)

RPT is a behavioral self-control program designed to teach individuals who are trying to maintain changes in their behavior how to anticipate and cope with the problem of relapse. It was originally designed as a maintenance program for use following the treatment of alcohol or drug addiction,

but may also be used as a stand-alone treatment program. RPT combines behavioral and cognitive interventions in an overall approach that emphasizes self-management.

RPT intervention strategies consist of coping-skills training, cognitive therapy, and lifestyle modification. Coping-skills training is the cornerstone of RPT, teaching individuals strategies to understand relapse as a process, identify and cope effectively with high-risk situations, cope with urges and cravings, implement damage control procedures during a lapse to minimize its negative consequences, stay engaged in treatment even after a relapse, and learn how to create a more balanced lifestyle. A number of studies have shown that RPT is effective as a psychosocial treatment for alcohol and drug dependence.⁹⁷

⁹³ Ross, R. R., Fabiano, E. A., & Ewles, C. D., "Reasoning and Rehabilitation," *International Journal of Offender Therapy and Comparative Criminology*, Vol. 32, 29-36 (1988).

⁹⁴ Gaes, Gerald *et al.*, "Adult Correctional Treatment," in Michael Tonry and Joan Petersilia (Eds.), *Prisons*, p. 375 (1999).

⁹⁵ *Id.* at p. 376.

⁹⁶ *Id.* For further information about R&R, see Ross, R., *et al.*, "Reasoning and Rehabilitation," *International Journal of Offender Therapy and Comparative Criminology*, Vol. 32, pp. 29-35 (1988), and Van Voorhis, Patricia, *et al.*, "The Georgia Cognitive Skills Experiment: A Replication of Reasoning and Rehabilitation," *Criminal Justice and Behavior*, Vol. 31, No. 3, pp. 282-305 (2004).

⁹⁷ See Irvin, J.E., *et al.*, "Efficacy of Relapse Prevention: A Meta-Analytic Review," *Journal of Consulting and Clinical Psychology*, Vol. 67, pp. 563-570 (1999); Parks, G.A. and G.A. Marlatt, "Relapse Prevention Therapy for Substance-Abusing Offenders: A Cognitive-Behavioral Approach in What Works: Strategic Solutions," *American Correctional Association*, pp. 161-233 (1999).



GUIDING PRINCIPLES FOR COGNITIVE BEHAVIORAL THERAPY

Conduct Assessment Of Offender

A clinical assessment is a critical tool for determining the appropriate level and type of therapy for an offender. It provides critical information that can be used to determine the severity of the offender's substance abuse and criminal behavior.

Match Offender With Appropriate Therapy

Using the information gathered in the clinical assessment of the offender,

the offender can be matched with the appropriate therapy method.

Assess Offender's Readiness To Enter Therapy

Often the assumption is made that an offender is interested in changing his or her behavior and that the offender knows what aspect of his or her behavior is troublesome; however, this assumption is not always correct. To prepare an offender for treatment, participation in a treatment readiness group may be required. Treatment

readiness groups prepare offenders for participating in therapy by creating a desire to change.

Require Behavior Contract

The offender should be required to sign a behavior contract that (1) specifies the expectations for the offender, (2) identifies the program and schedule of therapy, (3) includes incentives for compliance and sanctions for noncompliance, and (4) includes other requirements, such as periodic alcohol and drug testing, electronic monitoring, and community service.

Promising Sentencing Practice No. 9

DRUG THERAPY

By Judge Stephen E. Benson and Gregory Lynch (California)

Overview

To assist convicted DWI offenders in maintaining sobriety while attempting to change the behavioral patterns leading to their alcohol abuse, a court may consider requiring the offenders to take naltrexone or Antabuse, drugs that have been used in the treatment of alcoholism for many years. Generally, it is recommended that the drug therapy be combined with psychosocial therapies for the most benefit.⁹⁸

What Is Naltrexone?

Naltrexone (ReVia) is a non-addictive medication that reduces cravings for alcohol, and has been approved by the FDA as a treatment for alcoholism. It is intended to be used in connection with

psychosocial treatment to reduce the risk of relapse. One study concluded that offenders who are treated with naltrexone in combination with cognitive behavioral therapy drank less, took longer to relapse, and had more time between relapses. They also exhibited more resistance to and control over alcohol-related thoughts and urges. Finally, 62% of those taking naltrexone did not relapse into heavy drinking, in comparison with 40% of the placebo group.⁹⁹

Naltrexone has few adverse side effects, but should not be taken by pregnant women, people with severe liver or kidney damage, or people who are dependent on opiates such as heroin or morphine.

The recommended initial course of treatment is three to six months.

Thereafter, the need for further treatment should be evaluated on the basis of the person's degree of improvement and continued concerns about relapse.

What Is Antabuse?

Antabuse (disulfiram) is a drug that produces unpleasant side effects when a person drinks alcohol while taking the drug. It has been found to be less effective than naltrexone, and also has toxic qualities that have led to major medical complications.

Although Antabuse and naltrexone can be used together, their combined usage is not ordinarily recommended. Antabuse may be used in conjunction with naltrexone to abate persistent complaints of craving or with patients who have continued to drink

⁹⁸ O'Malley, Stephanie, "Naltrexone and Alcoholism Treatment," U.S. Department of Health and Human Services, Treatment Improvement Protocol Series 28, p. xv (1998).

⁹⁹ Anton, R.F.; Moak, D.H.; Waid, L.R.; et al., "Naltrexone and Cognitive Behavioral Therapy for the Treatment of Outpatient Alcoholics: Results of a Placebo-Controlled Trial," *American Journal of Psychiatry*, Vol. 156, No. 11, pp. 1758-1764 (1999).



periodically in order to help them break this cycle and achieve a sustained period of abstinence. It may also be used to establish an initial period of abstinence before initiating naltrexone therapy, at which time its use is discontinued.

Benefits of Drug Therapy

Naltrexone reduces or stops the cravings for alcohol that interfere with an alcoholic's ability to complete a treatment program. The medication may enable the patient to maintain sobriety for a sufficient period of time to successfully establish a pattern of behavior modification through psychosocial treatment.

Although psychosocial treatments for alcoholism have been shown to increase abstinence rates, a significant proportion of alcoholics find it difficult to maintain initial treatment gains and eventually relapse. Naltrexone, when used in addition to psychosocial therapies for alcohol abuse, can reduce the percentage of days spent drinking, the amount of alcohol consumed, and relapse to excessive and destructive drinking.¹⁰⁰

One Court's Experience with Naltrexone

As part of its HIDE (High Density DUI/DWI Enforcement) Program, Butte County (California) Superior Court requires offenders placed in the program to participate in a drug treatment program that requires the offender to take naltrexone. This program is designed primarily for multiple DWI offenders, and accepts offenders who are granted probation for DWI with priors and DWI with injury cases in which there is a significant alcohol or drug abuse problem.

Butte County has been requiring the use of naltrexone by certain DWI offenders since 1996. Its ReVia Project began as a 90-day trial project, which was extended based on the positive results achieved with repeat DWI offenders who were part of this project. The Butte County Court found "that ReVia is far and away the most successful method of dealing with high-blood-alcohol, repeat drunk drivers." It found that:

- Use of the drug as part of the probationary terms and conditions for repeat DWI offenders allows behavioral modification to take effect.

- ReVia [naltrexone] is far more effective than Antabuse and standard probation with Alcoholics Anonymous (AA) terms and conditions.
- Offenders taking ReVia had the lowest recidivism rate and the longest period of time before recidivism as compared to offenders taking Antabuse and offenders on probation with AA terms and conditions.
- A key aspect of the drug treatment program is strict accountability.

The procedure used by the court is as follows:

- On conviction or plea, the court places the defendant on formal supervised probation.
- The defendant is ordered to contact a physician immediately, to receive an examination and a prescription for ReVia. Ingestion of the drug is initiated and a log is signed by the pharmacist or physician.
- Defendants are required to present proof of prescriptions and ingestion to their probation officers. In some cases, pharmacists personally

¹⁰⁰ For further discussion of using naltrexone in combination with psychosocial therapies, see O'Malley, Stephanie, *Naltrexone and Alcoholism Treatment*, Treatment Improvement Protocol (TIP) Series No. 28, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment; Kranzler, H.R. and J. Van Kirk, "Efficacy of Naltrexone and Acamprosate for Alcoholism Treatment: A Meta-Analysis," *Clinical and Experimental Research*, Vol. 25, No. 9, pp. 1335-1341 (2001); Garbutt, J.C., et al., "Pharmacological Treatment of Alcohol Dependence: A Review of the Evidence," *Journal of the American Medical Association*, Vol. 281, No. 14, pp. 1318-1325 (1999).



observe the ingestion, sign the log of the offender, and keep a separate log to document and compare. Customary safeguards are taken to protect against false ingestion attempts.

- The defendant is also ordered to participate in a specified alcohol treatment program, to submit to urine testing at specified intervals, and to abstain from all use or possession of alcohol or controlled substances and from entry into places where alcohol is sold or is a primary focus of business.
- Court review of the defendant's compliance with all orders is conducted at regular intervals.
- Probation officers conduct field searches, and are authorized to arrest any defendant who is violating the terms of probation.
- After six months, the court reviews the case to determine if the supervision level will be reduced.¹⁰¹

GUIDING PRINCIPLES FOR DRUG THERAPY

Enlist The Assistance Of The Medical Community

A partnership with the local medical community is important to the success of any drug therapy program. Members of the medical community may assist the court in developing the medical protocols for the program, in monitoring patients in the program, and in gathering statistics on the outcomes of those in the program. They may also be willing to offer low-cost or no-cost examinations and prescriptions to low-income individuals in the program. In California, a large retail drug store chain agreed that its pharmacy staff would supervise the offender's ingestion of naltrexone.

Determine Whether Defendant Is Motivated To Comply With Therapy

The defendant's interest in and willingness to take naltrexone are important considerations. Appropriate candidates for the drug should be willing to be in a supportive relationship with a health-

care provider or support group to enhance treatment compliance and work toward a common goal of sobriety.

Review Benefits Of Therapy With Defendant

- ♦ Naltrexone can help reduce the craving for alcohol and help people remain abstinent.
- ♦ Most people do not report side effects from taking this drug; however, some people experience mild discomfort, which usually disappears in a few weeks.
- ♦ Naltrexone will help people to maintain sobriety while completing a treatment program.

Discuss Costs

The probation department should discuss the cost of the drug with the defendant and how this cost will be covered (e.g., is there insurance coverage, can family members assist with the cost?, etc.). Although the cost may seem high (approximately \$5/day), it may be less than the amount the defendant has been spending on alcohol.

¹⁰¹ For further information about the Butte County ReVia Project, see <http://www.aca-usa.org/reviaproject.htm>, and "DWI/Drug Courts: Defining a National Strategy," Appendix B: ReVia Project, National Drug Court Institute (March 1999).

Promising Sentencing Practice No. 10

REENTRY COURTS AND PROGRAMS

By Judge Richard Vlavianos (California)

Overview

Using judicial authority to apply sanctions and rewards and to marshal resources has been shown to be effective in drug courts.¹⁰² Likewise, courts can oversee the re-entry process, whether from prison or jail, which can include monitoring, supervision, case management, service provision, and community involvement.¹⁰³ This supervision does not negate the role of probation and parole which are relied upon to aid society by trying to maximize the opportunity for the offender to rehabilitate. Courts need to examine the resources within the community to determine what is

available and to bring those programs to bear upon the re-entry of offenders. With 95% of all State prisoners being released from prison at some point, nearly 80% are released to parole supervision.¹⁰⁴ Among State parole discharges in 2000, only 41% successfully completed their term of supervision, 42% returned to prison or jail, and 9% absconded.¹⁰⁵ “Among the State prisoners expected to be released to the community by the end of 1999, 84% reported being involved in drugs or alcohol at the time of the offense which led to their incarceration.”¹⁰⁶ Re-entry courts and programs can assist in reducing the number of offenders involved with alcohol and drugs who return to prison or jail.

What Are Reentry Courts?

Reentry courts serve six primary functions in the release of jail and prison inmates: (1) assessment and planning; (2) active oversight; (3) management of support services; (4) accountability to the community; (5) graduated and parsimonious sanctions; and (6) rewards for success.¹⁰⁷

Assessment and Planning

In the assessment and planning phase, the correctional administrators, reentry judge and parole or probation agency perform a needs assessment and develop a plan prior to release. The assessment can include social services, drug and alcohol counseling, family

¹⁰² Lindquist, C., Hardison, J. and Lattimore, P., “Reentry Courts Process Evaluation (Phase 1), Final Report,” United States Department of Justice, Document No. 202472, p. 3 (2003).

¹⁰³ *Id.* at 4.

¹⁰⁴ Hughes, T. and Wilson, D.J., “Reentry Trends in the United States: Inmates Returning to the Community after Serving Time in Prison,” Bureau of Justice Statistics (2004).

¹⁰⁵ *Id.*

¹⁰⁶ *Id.*

¹⁰⁷ *Supra.*, note 1, at 4.



counseling, health and mental health services, housing, job training, and work opportunities.¹⁰⁸ The key is to match offenders to programs that will meet their individual needs. Many reentry programs target specific minority groups and are effective in dealing with the cultural differences to successful treatment of offenders. Assessment tools are available. Some examples of assessment tools for alcohol and substance abuse are: ASI (Alcoholism Screening Inventory); AUDIT (Alcohol Use Disorders Identification Test); CAGE (Cut Down, Annoyed, Guilty, Eye-Opener)¹⁰⁹; DRI (Driver Risk Inventory); MAST (Michigan Alcoholism Screening Test); SALCE (Substance Abuse Life Circumstances Evaluation); and SASSI (Substance Abuse Subtle Screening Inventory). Judges should assess and choose these tools after consulting with the service professionals.

Active Oversight

During the active oversight phase, the offender attends regular court appearances beginning immediately after release and continuing throughout supervision. Like drug courts, program participants witness other offenders' court appearances.¹¹⁰ Reentry courts

are designed to reduce recidivism and improve public safety through the use of judicial oversight of returning offenders. They do this by reviewing offenders' reentry progress and problems, ordering offenders to participate in various treatment and reintegration programs, requiring alcohol and drug testing and other checks to monitor compliance, applying graduated sanctions to offenders who do not comply with treatment requirements, and providing modest incentive rewards for sobriety and other positive behaviors.

Management and Support Services

The court oversees the provision of support services by marshalling those services which may include substance abuse treatment providers, job training programs, private employers, faith institutions, family members, housing services, and community organizations, among others. These organizations are accountable to the court.¹¹¹ Once judges have identified programs that work and have matched a program to the offender's needs, they need to monitor the offender's progress. Courts often order the offender to participate in a program, and then rely on the

probation or parole office to follow through and ensure the offender is satisfying the program's requirements. Unfortunately, offenders often fail to complete these programs, even when the judge orders them as a condition of probation or parole.

Experience shows that unless the court sets a future date to assess compliance, most individuals ordered into programs will not comply with the requirements of the program. Many of the offenders assume that the system is so large that they can always fall through the cracks without the court holding them responsible. It is too easy to avoid the unpleasant, which is exactly what most substance abusers want to do. They know that probation departments are overwhelmed with cases.

If the court requires the offenders to return to the courtroom to provide proof that they are completing the program's requirements, the compliance rate improves. The potential consequences for disobedience of the order are much more real, and offenders are usually concerned enough about them to actually follow through. By establishing a calendar for individuals to report back to the court and approach the judge

¹⁰⁸ *Id.*

¹⁰⁹ CAGE's mnemonic comes from the following questions: (1) Has the individual tried and failed to *cut down* the amount of drinking? (2) Does the individual get *annoyed* and irritable when he or she drinks? (3) Does the individual feel *guilty* about the drinking? (4) Most importantly, does the individual want a drink after waking up in the morning (i.e., need an *eye-opener*)?

¹¹⁰ *Id.*

¹¹¹ *Id.*



face to face, more offenders will complete their reentry plans.

Accountability to the Community

In some jurisdictions, courts have used citizen advisory boards to provide insights and suggestions and to ensure community involvement in the offender's reintegration into the community. In some cases, the court may find that restitution is required, so the court would oversee that process. Also, many courts work with victims' organizations.¹¹²

Graduated and Parsimonious Sanctions

The courts and supervision agencies need to establish a predetermined range of sanctions for violations of supervision conditions. In doing so, the sanctions need to be administered swiftly, predictably and universally.¹¹³

Rewards for Success

During the planning stage, identification of program milestones is extremely important. The use of rewards for offender's successes (e.g., early release, graduation ceremonies,

movie tickets, etc.) are necessary to recognize those milestones. Like failures, it is advisable to recognize the successes in a public forum (e.g., the courtroom).¹¹⁴

Assessment of Reentry Programs

To ensure that offenders successfully re-enter society, judges should become familiar with the available programs that work. As part of this process, courts should establish performance standards for the programs they use. A necessary part of any set of performance standards is a documented record of success, preferably using an evidence-based evaluation. Ideally, an outside evaluator would perform the evaluation. Good reentry programs will reassess and update their success rates periodically.

Judges should ensure that all programs are evaluated based on whether they actually work, rather than whether they sound good or are the current fad. Judges should not be afraid to try new concepts and ideas, but they should remember to have them independently evaluated as they use the programs. Too many programs that initially showed promise ultimately were found to be

counter-productive or ineffective when critically evaluated.¹¹⁵

An Example of a Reentry Program

One reentry program that has shown great promise is the Delancey Street Foundation. Delancey Street is a San Francisco-based, self-help residential treatment center for drug addicts, alcoholics, convicts and the hard-core unemployed.¹¹⁶ The participants either self-select to enter the program or are referred by judges, lawyers, or prison counselors. During a screening interview conducted by senior residents in the facility, applicants must personally request admission into the program and verbally accept responsibility for the problems of their past, their current position in life, and what they plan to do once they leave Delancey Street.¹¹⁷ While in the program, veteran residents brief new residents concerning four primary things: (1) life fundamentals (e.g., how to dress, eat, and speak properly, manage time, practice cleanliness, etc.); (2) physical labor skills (e.g., janitor, chef, automotive mechanic, etc.); (3) interpersonal skill (e.g., waiting tables, sales, etc.); and (4) tutoring

¹¹² *Id.*

¹¹³ *Id.*

¹¹⁴ *Id.*

¹¹⁵ *Id.* (This study examines nine reentry court sites around the country and evaluates the success of the accompanying programs).

¹¹⁶ Bragin, Michael, "Moving Social Services Back to Our Communities," <http://www.pacificresearch.org/pub/sab/health/delancey.html>, p. 6 (visited November 16, 2004).

¹¹⁷ *Id.*



(e.g., residents tutor one another, so a resident with a 10th grade level of proficiency in mathematics and language tutors a resident with an 8th grade level, who in turn, tutors someone with a 4th grade level).¹¹⁸ The residents stay for a minimum of two years and an average of three and one-half years.¹¹⁹ To support itself, Delancey Street does not use public funds; rather, it supports itself primarily through the successful operation of businesses including a restaurant, a café and bookstore, a moving company, paratransit services, automotive services, Christmas tree sales, handcrafted furniture, and handcrafted pottery and art objects.¹²⁰ Research Fellow Michael Bragin found that almost 12,000 former addicts,

felons and welfare dependents have graduated from the program since 1971.¹²¹ He also found the following:

- Even among the 25 percent who enter Delancey Street and end up dropping out in the first two months, roughly 1 out of every 10 returns and successfully completes a rehabilitative stay. Though 20 to 25 percent of those who do graduate end up back on drugs, welfare, or in prison, the majority of the foundation's graduates are definite success stories. For every 100 indigents and criminals who enter Delancey Street, an average of 59 of them successfully pass through the program and move on to obtain

legal [meaning lawful] jobs, pursue largely self-sufficient lives, and stick to a path of social responsibility and economic accountability.¹²²

Beside its main site in San Francisco and another site in Los Angeles, the foundation currently has successful affiliate sites in New Mexico, New York, and North Carolina. The approach has also been used in Massachusetts and New Zealand.¹²³ Nevertheless, one of the goals of the foundation is to replicate the program in additional States, and Congress has appropriated funds through the Department of Justice to the Eisenhower Foundation to help others replicate the model.¹²⁴

¹¹⁸ *Id.*

¹¹⁹ *Id.*

¹²⁰ Delancey Street Foundation, <http://www.eisenhowerfoundation.org/grassroots/delancey/training.htm> (visited Nov. 16, 2004).

¹²¹ *Id.* at 8.

¹²² *Id.*

¹²³ *Id.* at 9.

¹²⁴ Delancey Street Foundation, <http://www.eisenhowerfoundation.org/grassroots/delancey/replication.htm> (visited Nov. 16, 2004).



GUIDING PRINCIPLES FOR REENTRY COURTS AND PROGRAMS

Tailor The Reentry Court And Program To Your Community

Tailor the reentry court model for your jurisdiction to suit the individual legal, political and community context.

Marshal Key Stakeholders And Involve Them In Planning

- Bring the appropriate key stakeholders together (e.g., law enforcement, correctional facilities, mental health and substance abuse treatment, domestic violence counseling, financial assistance, educational assistance, vocational and employment assistance, clothing assistance, food bank, housing assistance, transportation assistance, faith-based community sponsorship, etc.).
- Ask them for their input in resolving reintegration problems.

Know The Resources In Your Community

- Become familiar with the reentry programs available to alcoholics in your community. Identify what age groups each program targets.

- Gain understanding of the specifics of the reentry program and its effectiveness. Identify which programs are residential and which operate on an outpatient basis. Define whether the program offers other services such as educational support, job placement, and other social services.

- Consider making participation in a reentry program a condition of probation and/or parole for appropriate individuals. To ensure you understand the nature of the programs, personally visit them.

Conduct An Independent Evaluation Of The Programs' Success

- Establish performance standards for the programs that you use.
- Ensure that an independent evaluator establishes the efficacy of the programs.

Ensure Assessment Of Offender's Specific Needs

- Ensure that the reentry program uses the appropriate assessment

instruments (e.g., ASI, AUDIT, CAGE, DRI, MAST, SALCE, SASSI) to identify the offender's specific needs.

- Oversee the program and meet with reentry staff members periodically to check on the matching systems they use.


Learn About Programs That Target Specific Minority Groups

Ascertain which reentry programs target specific ethnic groups and be sensitive to the possibility that different racial groups may require different treatment approaches due to cultural differences and/or language differences.

Stay Involved

- Once you have ordered the individual to participate in a program, set a future court date to assess the individual's compliance.
- Positively reinforce good behavior and provide sanctions when the individual fails to comply with the program's requirements.

Conclusion



This Promising Sentencing Practices Compendium describes sentencing practices identified by judges and other professionals to reduce DWI offenses. This publication is one example of how judges have led efforts in creating new solutions to an ongoing societal and justice system problem. Today, nearly one-third of all drivers arrested or convicted of DWI have previous DWI convictions. Vigilant judges have demonstrated their commitment, courage, and foresight in experimenting with these new approaches to sentencing in an effort to stop the “revolving door.”

The sentencing practices discussed in this compendium are examples of using creativity in seeking better justice. Various forms of these practices and

other sentencing options are being used by judges throughout the country to address the individual offender as well as to promote safer communities. In choosing which practices are appropriate, judges need to ensure that an adequate assessment of the offender is conducted. Once that is accomplished, the judge can choose from among the various sentencing practices to combine those strategies that will assist the individual offender with specific issues.

It is understood that some judges encounter challenges or limitations on their abilities to seek new solutions. These real-life sentencing practices can be catalysts for implementing new practices to reduce recidivism. There is

an often-used quote which succinctly describes why we need to be creative with sentencing practices:

“If you always do what you’ve always done, you’ll always get what you’ve always got.”

– Author unknown

This compendium challenges every judge to be a catalyst for introspection and change by taking such measures as adjusting sentencing philosophies, identifying additional resources and adopting new sentencing practices. By addressing the problem of repeat DWI and other serious offenders head-on, and utilizing unique remedies to decrease revolving door cases, judges today are creating a better system for tomorrow.

Resources

Allen, Leana C., *et al.*, "The Effectiveness of Cognitive Behavioral Treatment for Adult Offenders: A Methodological, Quality-Based Review," *International Journal of Offender Therapy and Comparative Criminology*, Vol. 45, No. 4, p. 509 (2001).

Anton, R.F., *et al.*, "Naltrexone and Cognitive Behavioral Therapy for the Treatment of Outpatient Alcoholics: Results of a Placebo-Controlled Trial," *American Journal of Psychiatry*, vol. 156, No. 11, pp. 1758-1764 (1999).

Beck, Kenneth H., *et al.*, "Effects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenses: A Randomized Trial in Maryland," *American Journal of Public Health*, Vol. 89, No. 11, pp. 1696-1700 (November 1999).

Belenko, Steven R., "Research on Drug Courts: A Critical Review," *The National Center on Addiction and Substance Abuse*, Columbia University (1998).

Bragin, Michael, "Moving Social Services Back to Our Communities," <http://www.pacificresearch.org/pub/sab/health/delancey.html> (visited November 16, 2004).

Breckenridge, J.F., *et al.*, "Drunk Drivers, DWI "Drug Court" Treatment, and Recidivism: Who Fails?" *Justice Research and Policy*, Vol. 2, No. 1, pp. 87-105 (2000).

Brown, Kathleen, "Recent Survey Shows Need for Better Alcohol Testing in Drug and DWI Courts," *NADCP News* (Spring 2004).

Carlisle, A., "Staggered Sentencing for Repeat DWI Offenders: A New Weapon in the War Against Drunk Driving," *Hamline Journal of Public Law & Policy*, Vol. 25, No. 1, pp. 87-113 (Fall 2003).

Carroll, K.M., "A Cognitive-Behavioral Approach: Treating Cocaine Addiction," U.S. Department of Health and Human Services, National Institutes of Health (2000).

Carroll, K.M., "Relapse Prevention as a Psychosocial Approach: A Review of Controlled Clinical Trials," *Experimental Clinical Psychopharmacology*, Vol. 4, pp. 46-54 (1996).

Center for Substance Abuse Treatment, "National Treatment Improvement Evaluation Study, Preliminary Report: Persistent Effects of Substance Abuse Treatment – One Year Later," Substance Abuse and Mental Health Services Administration, U.S. Department of Health & Human Services (1996).

Cleary, Jim, "Controlling Repeat DWI Offenders With Staggered Sentencing," <http://www.house.leg.state.mn.us/hrd/pubs/stagsent.pdf>, Minnesota House of Representatives (2003).

Coben, Jeffrey, and Gregory Larkin, "Effectiveness of Ignition Interlock Devices in Reducing Drunk Driving Recidivism," *American Journal of Preventive Medicine*, Vol. 16, No. 1S, pp. 81-87 (1999).



- Compton, R., "Preliminary Analysis of the Effect of Tennessee's Mandatory Jail Sanction on DWI Recidivism," In: Research Notes, June. Washington, D.C.: National Highway Traffic Safety Administration (1986).
- Connors, G.J., *et al.*, "Behavioral Treatment of Drunk-Driving Recidivists: Short-Term and Long-Term Effects," Behavioral Psychotherapy, Vol. 14, pp. 34-45 (1986).
- Courtright, Kevin E., *et al.*, "Rehabilitation in the New Machine? Exploring Drug and Alcohol Use and Variables Related to Success Among DUI Offenders Under Electronic Monitoring—Some Preliminary Outcome Results," International Journal of Offender Therapy and Comparative Criminology, Vol. 44, No. 3, pp. 293-311 (2000).
- Crancer, Alfred, "An Analysis of Idaho's Kootenai County DUI Court," NHTSA Region X (December 2003).
- Crosby, I. B., "Portland's Asset Forfeiture Program: The Effectiveness of Vehicle Seizure in Reducing Re-arrest Among 'Problem' Drunk Drivers," Reed College/Portland Police Bureau (1995).
- Delancey Street Foundation, <http://www.eisenhowerfoundation.org/grassroots/delancey.htm> (visited Nov. 16, 2004).
- DeYoung, David, "An Evaluation of the Implementation of Ignition Interlock in California," Licensing Operations Division, Research Notes—2003, http://www.dmv.ca.gov/about/profile/rd/resnotes/evaluation_implementation.htm (visited Oct. 15, 2004).
- DeYoung, D., "Deterrent Effect of Vehicle Impoundment on Suspended, Revoked, and Unlicensed Drivers in California," California Department of Motor Vehicles (1998).
- Donovan, D.M., *et al.*, "Prevention Skills for Alcohol-Involved Drivers," Alcohol, Drugs and Driving, Vol. 6, pp. 169-188 (1990).
- DUI Courts Web Site, <http://www.aca-usa.org/duicourts/home.htm> (visited Oct. 15, 2004).
- Fluellen, Reginald & Jennifer Trone, "Issues in Brief: Do Drug Courts Save Jail and Prison Beds?," Vera Institute of Justice (May 2000).
- Fors, S.W. and D.G. Rojek, "The Effects of Victim Impact Panels on DUI/DWI Re-arrest Rates: A Twelve-Month Follow-Up," Journal of Studies on Alcohol, pp. 514-520 (July 1999).
- Fulkerson, Andrew, "Blow and Go: The Breath-Analyzed Ignition Interlock Device as a Technological Response to DWI," American Journal of Drug and Alcohol Abuse, Vol. 29, pp. 219-229 (2003).
- Gaes, Gerald *et al.*, "Adult Correctional Treatment," in Michael Tonry and Joan Petersilia (Eds.), Prisons, p. 375 (1999).
- Garbutt, J.C., *et al.*, "Pharmacological Treatment of Alcohol Dependence: A Review of the Evidence," Journal of the American Medical Association, Vol. 281, No. 14, pp. 1318-1325 (1999).
- Guerin, P., "Evaluation of the Bernalillo County Metropolitan DWI/Drug Court," University of New Mexico Institute for Social Research, Center for Applied Research and Analysis (Sept. 2002).
- Helander, Clifford J., "DUI Countermeasures in California: What Works and What Doesn't, With Recommendations for Legislative Reform," California Department of Motor Vehicles (September 2002).
- Homel, R., "Policing and Punishing the Drinking Driver: A Study of General and Specific Deterrence." New York: Springer Verlag (1988).
- Hubbard, R.L., *et al.*, "Drug Abuse Treatment: A National Study of Effectiveness," University of North Carolina Press (1989).
- Huddleston, C. West, *et al.*, "Painting the Current Picture: A National Report Card on Drug Courts and Other Problem Solving Court Programs in the United States," Vol. I, No. 1, National Drug Court Institute (May 2004).



- Huddleston, C. West, "The Promise of Drug Courts: The Philosophy and History," National Drug Court Institute Training Presentation (2000).
- Hughes, T. and Wilson, D.J., "Reentry Trends in the United States: Inmates Returning to the Community after Serving Time in Prison," Bureau of Justice Statistics (2004).
- International Council on Alcohol, Drugs and Traffic Safety (ICADTS), "Alcohol Ignition Interlock Devices I: Position Paper" (July 2001).
- Irvin, J.E., *et al.*, "Efficacy of Relapse Prevention: A Meta-Analytic Review," *Journal of Consulting and Clinical Psychology*, Vol. 67, pp. 563-570 (1999).
- Joksch, H.C., "The Impact of Severe Penalties on Drinking and Driving," Washington, D.C.: AAA Foundation for Traffic Safety (1988)
- Jones, R.K., *et al.*, "Evaluation of Alternative Programs for Repeat DWI Offenders," DOT 808 493 (October 1996).
- Jones, R.K., *et al.*, "Problems and Solutions in DWI Enforcement Systems," NHTSA (1998).
- Kadden, Ronald M., "Cognitive-Behavior Therapy for Substance Dependence: Coping-Skills Training," Illinois Department of Human Services' Office of Alcoholism and Substance Abuse (2000).
- Kadden, Ronald M., "Cognitive-Behavioral Approaches to Alcoholism Treatment," *Alcohol Health & Research World*, Vol. 18, No. 4, pp. 279-285 (1994).
- Keith, Ann L., "Specialized and Problem-Solving Courts—Trends in 2002: DUI Courts," National Center for State Courts (2002).
- Kranzler, H.R. and J. Van Kirk, "Efficacy of Naltrexone and Acamprosate for Alcoholism Treatment: A Meta-Analysis," *Clinical and Experimental Research*, Vol. 25, No. 9, pp. 1335-1341 (2001).
- Lilly, J. Robert, *et al.*, "Electronic Monitoring of the Drunk Driver: A Seven-Year Study of the Home Confinement Alternative," *Crime and Delinquency*, Vol. 39, pp. 462-484 (October 1993).
- Lindquist, , C., Hardison, J. and Lattimore, P., "Reentry Courts Process Evaluation (Phase 1), Final Report," United States Department of Justice, Document No. 202472, p. 3 (2003).
- Little, Gregory, L., "Cognitive-Behavioral Treatment of Offenders: A Comprehensive Review of MRT Outcome Research," *Addictive Behaviors Treatment Review*, Vol. 2, No. 1, pp. 12-21 (2000).
- Little, Gregory L., *et al.*, "Treating Drunk Drivers With Moral Reconciliation Therapy: A Two Year Recidivism Study," *Psychological Reports*, Vol. 66, pp. 1379-1387 (1990).
- Loeffler, Michael & C. West Huddleston, "DWI/Drug Court Planning Initiative Training Curricula," National Drug Court Institute (November 2003).
- Longabaugh, R., and J. Morgenstern, "Cognitive-Behavioral Coping-Skills Therapy for Alcohol Dependence," *Alcohol Research and Health*, Vol. 23, pp. 78-85 (1999).
- Lord, Janice Harris, "A How to Guide for Victim Impact Panels: A Creative Sentencing Opportunity," DOT HS 809 289 (July 2001).
- Louisiana Victim Impact Panels, <http://www.dps.state.la.us/tiger/victim.html> (visited Oct. 10, 2004).
- Marlowe, Douglas B., *et al.*, "A Sober Assessment of Drug Courts," *Federal Sentencing Reporter*, Vol. 16, pp. 113-128 (Oct. 2003).
- Marques, Paul R., *et al.*, "Behavioral Measures of Drinking: Patterns From the Alcohol Interlock Record," *Addiction*, Vol. 98, No. 2, pp. 13-19 (2003).



Marques, Paul R., *et al.*, "Behavioral Monitoring of DUI Offenders With Alcohol Ignition Interlock Recorder," *Addiction*, Vol. 94, No. 12, pp. 1861-1870 (1999).

Marques, Paul R., *et al.*, "Predicting Repeat DUI Offenses With Alcohol Interlock Recorder," *Accident Analysis and Prevention*, Vol. 33, No. 5, pp. 609-619 (2001).

McKelvie, Alan R., "Anchorage Wellness Court Summary of Facts: 2003 Update," Justice Center, University of Alaska, Anchorage (February 14, 2004).

Minnesota Department of Corrections, "Remote Electronic Alcohol Monitoring 2004 Report."

More, Barbara J. and Delbert S. Elliott, "Effects of Ignition Interlock Devices on DUI Recidivism: Findings From a Longitudinal Study in Hamilton County, Ohio," *Crime & Delinquency*, Vol. 38, pp. 131-141 (1992).

National Commission Against Drunk Driving (NCADD), "The Technology Answer to the Persistent Drinking Driver" <http://www.ncadd.com/015.cfm> (visited Oct. 10, 2004).

National Drug Court Institute, "DUI/Drug Courts: Defining a National Strategy" (March 1999).

National Highway Traffic Safety Administration, "Traffic Safety Facts Laws: Vehicle and License Plate Sanctions," <http://www.nhtsa.dot.gov/people/injury/New-fact-sheet03/VehicleLicensePlate.pdf> (April 2004).

National Highway Traffic Safety Administration and the National Institute on Alcohol Abuse and Alcoholism (NIAA), "A Guide to Sentencing DUI Offenders" (1996).

NHTSA, "Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DUI, Phase II Report: Evaluation of Oregon and Washington Vehicle Plate Zebra Sticker Laws," DOT HS 808 136, Final Report (April 1994).

NHTSA, *State of Knowledge of Alcohol-Impaired Driving: Research on Repeat DWI Offenders* (February 2000).

NHTSA, *Traffic Safety Facts—Repeat Intoxicated Driver Laws* (April 2004).

National Institute of Corrections, "Cognitive-Behavioral Programs: A Resource Guide to Existing Services."

O'Laughlin, L. H., "Drunk Driving: The Effects of the Clackamas County DUII Victim Impact Panel on Recidivism Rates," Portland, Oregon (1990).

O'Malley, Stephanie, Naltrexone and Alcoholism Treatment, Treatment Improvement Protocol (TIP) Series No. 28, U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, Center for Substance Abuse Treatment.

Parks, G.A. and G.A. Marlatt, "Relapse Prevention Therapy for Substance-Abusing Offenders: A Cognitive-Behavioral Approach in What Works: Strategic Solutions," *American Correctional Association*, pp. 161-233 (1999).

Phillips, Kirby, "Reducing Alcohol-Related Crime Electronically," *Federal Probation*, Vol. 65, No. 2 (September 2001)

Raub, R., *et al.*, "Breath Alcohol Ignition Interlock Devices: Controlling the Recidivist," *Traffic Injury Prevention*, Vol. 4, No. 3, pp. 199-205 (2003).

Rodgers, A., "Effect of Minnesota's License Plate Impoundment Law on Recidivism of Multiple DWI Violators," *Alcohol, Drugs, and Driving*, Vol. 10, No. 2, pp. 127-134 (1994).

Roman, John *et al.*, "National Estimates of Drug Court Recidivism Rates," National Institute of Justice, U.S. Department of Justice (July 2003).



- Ross, H. Laurence, *et al.*, "License Plate Confiscation for Persistent Alcohol Impaired Drivers," *Accident Analysis and Prevention*, Vol. 28, No. 1, pp. 53-61 (1996).
- Ross, H. Laurence and Klette, H., "Abandonment of Mandatory Jail for Impaired Drivers in Norway and Sweden," *Accident Analysis and Prevention*, Vol. 27, No. 2, pps. 151-157 (1995).
- Ross, R. R., "The Reasoning and Rehabilitation Program for High Risk Probationers and Prisoners," in R. R. Ross, D. H. Antonowicz, & G. K. Dhaliwal (Eds.), *Going Straight: Effective Delinquency Prevention and Offender Rehabilitation*, p. 195 (1995)
- Ross, R., *et al.*, "Reasoning and Rehabilitation," *International Journal of Offender Therapy and Comparative Criminology*, Vol. 32, pp. 29-35 (1988).
- Satel, Sally L., "Drug Treatment: The Case for Coercion," American Enterprise Institute Press (1999).
- Satterfield-McLeod, C., "An Evaluation of the Washington County Victim Panel for Intoxicated Drivers," Washington County, Oregon Sheriff's Department (April 1989).
- Shinar, D. and Compton, R., "Victim Impact Panels: Their Impact on DWI Recidivism," *Alcohol, Drugs and Driving*, Vol. 11, No. 1, Los Angeles: UCLA Brain Information Service/Brain Research Institute, pps. 73-87 (1995)
- Simpson, D.D., & Curry, S.J. (Eds.), "Special Issue: Drug Abuse Treatment Outcome Study," *Psychology of Addictive Behaviors*, Vol. 11 (1997)
- Simpson, D.D., & Sells, S.B. "Effectiveness of Treatment for Drug Abuse: An Overview of the DARP Research Program," *Advances in Alcohol and Substance Abuse*, Vol. 2, pp. 7-29 (1983)
- Sprang, Ginny, "Victim Impact Panels: An Examination of This Program on Lowering Recidivism and Changing Offenders' Attitudes About Drinking and Driving," *Journal of Social Service Research*, Vol. 22, No. 3, pp. 73-84 (1997).
- Stark, M.J., "Dropping Out of Substance Abuse Treatment: A Clinically Oriented Review," *Clinical Psychological Review*, Vol. 12 (1992).
- Tashima, Helen N. and Clifford J. Helander, "1999 Annual Report of the California DUI Management Information System," California Department of Motor Vehicles (January 1999).
- Taxman, Faye S., "Unraveling 'What Works' for Offenders in Substance Abuse Treatment Services," *National Drug Court Institute Review*, Vol. II, No. 2, (1999).
- Umbreit, M., Coates, R., and Vos, B., "The Impact of Restorative Justice Conferencing: A Review of 63 Empirical Studies in 5 Countries," Center for Restorative Justice & Peacemaking (2002).
- University of Alaska, Anchorage, "Anchorage Wellness Court: 2001-2002 Summary of Facts," (April 18, 2003).
- Van Voorhis, Patricia, *et al.*, "The Georgia Cognitive Skills Experiment: A Replication of Reasoning and Rehabilitation," *Criminal Justice and Behavior*, Vol. 31, No. 3, pp. 282-305 (2004).
- Voas, Robert A., *et al.*, "Evaluation of a Program to Motivate Impaired Driving Offenders to Install Ignition Interlocks," *Accident Analysis and Prevention*, Vol. 34, No. 4, pp. 449-455 (2002).
- Voas, Robert A., *et al.*, "Temporary Vehicle Immobilization: Evaluation of a Program in Ohio," *Accident Analysis and Prevention*, Vol. 29, No. 5, pp. 635-642 (1997).
- Voas, Robert A., *et al.*, "Temporary Vehicle Impoundment in Ohio: A Replication and Confirmation," *Accident Analysis and Prevention*, Vol. 30, No. 5, pp. 651-655 (1998).
- Wiliszowski, C., *et al.*, "Determine Reasons for Repeat Drinking and Driving," DOT HS 808 401 (May 1996).

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March 2005

