

A  
GUIDE TO  
SENTENCING  
DUI  
OFFENDERS

## **Sanctions That Work Best**

Data on the effectiveness of different sanctions are inadequate and conflicting. However, available information supports the following three generalizations:

- Consistency in sentencing must be balanced with the need to tailor sanctions and treatment to individual offenders (Donovan and Marlatt 1982; Perrine et al. 1988; Wells-Parker et al. 1990).
- When dealing with recidivists, the focus of sentencing must shift from deterrence to incapacitation (Jacobs 1990).
- Ideally, an evaluation of an offender, administered and interpreted by qualified professionals, should be conducted before deciding which sanctions to impose (Popkin et al. 1988).

## **Treatments That Work Best**

Two generalizations can be made about treatment effectiveness:

- Treatments that combine strategies, such as education in conjunction with therapy and aftercare, appear to be most effective for repeat as well as first-time offenders (Wells-Parker et al. 1995).
- The more severe the alcohol problem, the more intensive should be the treatment (Simpson and Mayhew 1991).

Data are insufficient to determine the most effective specific treatment strategy for each offender. In general, evidence supports a 7- to 9-percent reduction of DUI recidivism and crashes averaged across all offender and treatment types (Wells-Parker et al. 1995).

## **Characteristics of a Good Treatment Program**

Regardless of treatment type, a treatment program must do at least the following (Center for Substance Abuse Treatment 1994):

- Create a treatment plan for each client with specific, measurable goals.
- Provide for family involvement.
- Provide for aftercare.
- Be willing to report back to the court to help enforce compliance with the order for treatment.
- Have medical backup to ensure safe detoxification and healthcare if required.
- Be sensitive to ethnic, gender, and other differences that might affect treatment effectiveness; and
- Have bilingual capability, if needed.

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# I. INTRODUCTION

Almost 17,000 alcohol-related traffic fatalities occurred in 1994 (Cerrelli 1995), a decline of one-third from 1982 (Fell and Klein 1994; National Highway Traffic Safety Administration [NHTSA] 1994). The criminal justice system must pay continued attention to the drinking and driving problem if this improvement is to be sustained (Fell 1990).

This sentencing guide is designed to assist judges and prosecutors in reducing recidivism among people convicted of drinking and driving offenses (known as driving under the influence [DUI], driving while intoxicated, or other terms). Today's DUI arrestee is often a repeat offender and resistant to deterrence (Adams 1992). This guide provides information for judges and prosecutors in matching offenders to the most effective combinations of sanctions and treatment to protect the public from drinking drivers. The information in this guide reflects published results of ongoing research in this field.

## **EXTENT OF THE PROBLEM**

The extent of the DUI problem is exhibited in the following statistics:

- Approximately 297,000 people are injured annually in alcohol-related crashes (one injury every 2 minutes) (NHTSA 1995b).
- Approximately two in five Americans will be involved in an alcohol-related crash at some time in their lives (NHTSA 1995c).
- Of drivers convicted of DUI in California, 44 percent are reconvicted of DUI within 10 years (NHTSA 1995a).
- Of the 40,676 traffic fatalities that occurred in 1994, 16,589 (41 percent, or 1 death every 32 minutes) were alcohol-related (NHTSA, 1995b).

## **WHO ARE THE DUI OFFENDERS?**

No generalization about the "typical" drinking driver applies to every offender. During any given 1-year period, approximately 20 percent of licensed drivers drive while intoxicated (Nichols 1990); theoretically, any of them may be arrested.

Nevertheless, most impaired drivers are not arrested. Drinking drivers arrested after a moving violation or crash differ significantly from drivers not arrested for DUI. On average, DUI arrestees are more likely to:

- Have a history of drinking and driving, impaired driving, accidents after drinking, and prior DUI convictions (Perrine 1990);
- Have more arrests for nontraffic offenses, such as assault and public drunkenness (Perrine et al. 1988; Hedlund 1994);
- Be daily drinkers, with up to 50 percent meeting diagnostic criteria for alcohol abuse or alcoholism (Wells-Parker et al. 1990; McMillen et al. 1991, 1992a,b; Hedlund 1994); and
- Have poorer physical and mental health, family problems, financial difficulties, and poor job performance (Perrine et al. 1988).

## **WHO ARE THE REPEAT OFFENDERS?**

Compared with first-time DUI offenders, recidivists tend to exhibit higher rates of alcoholism and alcohol-related problems (Perrine et al. 1988), more severe mental health problems (Simpson and Mayhew 1991; McMillen et al. 1992a,b), and more frequent nontraffic criminal offenses (Adams 1992).

DUI recidivists carry a higher risk of future DUI arrests as well as involvement in both alcohol-related and non-alcohol-related crashes (Perrine et al. 1988), especially fatal crashes (Fell 1994).

## **SIGNIFICANCE OF BLOOD ALCOHOL CONCENTRATION**

Drivers convicted of DUI have an average blood alcohol concentration (BAC) of 0.16 to 0.18 mg/dl at the time of

arrest (Perrine et al. 1988). Compared with a nondrinking driver, the relative risk of a single-vehicle fatal crash is 385 times higher for a driver with a BAC of 0.15 mg/dl or more (Zador 1991).

However, a lower BAC at time of arrest does not rule out the possibility that the offender is at high risk for DUI recidivism (Salter and Ryan 1976; Forman and Florenzano 1978-79; Raymond 1985; Wieczorek et al. 1992; Yu and Williford 1995). A thorough evaluation is needed to reliably characterize the offender's risk for recidivism.

### **REDUCING RECIDIVISM**

Key to reducing DUI recidivism is certain, consistent, and coordinated sentencing.

- The certainty of a penalty has greater impact than its severity (Ross 1992b).
- Sentencing for DUI must be consistent from one court to another regardless of jurisdiction, yet balanced with the need for matching offenders to the most appropriate sanctions and treatment (Wells-Parker et al. 1990).
- Communication among the courts, evaluators, probation officers, and treatment providers must be coordinated to ensure compliance with the sentence (Popkin et al. 1988).

Five factors facilitate a reduction in recidivism among DUI offenders:

- Evaluating offenders for alcohol-related problems and recidivism risk;
- Selecting appropriate sanctions and remedies for each offender;
- Including provisions for appropriate alcoholism treatment in the sentencing order for offenders who require treatment;
- Monitoring the offender's compliance with treatment; and
- Acting swiftly to correct noncompliance.

# II. SENTENCING

## **THE OBJECTIVES OF SENTENCING**

Sanctions imposed on DUI offenders may have several objectives. These include retribution, incapacitation, special deterrence, general deterrence, and rehabilitation. In addition, restitution and program financing may be objectives in sentencing decisions.

- Retribution seeks to punish the offender because it is merited, primarily by confinement and fines. Court-mandated alcoholism treatment, aimed primarily at rehabilitation, may also be perceived by the offender as punishment.
- Incapacitation refers to denying the offender the chance to repeat the offense. For impaired drivers, this may occur through sentencing to confinement in a jail or dedicated detention facility, through home detention and electronic monitoring, by license action, or by immobilization or confiscation of the offender's vehicle.
- Specific deterrence is designed to keep the offender from repeating the offense through the experience of punishment and the fear of subsequent sanctions. Whether offenders actually reduce drinking and driving behavior in response to various sanctions has been the subject of extensive debate and research (for reviews, see Voas 1986; Nichols and Ross 1989; Jones and Lacey 1991; Ross 1984, 1992b; Wilson and Mann 1990).
- General deterrence is designed to change the behavior of the general driving public (as opposed to arrested DUI offenders). According to this strategy, widespread community awareness that stiff penalties will be imposed for DUI should result in reduced drinking and driving to avoid the possibility of punishment.
- Rehabilitation refers to offender reform through sentences that include DUI education and alcoholism treatment. The DUI offender's rate of compliance with mandated treatment may depend on the offenders' perception of the courts' willingness to impose sanctions for failure to comply (Wells-Parker 1994).

## **CONSIDERATIONS IN SENTENCING**

When sentencing, the following considerations apply:

- Sanctions or remedies should be applied to all offenders, and treatment should be applied when indicated, based on the results of a professional evaluation.
- Treatment alone never substitutes for sanctions or remedies, and sanctions and remedies do not substitute for treatment (Wells-Parker et al. 1995).
- No one sanctioning and treatment strategy is effective for all drinking drivers (Simpson and Mayhew 1991).
- There must be a balance between the need for overall consistency in sentencing and the need to tailor the sentence to the individual offender (Donovan and Marlatt 1982; Perrine et al. 1988; Wells-Parker et al. 1990).
- Sentences should be tailored to individual offenders on the basis of an evaluation of offender characteristics and recidivism risk.

## **FACTORS INFLUENCING RISK FOR RECIDIVISM**

Elements of an offender's prior history that may influence recidivism risk include the following (Popkin et al. 1988):

- History of alcohol and other drug use;
- Level of social and family functioning;
- History of previous evaluations and treatment;
- History of arrests and legal interventions associated with alcohol and other drug use;
- Ability to become qualified for, obtain, and perform employment; and
- Ability to function in an educational setting.

## **EVALUATING THE OFFENDER**

An evaluation is a formal assessment to identify the extent of a person's alcohol problem, state of mental health, and social adjustment. An evaluation helps to determine which sanctions are most likely to reduce recidivism for the individual offender and when to order alcoholism treatment.

### ***Who should be evaluated?***

All DUI offenders should be evaluated by qualified professional evaluators.

### ***When should an evaluation be ordered?***

An evaluation should be ordered prior to sentencing (Nichols and Quinlan 1989). In jurisdictions with high case loads, this might not be possible. In such cases, evaluation (and any recommended treatment) can be made a condition of probation.

### ***Who is qualified to perform an evaluation?***

An evaluation should be conducted by personnel certified in alcoholism screening or with extensive clinical training and experience. Because an evaluation is a first step in intervention, evaluators should have some counseling skills (Popkin et al. 1988).

### ***What are the minimum components of an evaluation?***

An evaluation should have at least two components (Lapham et al. 1995):

1. Assessment of alcohol and other drug use (i.e., frequency and quantity of use, consequences of alcohol and other drug use, and evidence of loss of control over use); and
2. Assessment of DUI recidivism risk based on factors in addition to drinking behavior.

The evaluation usually consists of:

- The administration of standardized assessment test(s); and
- A personal interview by a trained evaluator.

The information obtained should be supplemented with information from:

- The courts, regarding the client's criminal and driving history; and
- Family members, regarding the offender's alcohol and other drug use.

Various standardized alcohol screening tests are available, including several designed for DUI offenders. (For descriptions of several tests, see Popkin et al. 1988 and Beirness 1991.)

### ***What should be considered before ordering an evaluation?***

When the court has the option of choosing an evaluating agency, the following characteristics should be considered):

- Qualifications of staff (as described above);
- Ability to track clients and monitor compliance with treatment recommendations;
- Willingness to work as a team in coordinating efforts with the court;
- Avoidance of conflicts of interest (i.e., the agency doing the screening should not be providing treatment); and
- Capability of evaluating offenders who are illiterate or non-English-speaking, when needed (Popkin et al. 1988).

# III. SPECIFIC SANCTIONS AND REMEDIES

While the availability of specific sanctions depends on local legislation, the general approach to sanctions must be guided by weighing the objectives of sentencing and determining which predominate in the case. Additional considerations include the underlying psychological principle that certainty and swiftness often have far greater effect than the severity of the sanction in deterring subsequent criminal behavior (Jones and Lacey 1991; Ross 1984), the relative weight of long-term versus short-term effects of an overall sanctioning policy, and individual considerations, such as whether a first-time or repeat offender is being sanctioned.

## SANCTIONING THE OFFENDER

### Jail

In the past 15 years, most states have adopted some form of mandatory jail sentences for drunk driving. The effects of these laws have been hotly debated, and the evidence from studies of incarceration as a specific and general deterrent to drunk driving is mixed.

In general, the limited available evidence suggests that as a specific deterrent, jail terms are no more effective in reducing DUI recidivism among either first-time or repeat offenders than are other sanctions (Hagen 1978; Homel 1981; Salzberg and Paulsruide 1984; Jones et al. 1988; Mann et al. 1991; Ross 1991; Martin et al. 1993). Nichols and Ross (1989) reviewed available studies of the effect of incarceration on DUI recidivism rates for the Surgeon General's Workshop on Drunk Driving. They found six studies that reported no reduction in recidivism, one that found no difference in recidivism between a special DUI facility and a traditional prison, and one that found reduced recidivism for first-time offenders sentenced to 48 hours in jail.

Other studies have found that the short-term effect of jail as a general deterrent depends on the extent of public awareness of the risk of incarceration. These short-term effects are initially strong following public announcement of a sanction, but dissipate over a period of about 3 years. Four more recent studies have found that the use of 2-day jail sentences had a general deterrent effect for first-time offenders (Falkowski 1984; Jones et al. 1988; Zador et al. 1988); others concluded that jail terms were ineffective (Ross et al. 1990). Researchers have also noted, however, that mandatory jail sentences tended to negatively affect the court operations and the correctional process by increasing the demand for jury trials, plea bargaining, and jail crowding (NHTSA 1986; Voas and Lacey 1990). As a consequence, in some jurisdictions the severity of the sanction was reduced, and swiftness was retarded; inconsistency in implementation raised equity questions.

Additional questions arise regarding sentence severity, or the appropriate length of a jail sentence. For example, 2 days in jail may be more effective than nearly 2 weeks in reducing recidivism for first-time offenders (Wheeler and Hissong 1988). In one study, lengthy periods of incarceration were actually associated with higher recidivism (Mann et al. 1991). This finding may be due to judges giving longer jail sentences to those offenders whom they regard as most likely to recidivate, rather than an indication of the negative effects of more severe penalties.

Based on these findings, it has been suggested that a weekend in jail may be useful for first-time offenders, for whom a "taste of punishment" may be an effective deterrent (Jones et al. 1988; Simpson and Mayhew 1991). However, since many convicted impaired drivers, particularly repeat offenders, have severe life-stress problems and may be alcohol dependent, long jail terms are unlikely to resolve their problems and may even exacerbate them (Homel 1981). For such individuals, incarceration, which effectively incapacitates them as a threat to public safety, may be most effective as a complement to treatment-oriented measures (Jones and Lacey 1991).

### **Weekend intervention**

A weekend intervention program (WIP) is designed to evaluate alcohol and other drug abuse and to create an individualized treatment plan for each offender. For low-risk offenders, exposure to the WIP evaluation process itself may be sufficient treatment. High-risk offenders are referred to longer term, more intensive programs. Repeat offenders assigned to WIP have lower recidivism rates than do jailed offenders or those given suspended sentences and fines (Siegal 1985). An example of a WIP is the Wright State University WIP in Ohio (Siegal 1987). Programs based on the WIP have been used in Augusta, Maine; Springfield, Missouri; and Cleveland, Ohio.

### **Dedicated detention**

Confinement in detention facilities dedicated to DUI offenders incapacitates the high-risk offender and provides supervised rehabilitation services, such as the following:

- Treatment for alcohol abuse and alcoholism
- DUI driver education;
- Vocational training; and
- Individual counseling (Timken et al. 1995).

Detention may range from 2 weeks to 3 years. During this time, offenders may be released for work or community service (Harding et al. 1989b). Data on effectiveness are limited and inconclusive, although data analyses indicated reduced recidivism among both first-time and repeat offenders sentenced to a facility in Prince Georges County, Maryland (Harding et al. 1989a; Voas and Tippetts 1989).

### **Probation**

Although probation may reduce recidivism slightly among drivers at low risk for recidivism (Wells-Parker et al. 1988), probation alone does not measurably reduce recidivism among those at high risk (Jones and Lacey 1991). Conditions of probation vary widely. For DUI offenders, probation may require:

- Abstinence from alcohol and illegal drugs, subject to random screening by breath or urine testing;
- Additional sanctions for driving without a license or with insurance that has been suspended by the court or motor vehicle administration; and
- Court-ordered treatment, home detention, license or vehicle restrictions, or any other sanctioning option discussed in this guide.

Variations of DUI probation include the following:

- *Intensive probation.* In intensive probation programs, offenders have more contact with probation officers compared with standard (nonintensive) probation programs and participate in various educational and therapeutic programs in the community (Harding et al. 1989b; Transportation Research Board 1995). Results of intensive probation have been difficult to evaluate (Latessa and Travis 1988; Green and Phillips 1990). The National Highway Traffic Safety Administration (NHTSA) is currently evaluating this sanction.
- *Home detention.* This approach to incarceration recognizes a defendant's need to drive during the day to get either to work or to court-ordered treatment but keeps him or her off the road during evening and nighttime hours, when most DUI violations occur. Home detention as a condition of probation is generally enforced by electronic monitoring (see below), with violation punishable by jail (Jacobs 1990). No data have been published on the effectiveness of this sanction with DUI offenders except for programs that couple home detention with electronic monitoring.
- *Electronic monitoring.* Electronic monitoring is a computerized method of verifying that the offender remains at home except when excused to attend work or treatment (Harding et al. 1989b). In a 7-year study (Lilly et al. 1993), recidivism was less than 3 percent among a group of DUI offenders who were electronically monitored over approximately 2 to 3 months while on probation. However, recidivism increased at the completion of the monitoring period. NHTSA currently is evaluating this sanction.

## INCAPACITATING THE VEHICLE

### Ignition interlocks

Breath alcohol ignition interlocks are designed to prevent operation of a car if the driver's breath alcohol concentration is above a predetermined level (Compton 1988; Baker and Beck 1991). The effectiveness of this sanction can be compromised if the interlocks are not installed as ordered or if the offender finds a way to circumvent the device or simply uses a different car (EMT Group 1990; Baker and Beck 1991; Popkin et al. 1992). Evidence suggests that interlocks reduce recidivism during the time they remain installed but do not alter overall behavior patterns; therefore, recidivism rates may rise after the device is removed (Morse and Elliott 1992; Popkin et al. 1992). It is not recommended that ignition interlocks be used as a substitute for license sanctions (Transportation Research Board 1995) but as a condition of license reinstatement after a period of suspension.

### Other immobilization devices

In some jurisdictions, a repeat offender's vehicle can be immobilized for a period of 30 days to 6 months using a "club" or "boot." The effectiveness of these devices at reducing recidivism is unknown but currently is being evaluated by NHTSA.

## REMEDIES

License suspension and vehicle impoundment or forfeiture are not technically punitive or deterrent actions but derive from the remedial purpose of protecting the general public from a potentially dangerous driver. The term "remedial" is defined by Black's Law Dictionary (5th ed.) as "that which is designed to . . . introduce regulations conducive to the public good." The distinction is important because defense attorneys have been filing motions to dismiss criminal charges in drinking and driving cases based on grounds of double jeopardy (Gilbert and Stephen 1995).

### License suspension

A single DUI arrest may result in two kinds of license actions. The first is an administrative license suspension (ALS), usually carried out by the arresting officer as a civil action on behalf of the motor vehicle administration. The second is a judicial postconviction action ordered by the court (Tashima and Helander 1995). Both fall under the category of remedies.

Studies of license suspension demonstrate its effectiveness in reducing recidivism and the risk of crash involvement among drinking drivers (NHTSA 1986; Mann et al. 1991; McKnight and Voas 1991; Ross 1991; Sadler et al. 1991; Williams 1992; Rodgers 1994). Findings include the following:

- Suspension periods between 12 and 18 months appear to be optimal for reducing DUI recidivism (Homel 1981).
- Suspension periods of less than 3 months seem ineffective (Paulsrude and Klingberg 1975, Peck et al. 1994).
- Although more than 50 percent of offenders continue to drive under license suspension, they appear to drive less frequently and in a more cautious manner than previously to avoid apprehension (Ross and Gonzalez 1988; Nichols and Ross 1990; Ross 1991; Simpson and Mayhew 1991).

Some evidence shows that license suspension can lead to reform beyond the period of suspension, especially when combined with some form of education or treatment (Ross 1991).

### Administrative license suspension

Administrative license suspension (ALS) is the administrative suspension or revocation of the driver's license of a DUI offender at the time of arrest (Lacey et al. 1991). ALS differs from traditional judicial license actions in several ways. First, anyone arrested in states with an ALS-law is immediately subject to ALS. Usually, the arresting officer confiscates the license and issues a notice of ALS. Often, the notice of ALS may serve as a temporary license for a period of time during which the driver may request an administrative hearing for license

reinstatement. Regardless of the outcome of such a hearing, the arrestee is still subject to a separate criminal process that may lead to additional penalties, including judicial license actions (Williams et al. 1991).

At the end of the suspension period, some jurisdictions mail the license back to the driver. Other jurisdictions require a complete driver's license re-examination before driving privileges are restored. Some jurisdictions suspend the license but issue a hardship license while the suspension remains in effect (NHTSA 1993).

### **Vehicle impoundment and forfeiture**

Impoundment cannot guarantee effective incapacitation because the offender may borrow, rent, or steal a different vehicle (Jacobs 1990). In most states a DUI offender's vehicle may be impounded overnight, and the vehicle may be kept longer for offenders who are recidivists or who were caught driving with a suspended license. One study suggests that vehicle impoundment works best when it can be applied administratively by police without the need to obtain a criminal conviction (Voas 1992).

Vehicle forfeiture requires statutory authority. The limited data available do not show a positive effect of impoundment or forfeiture on illicit driving or DUI recidivism (Voas 1992). Voas and Tibbetts (1994) assessed the impact of vehicle plate sticker laws on drivers convicted of DUI in Oregon and Washington. In these states, upon arresting a motorist for Driving on a Suspended License (DWS), officers could place a zebra sticker over the annual portion of the license plate of the offender's vehicle on the spot. Subsequently, any officer could stop these stickered vehicles and request that the driver produce a valid license. In Oregon, drivers whose licenses were suspended, and at risk of getting a zebra sticker if caught driving, showed a 33 percent reduction in moving violations and a 23 percent reduction in crashes after the zebra law was implemented. In Washington, the lack of an effect may have been due to methodological concerns, such as low awareness of the sanction of DUI offenders. The study suggests that if publicized and enforced, the zebra sticker law can have positive traffic safety effects (in terms of reduced or more careful driving) on suspended DUIs and suspended DUI drivers convicted of DWS who receive a zebra sticker. NHTSA is supporting a large-scale evaluation of impoundment and forfeiture laws in jurisdictions where such laws are widely implemented.

### **ADDITIONAL SENTENCING APPROACHES**

The following sanctions are being used in some communities, although their effectiveness in reducing DUI recidivism has not been studied as thoroughly as the sanctions discussed above:

- *Financial sanctions.* These sanctions may include fines, court costs, and, in some jurisdictions, the cost of public services responding to an offender-involved crash. Fines may be fixed in amount or based on a portion of the offender's daily income (Winterfield and Hillsman 1991; McDonald et al. 1992). Despite the fact that they are a common element in most sanctioning combinations, fines have not been well evaluated for their impact on recidivism (Nichols and Ross 1988). Fines can be suspended in some jurisdictions, and that amount can be applied to court-ordered counseling, assuming that the jurisdiction has a court-approved program administered by the court or the probation department.
- *Community service programs.* These programs direct the offender to pay restitution to the community through activities such as picking up litter on public roadways. The few existing studies of these widely applied sanctions have failed to find any significant effects of these programs alone on DUI recidivism or crashes (Popkin and Wells-Parker 1994; Stenzel et al. 1987).
- *Publishing offenders' names in the newspaper.* This sanction is rarely used, and the effect of social stigma on DUI recidivism has not been studied (Harding et al. 1989a, Popkin and Wells-Parker 1994).
- *Attendance at victim impact panels.* Shinar and Compton (1995) studied the effect of participating in Victim Impact Panels (VIPs) on DUI recidivism in Oregon and California. This initial study found that VIPs

did not consistently reduce recidivism rates compared to controls. However, further research on VIPs is currently being supported by NIAAA.

- *Victim restitution programs.* These programs, which direct the offender to pay financial and service benefits to the victim or the victim's family, are rarely invoked and apparently have not been studied (Harding et al. 1989a; Parent et al. 1992; Popkin and Wells-Parker 1994).
- *Court-ordered visits to emergency departments (Transportation Research Board 1995) or service at chronic physical rehabilitation facilities.* These sanctions have been proposed for both their specific deterrent effects and as a form of community service by the offender. However, no data are available on their effectiveness.

# IV. REHABILITATION OPTIONS FOR OFFENDERS SENTENCED TO TREATMENT

The toll to the Nation, in terms of the cost of health care and reduced or lost productivity due to alcohol abuse and alcoholism, includes an estimated 100,000 deaths and \$85.5 billion annually (National Institute on Alcohol Abuse and Alcoholism [NIAAA] 1994). Treatment of DUI offenders may help reduce these costs (Holder and Blose 1992). Court-mandated DUI evaluation and rehabilitation often represent the first opportunity for people with alcohol-related problems to obtain appropriate treatment. Nevertheless, because many may regard such treatment as a form of punishment, treatment providers must overcome DUI offenders' resistance, which may be even greater than resistance to treatment by other alcohol-abusing clients. NHTSA and NIAAA are supporting research to develop and evaluate alcoholism treatment methods that may be applicable to drinking drivers.

Many programs and activities are considered to be "treatment," including the following:

- Brief classroom discussions (i.e., "DUI school");
- Participation in self-help groups, such as Alcoholics Anonymous (AA);
- Attendance at outpatient counseling sessions of varying intensity; and
- Long-term inpatient (i.e., residential) programs conducted in hospitals or clinics.

Offenders are best matched to specific treatment options by means of a professional evaluation (Wells-Parker et al., 1995).

Although the research literature on treatment of DUI offenders is limited, there is a substantial body of research on alcoholism treatment in general (see McCaul and Furst 1994; Anton 1994). Only research dealing specifically with DUI offender treatment is cited here.

## **EDUCATION PROGRAMS**

Education for DUI offenders consists of special schools offering simple, straightforward educational presentations about the medical and legal consequences of drinking, including drinking and driving (Siegal 1984). In conjunction with lectures and readings, offenders may be shown movies depicting alcohol-related crashes and injuries. For offenders who are not alcoholic, DUI education reduces recidivism by approximately 10 percent compared with a fine alone (NHTSA 1986).

## **TREATMENT PROGRAMS**

Offenders evaluated as problem drinkers or alcoholics require a more intensive and longer rehabilitation program than DUI education alone (Wells-Parker et al. 1990; Simpson and Mayhew 1991). Such rehabilitation may be conducted on an outpatient or inpatient basis. The option of inpatient treatment provides the following:

- Incapacitation;
- More intense, broader-spectrum treatment than many outpatient programs; and
- The opportunity to closely monitor the offender's compliance with the treatment regimen (Nace 1993; Transportation Research Board 1995).

Intensive inpatient or outpatient alcoholism treatment can take several approaches. An example is cognitive-behavioral therapy, which provides training in ways to confront or avoid everyday situations that might lead to

drinking and works to strengthen behaviors that help maintain long-term sobriety (Kadden 1994; Miller 1993). Limited available evidence suggests that recidivism may be reduced if DUI offenders who are problem drinkers are required to participate in an intensive treatment program for at least 1 year. This conclusion was based in part on a program that included, at minimum, therapy sessions once a week and an individual interview with either a therapist or probation official every other week (NHTSA 1986).

### **Use of medications**

For alcoholic DUI offenders, medications to prevent drinking, such as disulfiram (Antabuse), are most likely to succeed in environments in which medication compliance can be closely monitored (Chick et al. 1992).

### **Diversion programs**

Programs allowing charge dismissal after completion of treatment generally do not appear to reduce recidivism (Jones and Lacey 1991; Harding et al. 1989a). However, one study found that deferring prosecution for 2 years while offenders participated in various forms of treatment decreased DUI recidivism during the deferral period and, in some cases, beyond (Baxter et al. 1993).

### **Alcoholics Anonymous**

AA has been the primary aid to recovery for many alcoholics. For DUI offenders, AA may be most effective in hospital or correctional settings in which attendance can be monitored (McCrary and Miller 1993).

Researchers have questioned the wisdom of requiring all offenders to attend AA and to make it the core component of offenders' aftercare (Emrick et al. 1993) for the following reasons:

- As with any other form of rehabilitation, AA works better for some people than for others (McCrary and Miller 1993).
- AA spokespersons have expressed concern that court-mandated AA attendance may overwhelm meetings with people who do not want to be there and who are often hostile and disruptive (Speiglmán et al. 1992).

# V. COMPLIANCE AND REPORTING

## **IMPORTANCE OF COMPLIANCE**

An offender who is not compliant with the court's sentence is a persistent hazard and is likely to be rearrested for DUI (Transportation Research Board 1995). Therefore, compliance enforcement and monitoring are essential components of certain, consistent, and coordinated sentencing.

## **HOW COMMON IS NONCOMPLIANCE?**

More than one-half of convicted DUI offenders may drive at least occasionally while their licenses are suspended (Simpson and Mayhew 1991). Thirteen percent of all drivers involved in fatal crashes in California during 1991-92 were driving with suspended or revoked licenses at the time (Peck et al. 1994).

## **SANCTIONING OPTIONS FOR NONCOMPLIANCE**

Driving while a license is suspended, revoked, or otherwise invalid because of a DUI-related conviction should be treated as a serious offense (Goldsmith 1992). Immediate action is necessary to ensure that offenders do not fall between the cracks of the legal system. More stringent means of incapacitation, such as imprisonment, vehicle impoundment or immobilization, or removal of license plates, may be required to keep the offender off the road (Transportation Research Board 1995). Availability of specific enforcement options may depend on local law.

## **REPORTING**

Reporting to the court is an essential component of compliance monitoring. Offenders may fail to comply with treatment or fail to appear for court-ordered evaluation. Mandatory, immediate reporting of noncompliance enables the court to respond quickly by instituting other sanctioning options as noted above (Popkin et al. 1988). Therefore, the court must assign responsibility for such reporting to an appropriate person or agency, within the confines of statutory guidelines.

The results of the offender's treatment also should be reported to the court. Repeat offenders allowed to regain their driving privileges without evidence that they effectively have managed their drinking problem have a much higher probability of being involved in a serious crash than does the average driver (Nichols 1990).

# VI. SENTENCING SUPPORT AND RESEARCH NEEDS

As mentioned earlier, the past decade has witnessed a marked decrease in DUI fatalities and a decrease in impaired driving among the general driving public. Despite a growing body of research findings, the relative contribution of specific sanctions toward this decrease is uncertain. The research suggests that in addition to handling individual offenders, justice system leaders need to continue or expand their focus on the following areas:

- Maintaining the general deterrent effects of DUI sanctions on the driving public;
- Finding ways to increase certainty of apprehending and sanctioning DUI offenders;
- Speeding the adjudication process through evidentiary and procedural improvements.
- Improving records systems, since about 15 percent of recidivists continue to escape mandatory penalties. This problem is due in part to the absence of accurate information about the offender or the incident (Goldsmith 1992), a need which hampers the ability of prosecutors and courts to apply sanctions consistently; and
- Expanding research on the effects of various sanctions, particularly combined sanctions; offenders' perceptions of the severity of various sanctions; and public perceptions of these sanctions.

# VII. CONCLUSION

Alcohol-impaired driving continues to threaten the health and safety of millions of people daily. Responding effectively is especially difficult for courts of law because they must deal with a diverse population of offenders, including hard-core recidivists who are not easily identified initially and who are resistant to most sanctions.

No single solution to the problem of drinking and driving exists. Combinations of sanctions and treatments that work together as part of a comprehensive DUI sentencing system must be developed. Neither sanctions nor treatment alone is likely to affect all DUI offenders, but each approach is an important component of an integrated strategy.

For a sentencing strategy to be effective, both in terms of treatment success and for the sake of fairness among sentenced drinking drivers, there must be consistent enforcement of sentence compliance and prompt response by the court to noncompliance. Courts must expand their limited resources by seeking support from the criminal justice, public safety, and alcoholism prevention and treatment communities. With the wise use of sentencing options described in this guide, and the dedicated support of these other communities, significant progress can be made in further reducing the injuries and fatalities caused by alcohol-impaired drivers.

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