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# Sentencing and Dispositions of Youth DUI and Other Alcohol Offenses:

## A Guide for Judges and Prosecutors

NHTSA
People Saving People
www.nhtsa.dot.gov

NIAAA
National Institute on Alcohol Abuse and Alcoholism

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# Terms Used in this Guide

## The Populations

- Juvenile/Minor: a young person who has not yet reached the age at which he or she is treated as an adult for purposes of criminal law (Black et al. 1990). In the majority of States, this age is 18, although in ten it is 17, and in three it is 16 (DeFrances and Strom 1997).
- Youth/Underage: all persons, including juveniles, who are younger than age 21.
- Young adult: a person who is under age 21 but not considered a juvenile in his or her State (e.g., an 18- to 20-year-old).
- Adult: a person age 21 or older.

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- Status offense: an act by a juvenile that would not constitute a crime if engaged in by an adult (e.g., purchasing, possessing, or consuming alcohol).
- Delinquent offense: an act by a juvenile that would constitute a crime if committed by an adult (e.g., driving under the influence of alcohol).

## Key Laws

- Minimum legal drinking age (MLDA): State laws that make it illegal for any person who is younger than 21 either (1) to purchase, possess, or consume alcoholic beverages or (2) to misrepresent their age to obtain such beverages.
- Zero tolerance: laws prohibiting the operation of a motor vehicle by anyone under the age of 21 with a blood alcohol concentration (BAC) equal to or greater than 0.02, in most States. BAC is usually defined as either grams of alcohol per 100 milliliters of blood, or grams of alcohol per 210 liters of breath.
- Driving under the influence (DUI) or driving while intoxicated (DWI) laws: laws that make it a criminal offense to operate a motor vehicle while impaired or intoxicated by alcohol or other drugs. These laws do not require a measurement of alcoholic content. Rather, the offense is committed when there is evidence that the driver's behavior is caused by the influence or impairment of alcohol or other drugs.

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# I. INTRODUCTION

This *Guide* is intended to help judges and prosecutors to more effectively sanction juveniles and youths for alcohol-related offenses, work more cooperatively with administrative agencies and community organizations, and define a role for themselves outside the courtroom in preventing underage drinking and other alcohol-related offenses.

Judges and prosecutors face many challenges in their efforts to reduce underage drinking and other alcohol-related driving offenses. Only a small percentage of these offenses ever come before the court. Judges and prosecutors can effectively sanction those underage alcohol offenders that do come before the court and send a consistent message to those who do not by dealing with each case in a manner that will protect the public, hold offenders accountable to the victim and/or community, and provide education or treatment services for the offender. A good disposition will meet all three of these objectives concurrently.

Drinking and driving poses serious risks. To reduce impaired driving among youth, all States and the District of Columbia now have a minimum legal drinking age of 21 and zero tolerance laws. It is important that judges and prosecutors pay close attention to all alcohol-related offenses, including underage purchase, possession, and consumption of alcohol.

This guide contains the following topics: Chapter 2, *The Facts*, presents information on the prevalence of underage drinking and drinking and driving among youth, details risk factors for these behaviors, briefly considers some of the medical and social consequences of youth drinking, and explores underage access to alcohol. Chapter 3, *The Laws*, outlines the laws pertaining to underage drinking and impaired driving that judges and prosecutors uphold. Chapter 4, *The Justice System*, considers issues related to law enforcement, the apprehension of youth for underage alcohol offenses, and the processing of these youth in the court system. Chapter 5, *Dispositions and Sentences*, describes sanctions for youthful offenders that protect the public, hold the offender accountable to the victim and/or the community, and provide education or treatment services for the offender, as appropriate. Research into the effectiveness of sanctions is discussed whenever such research is available. Chapter 6, *Monitoring and Enforcement*, addresses the importance of monitoring compliance with sanctions imposed by the court and describes ways in which monitoring can be enhanced. Chapter 7 examines the issues surrounding the *recording, sharing, and using of information* pertaining to underage alcohol offenses and offenders. Chapter 8 describes *administrative and community responses to underage drinking and DUI* and the roles of prosecutors and judges in preventing and responding to underage alcohol offenses. This chapter also addresses the interrelationship between administrative and judicial sanctions for alcohol-related offenses and the necessary linkages between the court, the community, and State driver licensing agencies. Chapter 9 presents *recommendations for policies and further research* in order to increase the effectiveness of dispositions for alcohol-related offenses among youth.

## Terms Used in this Guide

### The Populations

- Juvenile/Minor: a young person who has not yet reached the age at which he or she is treated as an adult for purposes of criminal law (Black et al. 1990). In the majority of States, this age is 18, although in ten it is 17, and in three it is 16 (DeFrances and Strom 1997).
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- Driving under the influence (DUI) or driving while intoxicated (DWI) laws: laws that make it a criminal offense to operate a motor vehicle while impaired or intoxicated by alcohol or other drugs. These laws do not require a measurement of alcoholic content. Rather, the offense is committed when there is evidence that the driver's behavior is caused by the influence or impairment of alcohol or other drugs.

# II. The Facts

This chapter presents information on the prevalence of underage drinking and impaired driving, factors that are associated with these offenses, and their consequences.

## Prevalence of Drinking Among Youth

Despite a minimum legal drinking age of 21, many young people in the United States consume alcohol. In 1997, 25 percent of 8th graders, 40 percent of 10th graders, and 53 percent of 12th graders reported drinking alcohol during the 30 days prior to being surveyed (University of Michigan 1997). (See Figure 2-1)

Binge drinking—often defined for males as having 5 or more drinks in one sitting and for females as having 4 or more drinks in one sitting[1]— is reportedly widespread among youth. Binge drinking often begins around age 13, tends to increase during adolescence, peaks between the ages of 18 and 22, and then gradually decreases (NIAAA 1997). Binge drinking at least once in the 2 weeks before the survey was reported by 15 percent of 8th graders, 25 percent of 10th graders, and 31 percent of 12th graders in 1997 (University of Michigan 1997) (see figure 2-1).

## Prevalence of Drinking and Driving Among Youth

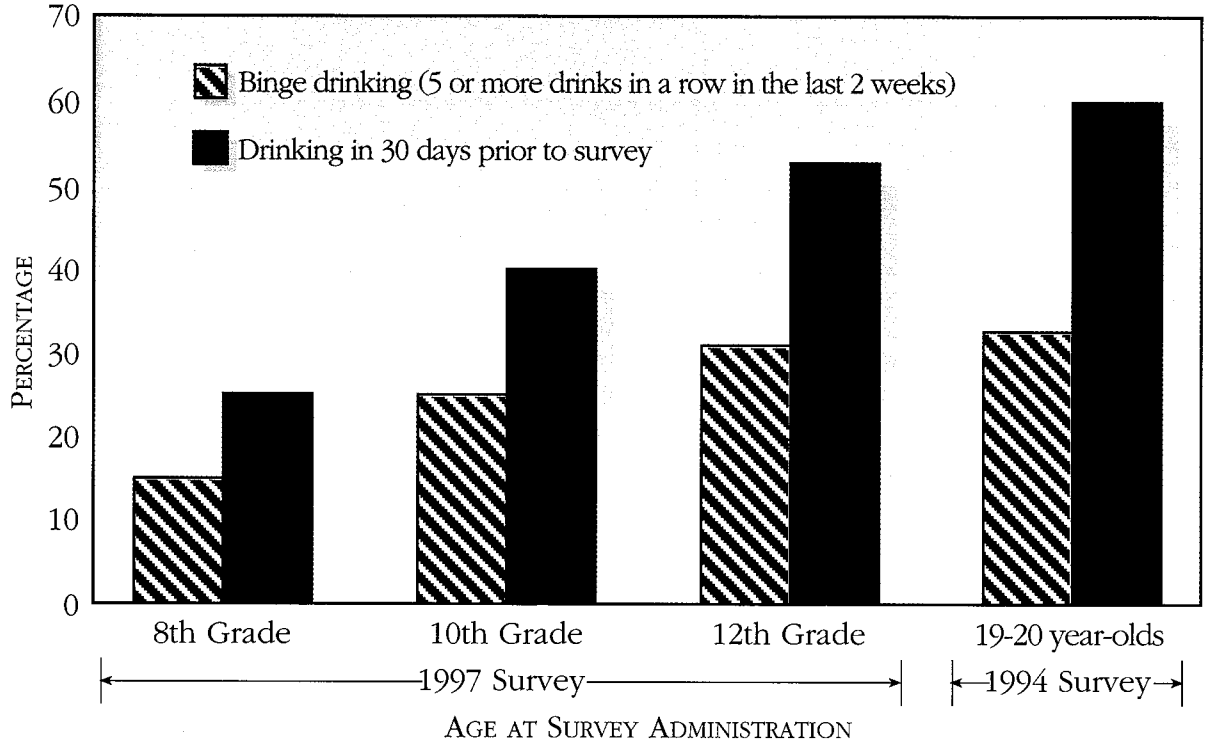
Not only is drinking a prevalent problem among youth, but many of those who drink also drive after drinking. Fifteen percent of students in grades 9–12 (ages 15–18) surveyed in 1995 reported driving after drinking during the month before being surveyed, and more than one-third reported riding with a driver who had been drinking (Centers for Disease Control and Prevention 1996). A projected increase in the population of American youth may result in an increase in underage drinking and impaired driving. The U.S. Census Bureau estimates that in the year 2000, the population of 15- to 20-year-olds will be 23.9 million, an increase of almost 2 million from 1996. The youth population is expected to increase by almost 14 percent by the year 2005 (NHTSA 1998a) (see figure 2-2).

Impaired driving is especially prevalent among college students who binge drink. One survey found that 44 percent of college students reported binge drinking at least once during the 2 weeks before being surveyed, and about 19 percent reported frequent binge drinking (i.e., binge drinking three or more times during the 2 weeks prior to the survey). Drinking and driving during the 30 days before the survey was reported by more than 60 percent of the men and by almost 50 percent of the women who were frequent binge drinkers, compared with 20 percent of the men and 13 percent of the women who were non-binge drinkers (Wechsler et al. 1994).

[1] A standard drink is 12 grams of pure alcohol, which is equal to one 12 ounce bottle of beer or wine cooler, one 5 ounce glass of wine, or 1.5 ounces of 80 proof distilled spirits.

*Figure 2-1*

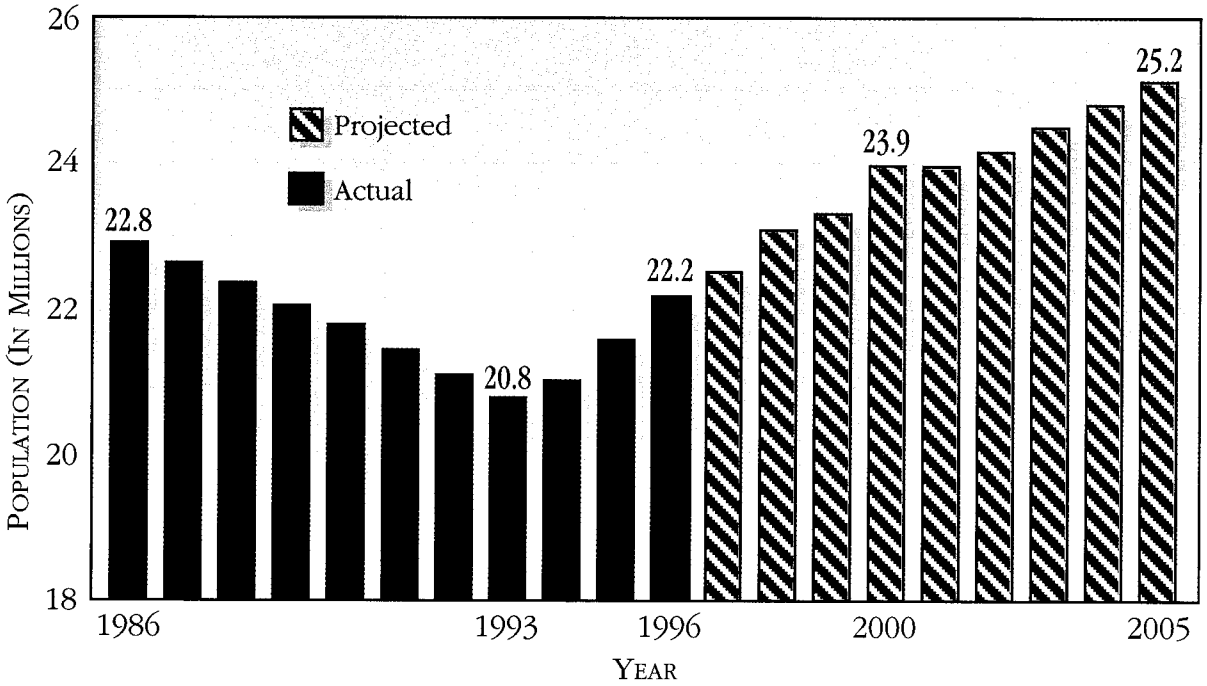
## Prevalence of Binge Drinking and Monthly Drinking




*Source: Monitoring the Future. University of Michigan 1997, Johnston et al 1996*

*Figure 2-2*

## Youth Population (Ages 15-20) Projected to Year 2005




*Source: NHTSA 1998a*

## Alcohol-Related Crash Risk Among Youth

Compared with adults, young drivers are overrepresented in all fatal crashes as well as crashes involving alcohol. For every 100,000 licensed drivers, sixty-six 15- to 20-year-old drivers were involved in fatal crashes (including those involving alcohol), compared with 28 adult drivers in 1996. For fatalities involving alcohol, 14 young drivers were involved in fatal crashes for every 100,000 licensed drivers, twice the rate for drivers 21 and older (NHTSA 1998a). Twenty-one percent of the 8,054 drivers aged 15- to 20 involved in fatal crashes in 1996 had positive blood alcohol concentrations (BACs), including 7.4 percent that had BACs between 0.01 percent and 0.09 percent, and 13.8 percent that had BACs of 0.10 percent or higher (NHTSA 1998a).

Young drivers' greater crash risk is attributed, in part, to their lack of driving experience, which renders them less able than more experienced drivers to cope with hazardous situations even when they have not been drinking (Mayhew et al. 1986). When young drivers do drink and drive, they are more vulnerable than adults to the effects of alcohol on driving ability. For all drivers, each 0.02 increase in BAC nearly doubles the risk of being involved in a fatal crash. For drivers ages 16–20, the risk of a fatal crash increases even more with each 0.02 percent rise in BAC (Mayhew et al. 1986; Zador 1991; NIAAA 1996a). The estimated crash risk for male drivers ages 16–20 is at least three times higher than the risk for male drivers age 25 and older at all BAC levels (Zador 1991).

In 1995 law enforcement agencies made nearly 15,000 DUI arrests of persons under age 18. In 66 percent of these arrests, the youth was 17 years old, and in 3 percent the youth was under age 15. Juveniles arrested for DUI were disproportionately male (84 percent) and white (91 percent) (Snyder 1997a).

## Under-21 Access to Alcohol

In 1997, 75 percent of 8th graders and 89 percent of 10th graders reported that alcohol is "fairly easy" or "very easy" to obtain (University of Michigan 1997). In a 1987 study, researchers reported that 18- to 20-year-old males successfully bought beer in retail outlets (i.e., liquor stores and convenience stores) in 97 percent of attempts in Washington, DC; 80 percent of attempts in Westchester County, NY; and 44 percent of attempts in Albany and Schenectady Counties, NY (Preusser and Willams 1992). Other research conducted with women who were at least 21 but appeared younger found that the women were able to buy alcoholic beverages in stores, restaurants, and bars without showing identification in about 50 percent of their attempts (Forster et al. 1995; Grube 1997).

The rate at which juveniles are arrested for liquor law violations is quite low. In 1996, law enforcement agencies made only 518 liquor law violation arrests for every 100,000 persons 10 to 17 years old in the resident population (Snyder, unpublished data, 1998). The youth population will undergo rapid growth in the early part of the next decade (see Figure 2-2). Thus, a focus on preventing youth DUI and other alcohol-related offenses among this group will have an amplifying effect.

# III. The Laws

This chapter briefly describes a number of laws that apply to underage drinking and impaired driving. These include laws that apply to both adult and underage DUI offenders, laws that apply only to underage drivers, and laws designed to prevent underage drinking. Research has proven the effectiveness of a number of these laws for reducing alcohol-related crashes.

Citizen activist groups such as Mothers Against Drunk Driving (MADD), Students Against Destructive Decisions (SADD), and Remove Intoxicated Drivers (RID) have heightened public awareness about the dangers of drinking in the context of driving. These groups also have influenced public opinion about the unacceptability of underage drinking. The effectiveness of these groups in promoting legislation to prevent these behaviors has contributed to the passage of laws in all States raising the minimum legal drinking age to 21, zero tolerance laws for youth, and laws lowering blood alcohol concentration (BAC) limits for adult drivers to 0.08 in 17 States by September 1, 1999.

## Laws Directed at Driving Under the Influence of Alcohol and Other Drugs

In general, laws related to impaired driving are applicable to drivers under age 21 as well as to drivers 21 and older. Zero tolerance laws are applicable specifically to drivers under age 21. Implied consent laws are related to impaired driving laws as a whole.

### Driving Under the Influence (DUI) or Driving While Intoxicated (DWI) Laws

These laws make it a criminal offense to operate a motor vehicle while impaired or intoxicated by alcohol or other drugs. These laws do not require a measurement of breath- or blood-alcohol level. Rather, the offense is committed when there is evidence that the driver's behavior is caused by the influence or impairment of alcohol or other drugs. Every State has a DUI or DWI law.

### Illegal Per Se Laws

These laws make it a criminal offense to operate a motor vehicle if the driver has a blood or breath alcohol concentration at or above a specific level. In most States, this level is 0.10 BAC, although a growing number of States have lowered this level to 0.08 BAC. One study, which paired the first five States to adopt a 0.08 law with five nearby States that retained the legal 0.10 limit, found that the 0.08 States experienced a 16-percent relative decline in the proportion of crashes involving fatally injured drivers whose BACs were 0.08 percent or higher. States with the 0.08 law also experienced an 18-percent relative decline in the proportion of crashes involving fatally injured drivers with BACs of 0.15 or higher (Hingson et al. 1996a). A later study paired six additional States with 0.08 laws with six comparison States. While both groups experienced declines in the proportion of drivers in fatal crashes who had BACs of 0.10 or higher, the decline in the 0.08 States was 1.5 times greater than the decline in the comparison States (Hingson et al. 1998).

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### Administrative Per Se Laws

These laws allow a driver licensing agency to suspend or revoke (depending on the State statute) a driver's license if the driver is found to have operated a motor vehicle at or above a specified blood- or breath-alcohol concentration. Some States also allow for the suspension or revocation of driving privileges based on motor vehicle operation with any amount of a controlled substance in the body. Under these laws, police seize the license of the driver at the time of arrest. Whether for alcohol or other drugs, this action may be taken independently of any criminal action or any sanction that may be imposed for violation of a criminal offense for impaired driving. Administrative license suspension and other administrative control strategies are discussed in Chapter 8.

### Zero Tolerance Laws

These laws, often a combination of illegal *per se* and administrative *per se* laws, prohibit persons under 21 years of age from operating a motor vehicle if they have any measurable amount of alcohol in the blood or breath. Most States allow the driver licensing agency to suspend or revoke the driver's license if the driver is found to have an alcohol concentration of 0.02 or above.

The recent adoption of zero tolerance laws by all States and the District of Columbia may have contributed to the significant reduction in the proportion of underage drivers found to have BACs at or above 0.10 when tested at a national roadside survey of weekend, nighttime drivers in 1986 and 1996 (Voas et al. 1998). Likewise, the number of 15- to 20-year-old drivers involved in fatal crashes who had positive BACs declined 61 percent between 1982 and 1996, and the proportion of young drivers involved in fatal crashes who had positive BACs declined 51 percent over that time period (NHTSA 1998a).

A study of the first 12 States to implement zero tolerance laws found that, compared with 12 other States, those with the law experienced a 20-percent relative decline in the proportion of single-vehicle nighttime fatal crashes—those most likely to involve alcohol—among drivers under age 21. Furthermore, the greatest declines in fatal crashes occurred in States where underage BAC limits were set at 0.02 percent or less, while little impact was found in States that had set their BAC limits at 0.04 or 0.06 (Hingson et al. 1994). A public education campaign to raise awareness about Maryland's zero tolerance law was associated with a 44-percent decrease in the proportion of alcohol-related crashes among underage drivers in the campaign-exposed counties; a 30-percent decline was seen in the comparison counties (Blomberg 1992).

Related to the impaired driving laws are implied consent laws, which provide that a person who operates a motor vehicle implicitly consents to submit to a test for either alcohol or drug content in either blood or breath if they are arrested for any of the impaired driving offenses.

## Laws Directed at Reducing Drinking Under Age 21

All States have laws that are designed to prevent underage drinking by restricting underage persons' access to alcohol. Such laws are often enforced in efforts to prevent underage DUI and zero tolerance violations.

### Minimum Legal Drinking Age (MLDA) Laws

These laws make it illegal for any person who is less than 21 years old to either purchase, possess, or consume alcoholic beverages or to misrepresent their age to obtain such beverages. Every State and the District of Columbia has an MLDA law, but the exact prohibitions in these State laws vary widely. For example, some

States do not prohibit the consumption of alcoholic beverages by persons under age 21. Some States allow persons under age 21 to possess alcoholic beverages in connection with employment activities. Most States allow persons under age 21 to possess and consume alcoholic beverages for religious purposes and at home.

Raising the MLDA to 21 has been accompanied by reduced alcohol consumption, traffic crashes, and related fatalities among those under age 21 (Wagenaar 1993; NIAAA 1996b). A study of 13 States found that, after the MLDA was raised to 21, the rate of single-vehicle nighttime fatal crashes fell 15 percent among drivers under 21 but only 5 percent among drivers 21 and older (O'Malley and Wagenaar 1991). NHTSA estimates that 16,513 lives were saved by the State MLDA laws between 1975 and 1996 (figure 3-1). In 1996 alone, it is estimated these laws saved 846 lives (NHTSA 1998a).

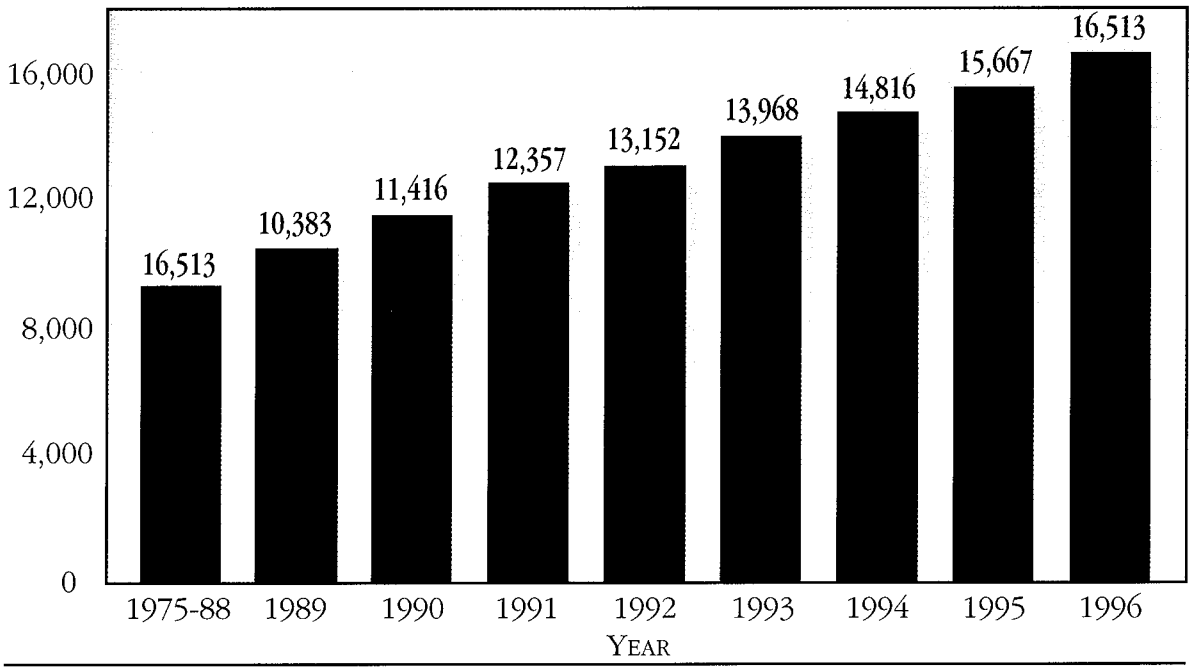
Most States have laws that allow administrative license suspension or revocation as a consequence of violating one or more of the MLDA laws. These laws, which are called "use and lose" laws, have not been formally evaluated. However, the effectiveness of these laws may be limited by infrequent enforcement.

### Adult Responsibility Laws

These laws prohibit a person age 21 or older from purchasing alcoholic beverages for an underage person or from giving or furnishing such beverages to a person under age 21. Some statutes make it illegal to solicit such an act as well. This prohibition may be specifically directed at prohibiting persons age 21 and older from furnishing alcoholic beverages to youth on private property.

*Figure 3-1*

CUMULATIVE ESTIMATED NUMBER OF LIVES SAVED BY MINIMUM DRINKING AGE LAWS (1975-1996)




*Source: NHTSA 1998a*

# IV. The Justice System

While surveys of youth suggest that underage alcohol offenses are common, only a small percentage of all such offenses are formally prosecuted and result in sanctions. Many of these offenses go undetected by police. Among those offenders that police do apprehend, many are not arrested. Among those that are arrested, many are not formally prosecuted. This chapter addresses the challenges law enforcement agencies face in apprehending youthful alcohol offenders, and the pre-sanction processing of those offenders that do enter the court system. Additionally, it describes case processing in the courts, distinguishing between juvenile and other (traffic, criminal, or family court) jurisdictions. Diversion, the use of Teen Courts, and the importance of alcohol and other drug screening and assessments are also discussed.

## Challenges to Apprehending Youth for Alcohol-Related Offenses

Law enforcement officers face a number of challenges to apprehending youth for alcohol-related offenses. The courts' disposition of violations of the minimum legal drinking age (MLDA) laws and impaired driving laws may either encourage or discourage law enforcement efforts. Police are more likely to enforce these laws if the courts' dispositions indicate that the court takes these violations seriously.

### Barriers to the Enforcement of MLDA Laws

One goal of law enforcement is to target underage drinkers before they get into a car and drive. It is difficult for police to detect low blood alcohol concentrations (BACs), thereby making apprehension in other settings, such as parties or retail establishments, the focus of many law enforcement efforts.

Consumption, possession, and purchase of alcohol by underage youth is variously prohibited, depending on State statutes. Nevertheless, many communities treat underage drinking as a normal rite of passage for adolescents and fail to support the enforcement of MLDA laws (Kusserow 1991; Wolfson et al. 1995). Using arrest data from 1988 through 1990, and self-reported drinking data reported from a national survey of high school students, Wagenaar and Wolfson (1994) estimated that only 2 out of every 1,000 occasions of underage drinking result in the drinker's arrest, and that only 5 of every 100,000 youth drinking occasions result in sanctions against an alcohol outlet.

Surveys of law enforcement officers have found that, while police are aware of the extent of MLDA violations in their communities, they often are discouraged from taking stronger action due to factors including:

- understaffing, which may force officers to give priority to other law enforcement areas;
- the low status of MLDA enforcement among police, compared with the enforcement of drug-related offenses; and
- officers' skepticism of the courts' handling of MLDA violations in a way that would deter future offenses. Officers reported that the penalties for these violations were often light and inconsistent, resulting in the perception that enforcement was a waste of time (Wolfson et al. 1995).

### Factors Hindering the Enforcement of Impaired Driving Laws

Aspects of drinking behavior and driving behavior by young people that hinder enforcement of impaired driving laws include the places and times where young people drink and the driving cues they display (Preusser et al. 1992). Police who monitor drivers for impairment typically patrol roads and highways leading to bars. However, underage drinkers tend to drink in homes, parks, or more remote areas. In addition, young people are most likely to drink and drive on weekend nights, when police officers are in high demand. Young impaired drivers may be difficult to detect because they often display types of behaviors at low BACs that are not typically seen in older drivers. Specifically, speeding, aggressive driving, and hard weaving are signs of youthful impaired driving, even at lower BACs, where these behaviors may not be cues of impairment for adults.

In addition, time-consuming arrest procedures and legal requirements for detaining juveniles may hinder enforcement officers. A juvenile DUI arrest may take the officer off the road for 2–4 hours. Furthermore, juveniles who are arrested often must be supervised, sometimes for hours, until a parent or guardian can be reached.

### Factors Hindering Enforcement of Zero Tolerance Laws

Zero tolerance laws may be especially difficult to enforce because young drivers with very low BACs are less likely than more impaired drivers to exhibit the driving cues that traditionally provide the basis for an initial traffic stop. Even after stopping a young driver, an officer may not find probable cause to investigate further if the driver has a very low BAC. For example, a driver with a BAC of 0.02 is less likely than a driver with a higher BAC to have the scent of alcohol on his or her breath, to have bloodshot eyes, or to exhibit the other cues that officers use to establish probable cause for further investigation. Surveys conducted with young drivers in Maine after the State enacted a zero tolerance law indicated that police gave BAC tests to only 19 percent of those stopped after drinking, and wrote citations to only 13 percent (Hingson et al. 1989).

### Trends in Underage Alcohol-Related Arrests

As illustrated in figures 4-1 and 4-2, arrest rates for both non-DUI and DUI alcohol offenses increased nationwide between 1993 and 1996 for persons ages 10–17, following a period of decline (Snyder, unpublished data, 1998). This may reflect changes in levels of enforcement activity, rather than levels of youth drinking and DUI.

### Law Enforcement Officers as Gate-Keepers to the Court

Police officers have some discretion when apprehending a youth for alcohol possession, consumption, purchase, or impaired driving. They may take administrative action on behalf of the State's driver licensing agency and/or refer the offender to the court. Administrative license suspension and revocation, and other administrative actions, are addressed in chapter 8.

## Case Processing in the Court System

When a law enforcement agency refers an underage offender to the court for an alcohol-related offense, the case may be referred to a juvenile court, traffic court, criminal court, or family court, depending on the State statute. Underage alcohol-related offenses are processed in many different settings, and the philosophical goals and court procedures vary widely among them.

*Figure 4-1*

## Arrest Rates of Persons Ages 10-17 for Non-Driving Alcohol Offenses*

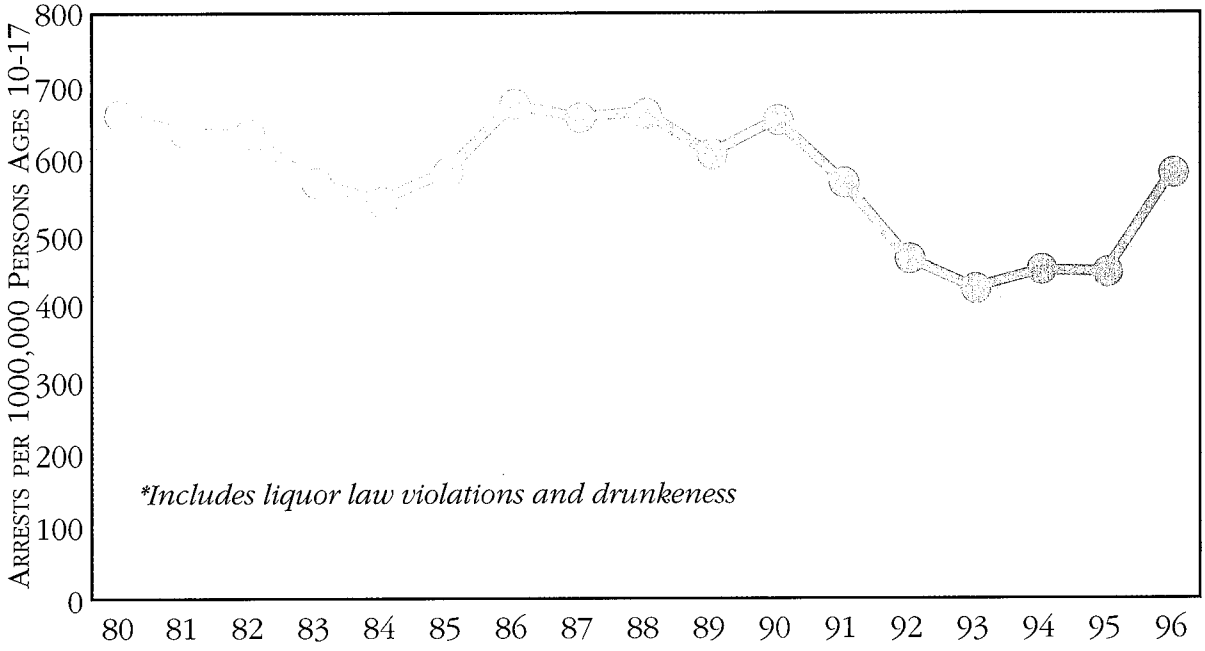
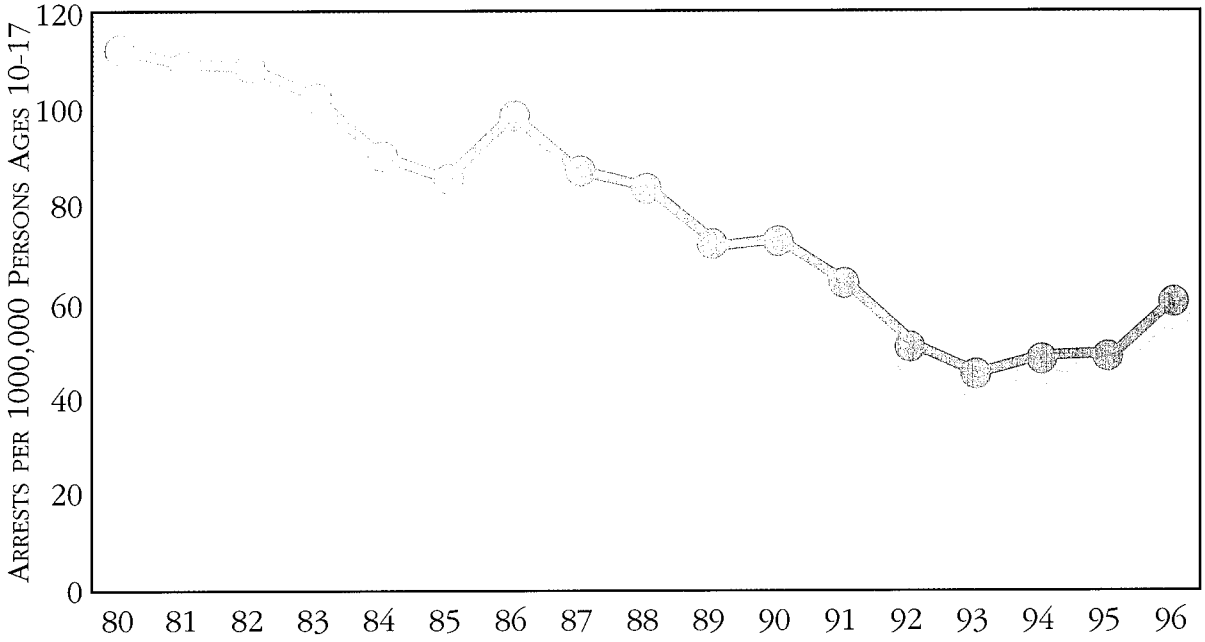



*Figure 4-2*

## Arrest Rates of Persons Ages 10-17 for Under the Influence (DUI)




*Source: Special analysis by Howard N. Snyder of unpublished arrest data from the FBI's Uniform Crime Reporting Program and population estimates from the U.S. Census Bureau.*

The primary differences between the juvenile and criminal justice systems in handling offenders, as well as their common grounds, are shown in Table 4-1. As the table indicates, the language of the two systems, as well as their assumptions and procedures, differ in certain respects.

Although there are variations, typically in juvenile courts when an alcohol-related offense has occurred, a law enforcement officer will issue a citation or refer the case to the prosecutor's office or to a juvenile intake department. An initial decision will be made whether the case will be handled formally or informally. Cases handled informally by the intake department do not involve the filing of a petition or an adjudicatory hearing. Many of these cases subsequently are dismissed outright; others may result in informal probation, referral to another agency, payment of fines or restitution, or voluntary treatment outside the home. If the intake department decides to process the case formally, it files a petition and the case is placed on the court calendar for an adjudicatory hearing (or, in very rare instances, a waiver hearing for the judge to determine whether to transfer the case to criminal court).

At the adjudicatory hearing, the judge must decide whether or not the youth should be adjudicated delinquent (for a DUI offense) or a status offender (for underage purchase, possession, or consumption). If the youth is adjudicated, the judge then makes a dispositional decision. This may include probation, referral to another agency or treatment program, a fine, restitution, community service, or commitment to a residential facility. If the youth is not adjudicated, the case usually is dismissed. Alternatively, the youth may agree to some sort of voluntary diversion option. Often, a dispositional order includes multiple sanctions, such as probation plus community service.

Although there are no national or even statewide data comparing the dispositions of similar cases handled by the various court systems, data on the handling of alcohol-related offenses in the juvenile court are available. Figure 4-3 shows both the case processing and disposition rates per 1,000 DUI cases referred to a juvenile court in 1994 and the processing and disposition rates per 1,000 cases referred for other alcohol-related violations referred to a juvenile court in the same year. The figure makes clear that in juvenile courts, DUI cases are handled differently from other alcohol-related cases (such as liquor law violations). While most DUI cases were petitioned, or handled formally by the court (72 percent), only 45 percent of the non-DUI alcohol cases were handled this way. Similarly, 66 percent of the DUI offenders, but 56 percent of the other alcohol offenders, were adjudicated (or convicted, in the terminology of the criminal court). Focusing on dispositions of DUI offenders, 68 percent of those that were adjudicated were ordered to serve a term of probation while 32 percent of the nonadjudicated and 27 percent of the non-petitioned were put on informal probation. Among the other alcohol-related cases, only 46 percent of the adjudicated offenders were put on probation, while 45 percent received some other disposition (Snyder 1997b).

Case processing for alcohol-related offenses also varies among the adult court systems. For youth 18–20 years old, the vast majority are handled in adult courts. In some States (e.g., Florida), 16- and 17-year-olds go to traffic court for DUI offenses, but not for other alcohol offenses. For youth under 21, there is no centralized source of data available regarding case processing outcomes.

Case processing varies among all of these various court systems, and each system has its own strengths and weaknesses for dealing with offenders. Regardless of these differences, however, certain overriding issues are important to consider in any setting. They are the swiftness of dispositions, maintaining public safety while cases are pending, the issue of diversion, and evaluating offenders for alcohol and other drug (AOD) problems.

*Table 4-1*

## Comparison of Juvenile and Criminal Justice Systems

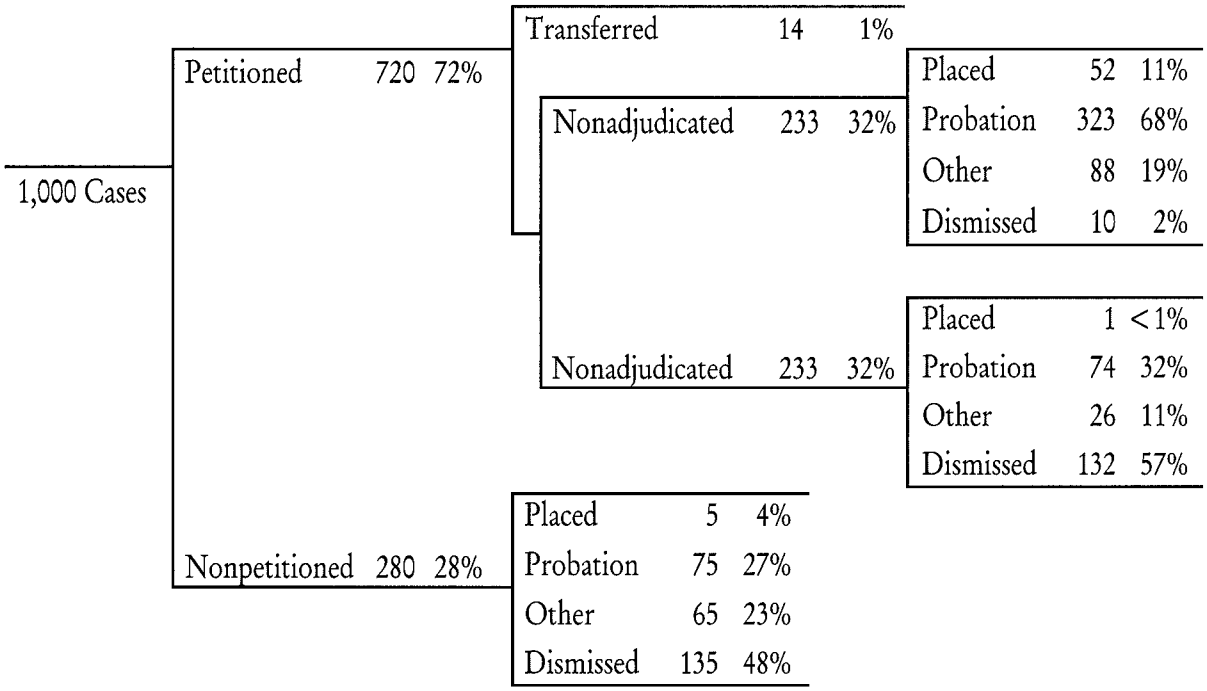
| Juvenile Justice System | Common Ground | Criminal Justice System |
|---|---|---|
| | **Operating Assumptions** | |
| Youth behavior is malleable | Primary goal of community protection | General deterrence works |
| Youth are in families, not independent | Law violator accountability | Emphasis on sanctions proportional to offense |
| Rehabilitation is usually a viable goal | | Open public access to all information |
| | **Public Access to Information** | |
| Limitations on public access to information | | Open public access to all information |
| | **Diversion From the System** | |
| Youth are informally diverted from the system by intake or juvenile probation into juvenile court services | Many people are diverted from the system formally and informally by the prosecutor | |
| | **Intake-Prosecution** | |
| | Probable cause must be established | |
| | Prosecutor acts on behalf of the State | |
| Decision to file a petition for court action may or may not be made by the prosecutor | Plea negotiation is common | |
| Decision to file petition based on both social and legal factors | Prosecution discretion exists in charging and plea agreements | Prosecution decision based primarily on legal facts |
| | Previous history of violations is valuable to be used in the charging, disposition, or sentencing | |
| | **Adjudication-Conviction** | |
| Usually trial is by judge, not jury | Constitutional rights apply | Right to jury trial |
| If guilt is established, the youth is adjudicated delinquent or a status offender | Standard of "proof beyond a reasonable doubt" | Unanimous verdict usually necessary to establish guilt |
| | Guilt must be established on individual offenses charged for conviction or disposition | |
| | Presumption of innocence applies | |
| | Defense attorney is appointed if accused is unable to retain private counsel | |
| | **Disposition-Sentencing** | |
| Dispositional philosophy includes significant rehabilitation component | Decision influenced by current offense, offending history, and mitigating or aggravating factors | Sentencing philosophy based largely on proportionality, punishment, and offender's criminal history |
| Dispositional alternatives cover wide range of community-based and residential services | Offender accountability is the goal | |
| Disposition may be indeterminate | Victim's views available to court | Sentence often is determinate |
| Periodic court review of offender | Restitution may be afforded to victim | Fines often imposed on offender |
| Juvenile court jurisdiction ends at specific age (ranges from 17-24) | | |
| Disposition orders may be directed at parents | | |
| | **Aftercare-Parole** | |
| Combines surveillance and reintegration activities | System of monitoring behavior on release | Primarily a surveillance and reporting function to monitor illicit behavior |
| | Violation of conditions can result in incarceration or modified conditions of probation | |

*Adapted from Snyder and Sickmund, 1995.*

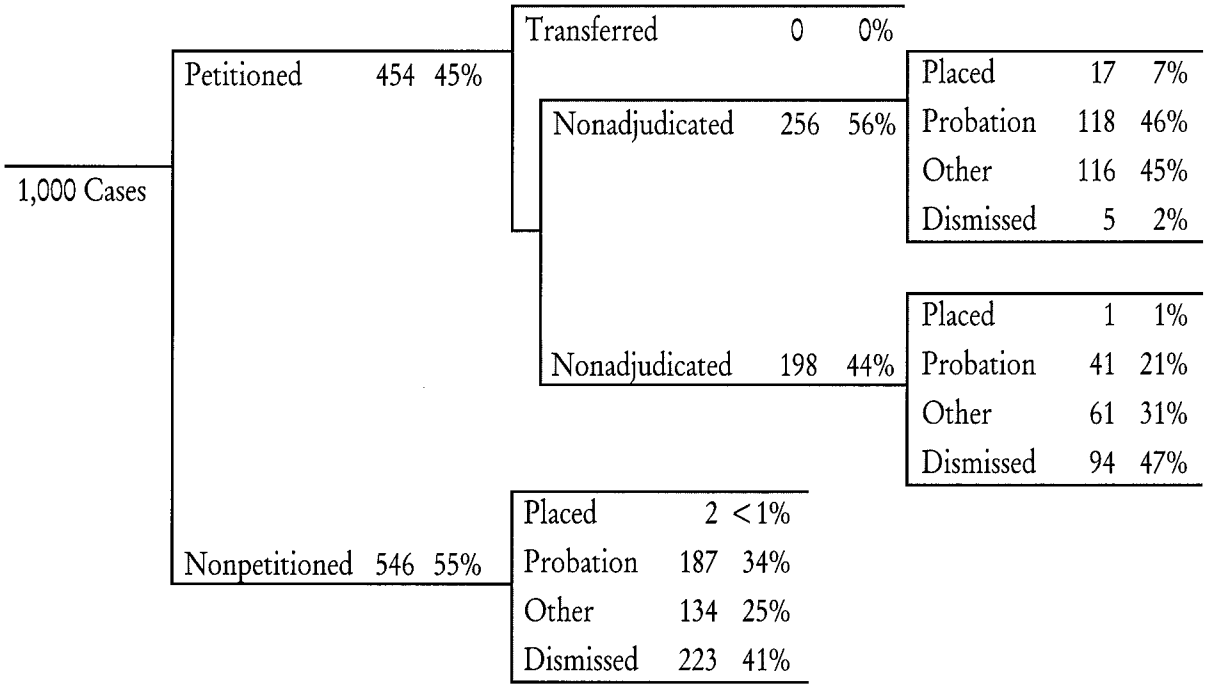
*Figure 4-3*

## JUVENILE COURT CASE PROCESSING OF ALCOHOL-RELATED CASES, 1994

### CASE PROCESSING OF DUI CASES IN JUVENILE COURTS




### CASE PROCESSING OF OTHER ALCOHOL-RELATED CASES IN JUVENILE COURTS




*Source: Snyder 1997b. These analyses summarize the handling of cases disposed in 1994 in which the most serious charge was an alcohol-related offense. The analyses are based on case records from 1,405 courts with juvenile jurisdictions in 26 States with jurisdiction over 51% of the U.S. juvenile population.*

### The Importance of Swift Dispositions to Deter Youthful Offenders

The swiftness and certainty of punishment are important in deterring subsequent offenses (Ross 1984; Jones and Lacey 1991). Many justice professionals believe that *immediate* consequences are especially important to deter youthful offenders. If a youth is required to appear in court or is sanctioned several months after committing an offense, the deterrent effect of the sanctions is diminished (National District Attorneys Association [NDAA] 1991).

## Safety During Case Processing.

Maintaining the public safety during case processing can be achieved through administrative license actions and detention.

### Administrative License Restrictions

Administrative license actions represent one method of protecting the public while an offender's case is being processed. Although the State driver licensing agency may take an initial license action following the offender's arrest, the court needs to coordinate with the agency to ensure that the period of license loss does not expire before the case is heard in court. If the case cannot be heard before the license is to be returned to the offender, the court needs to take additional and independent measures to protect the public safety while the case is pending.

### Detention During Processing

Youthful offenders charged with alcohol-related offenses usually do not need to be and rarely are detained during the processing of their cases. Juveniles can be returned to the custody of a parent or guardian. In rare circumstances, a juvenile arrested or charged with DUI (delinquent) or underage purchase, possession, or consumption (status offense) may be held in a juvenile detention facility while his or her case is being processed, if detention is deemed necessary to protect the community, to protect the juvenile, or to ensure the juvenile's appearance in court. However, it is important to note the limitations on secure detention of status offender (and non-offender) juveniles that apply to States participating in the Formula Grants program established under Part B of Title II of the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, as amended (42 U.S.C. 5601 et seq.). As of July 1998, only Wyoming and South Dakota were classified as non-participating states in the Formula Grants program. Under Section 223(a)(12)(A) and the implementing Formula Grants program regulation (28 CFR Part 31), detention of status offenders is limited as to time and place. Consequently, in alcohol offense cases qualifying as status offenses, the juvenile must be released, transferred to a non-secure facility, or brought before a judge or magistrate within 24 hours, exclusive of weekends and holidays, of entering a secure juvenile detection facility. State law may limit secure detention to a shorter time period. No detention in adult jails or lockups is permitted.

### Diversion

Diversion is an alternative to formal system processing, adjudication, and sanctions. It is designed to hold offenders accountable for their actions, while keeping them out of the justice system (McPhail and Wiest 1995). Court intake staff or the prosecutor determines whether a case should progress into the formal juvenile justice system, or whether it can be diverted and handled informally. The difference between diversion and a court-ordered disposition (the juvenile justice system equivalent of a sentence) is that, in the former, the

juvenile voluntarily agrees to comply with conditions of diversion rather than being required to follow a dispositional order imposing sanctions. The sanctions or conditions imposed in either situation may be identical. It is important that juveniles who do not comply with the conditions of diversion be referred to the juvenile court intake or to the prosecutor's office to consider formal system processing (NDAA 1996). Experts agree that diversion may be appropriate for underage drinking or zero tolerance offenders, but that diversion of underage DUI offenders is not. DUI is a serious violation that endangers the public safety.

In most courts, diversion occurs only after the youth admits that he or she has committed an illegal act. After such admission, the intake worker and the juvenile, as well as (in a growing number of instances) the victim, agree to conditions of diversion. This practice, however, varies widely throughout the United States and is not normally required for underage drinking offenses. The NDAA recommends that all diversion programs specifically set forth the requirements expected of the offender, which can include any of the possible dispositions a judge may order after a formal adjudication hearing (e.g., license suspension or revocation, restitution, home detention, and AOD abuse treatment).

The NDAA recommends that diversion requirements be designed to hold offenders accountable for their acts and include elements aimed at rehabilitation, prevention, and education (NDAA 1996). Diversion is potentially a problem, however, if the effect on the offender is so mild that he or she is not effectively deterred. Offenders who participate in a diversion program should not be able to avoid agreement to otherwise mandatory sanctions, such as license revocation. In addition, diversion should not diminish the seriousness of the offense.

In most jurisdictions, diversion may make it difficult for the court to track an offender's prior offenses, as diverted cases may not be included on an offender's record. Jurisdictions utilizing diversion for youthful alcohol offenders need to ensure that adequate records are maintained so that a youth receiving diversion in one jurisdiction will be ineligible for a similar program in other jurisdictions. The development of State and national record-keeping systems for juvenile offenders would help ensure that offenders are held accountable for their criminal acts. Coordinated record keeping and information sharing are discussed further in Chapter 7.

Regardless of whether diversion is coordinated by the prosecutor's office or another entity (such as the corrections or probation department), it is important that the prosecutor be involved in establishing the eligibility criteria and other guidelines for the program (NDAA 1996). Likewise, it is important that judges be familiar with any diversion programs in use in their jurisdictions, both within the court system and outside of it.

## Teen Courts

In some jurisdictions, juvenile offenders charged with status offenses, such as underage drinking or certain misdemeanor offenses (not DUI), may be referred to a teen court, where young people from the community serve as jury members and, along with an adult judge, determine appropriate sanctions. Teen courts are operated by juvenile courts, juvenile probation departments, law enforcement agencies, and private nonprofit organizations and schools working with the court (Godwin et al. 1996). More than 280 teen courts were operating in 31 States as of November 1996 (Godwin 1997).

Teen courts are designed to hold offenders accountable for their actions, while freeing court dockets. They are also designed to educate participating members of the public about the consequences of illegal behavior, and to help build competencies among youth by teaching how the legal system works and how to communicate and resolve problems effectively.

After an admission of responsibility, a youth may be referred to teen court. In these cases, the jury is guided by the judge in determining appropriate sanctions. Sanctions typically include writing a letter of apology, performing community service, or paying restitution to victims. Youth are often required to later serve on a teen court jury. Individual programs have conducted internal evaluations of their effectiveness, but there has been no independent evaluation of teen courts. The limited research suggests that teen courts have the potential to deter further offending, especially among older juveniles (Godwin et al. 1996). For more information on teen courts, contact the American Probation and Parole Association, listed in the Resources section of this *Guide*.

## Evaluating Youthful Offenders for Alcohol and Other Drug (AOD) Problems

DUI offenders may require treatment for AOD abuse. It is critical to determine whether adolescents have AOD problems as early as possible. Evaluating individuals for AOD problems begins with screening and is followed, if necessary, by an in-depth assessment. Screening indicates the presence or absence of an AOD problem. If a problem is indicated, assessment determines its severity. Screening takes 5–20 minutes and can be conducted by court intake workers. Assessment usually takes from 45 minutes to 3 hours, and is conducted by trained professionals from agencies outside the court.

Screening and assessment instruments provide a structured and consistent way to evaluate individuals for AOD problems. Instruments used to evaluate underage offenders should be appropriate for youth and validated on a youthful population. Interviews with the offender can clarify information related to AOD use. In addition, interviews with family members, police, social workers, school counselors, and others who may be familiar with the offender also may yield valuable information (McLellan and Dembo 1993).

It is important for courts to develop policies and procedures to disclose confidential information to appropriate parties, to establish limits of confidentiality, to maintain privacy during the interview, and to obtain informed consent (McLellan and Dembo 1993).

**Screening**–Initial screening is appropriate for all offenders referred to the court for impaired driving, and should be conducted as early as possible in their case processing. If possible, screening may be repeated during different stages of their involvement in the system (during intake, preadjudication, and postadjudication) to detect changes in patterns of AOD use, related problems, and the need for services over time (McLellan and Dembo 1993). Staff members providing screening should receive training in legal and ethical issues, instrument administration and scoring, interpretation of instrument results, determination of the offender's reading abilities, and interpersonal communication (McLellan and Dembo 1993).

A variety of adolescent-specific screening instruments are available. They vary in length and scope. Some are specific to alcohol, while others evaluate an individual's use of alcohol and other drugs. Instruments available for screening youth, which have been validated for this population, include the Adolescent Drinking Index: Drinking and You (Harrell and Wirtz 1985), the Personal Experience Screening Questionnaire (PESQ) (Winters 1992), and the Adolescent Alcohol Involvement Scale (AAIS) (Mayer and Filstead 1979).

If screening reveals that there is no underlying AOD problem, the court may wish to consider ordering the offender to participate in an alcohol education program (such programs are discussed in chapter 5). If screening indicates an AOD problem, it is important to perform a comprehensive assessment to determine problem severity.

**Assessment**–Assessment confirms the severity of an AOD problem and guides treatment planning. Assessment explores many areas of a person's life and can detect factors contributing to AOD use, including an individual's medical and mental health history, family history of alcohol abuse, traumatic family events, home environment, school history, employment history, sexual history, peer relationships, justice system involvement, and social services utilization (McLellan and Dembo 1993).

It is best for assessment to be conducted early in the offender's involvement with the justice system, and relevant sections of the instruments should be repeated both during and after treatment. Assessments should be conducted by trained professionals experienced in working with young AOD users and in the issues surrounding adolescent AOD use. These professionals include AOD abuse counselors, mental health professionals, school counselors, social workers, nurses, and physicians (McLellan and Dembo 1993). To avoid conflict of interest, it is important that assessment and treatment referral be conducted by an independent agency not associated with any treatment program.

A number of assessment instruments are designed specifically for use with adolescents, including the Adolescent Self-Assessment Profile (ASAP) (Wanberg 1991), the Comprehensive Addiction Severity Index for Adolescents (CASI-A) (Meyers 1991), the Personal Experience Inventory (PEI) (Winters and Henly 1989), and the Adolescent Diagnostic Interview (ADI) (Winters and Henly 1993). The use of such instruments should be supplemented with interviews, behavioral observation, and chemical tests, as appropriate (McLellan and Dembo 1993).

# V. Dispositions And Sentences

This chapter describes sanctions for youthful offenders designed to protect the public, hold the offender accountable to the victim and/or community, and provide education or treatment services for the offender. Research into the effectiveness of sanctions is included whenever such research is available.

## The Balanced Approach to Sentencing

Any sentence or disposition should seek to (1) protect the public, (2) hold the offender accountable to the victim and/or community, and (3) provide education or treatment for the offender. A combination of sanctions is needed to fulfill these three goals concurrently. Research among adult DUI offenders suggests that a combination of punitive and rehabilitative sanctions, with followup to monitor compliance, is more effective than any single approach (Wells-Parker et al. 1995).

Although the sanctions described in this chapter are grouped according to the goals mentioned above, some sanctions may fulfill more than one objective. All sanctions contain the element of punishment because they are mandatory, and all are intended to deter future offenses. Research on the effectiveness of the sanctions is presented when such research is available. In many cases, the sanctions have been evaluated among adults, but not specifically among youth.

## Protecting the Public

A first goal of sentencing is to reduce the risk that the offender poses to the public. Sanctions that protect the public vary in the degree of restriction they impose. Before imposing sanctions, it is important for the court to be aware of any administrative restrictions that may already be imposed on the offender.

### Incarceration

Over the past 15 years, most States have adopted some form of mandatory incarceration for impaired driving. The effects of these laws have been hotly debated, and the evidence from studies of incarceration as a specific and general deterrent to DUI is mixed. Some studies among adults suggest that, as a specific deterrent, incarceration is no more effective in reducing DUI recidivism among either first-time or repeat offenders than other sanctions (Hagen 1978; Homel 1981; Salzberg and Paulsrude 1984; Jones et al. 1988; Mann et al. 1991; Ross 1991; Martin et al. 1993). Other studies have found that the use of 2-day jail sentences for first-time offenders has a general deterrent effect and that the short-term effect of incarceration as a general deterrent depends on the extent of public awareness of the risk of incarceration (Falkowski 1984; Jones et al. 1988; Zador et al. 1988). Mandatory incarceration, however, may have a negative impact on court operations and the correctional process by increasing the demand for jury trials, plea negotiations, and jail crowding (NHTSA 1986b; Voas and Lacey 1990). This can result in unanticipated slowing of the time it takes for cases to be processed and result in inconsistency of sanctions imposed upon similarly situated offenders. While further study is needed concerning the deterrent effects of incarceration on DUI offenders, State legislatures have the authority to impose mandatory incarceration for DUI offenders.

As stipulated in Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act, with limited exceptions, alleged and adjudicated delinquent juveniles cannot be held in adult jails or lockups. Separate facilities should be available for holding delinquent juveniles during processing, detention, and any post-adjudication confinement. It is permissible, however, under the Office of Juvenile Justice and Delinquency Prevention Formula Grants regulation (28 CFR Part 31) to place an alleged delinquent juvenile in an adult jail or lockup (provided there is no sight or sound contact with any adult inmates in the facility) for up to 6 hours, including both before and after a court appearance. Regarding juvenile status offenders (e.g., underage alcohol purchase, possession, or consumption), the current Formula Grants regulation provides that participating states may securely hold such a juvenile in a juvenile detention facility for up to 24 hours, exclusive of weekends and legal holidays (28 CFR Part 31).

### Out-of-home placement

Juveniles may be placed in facilities outside the home because of concern for the public safety or to foster the offender's rehabilitation. A range of residential facilities exist, which vary in terms of the degree to which they restrict offenders and the rehabilitative services they provide. Such facilities include group homes, residential treatment centers, youth ranches, and secure facilities. In 1994, 11 percent of the juveniles adjudicated for DUI were placed in some type of facility outside the home (Snyder 1997b).

### Weekend intervention

Weekend intervention programs (WIPs) protect the public safety by requiring DUI offenders to attend a residential weekend program. These programs also provide screening and assessment for alcohol and other drug (AOD) abuse. WIPs do not provide the treatment, but refer the offender to community treatment programs. An evaluation of a WIP at Wright State University in Dayton, OH, found that repeat adult DUI offenders assigned to the WIP had lower recidivism rates than repeat offenders given jail sentences or suspended sentences and fines (Siegal 1985). In addition, first offenders assigned to the WIP and ordered by the court to comply with treatment recommendations had lower recidivism rates than other first offenders. The effectiveness of WIPs specifically for youth has not been studied.

### Probation

Probation is a sanction in which a number of conditions can be ordered by the court and monitored by a probation department. Probation may serve to protect the public, hold the offender accountable to the victim or community, and provide education or treatment services for the offender. Judges have wide-ranging power to impose conditions of probation, as long as the conditions are reasonably related to the protection of the public, the offense committed, and the treatment of the probationer.

Probation conditions for youthful offenders charged with underage drinking and/or impaired driving may include:

- restricting access to or use of an automobile (State v. Cooper 282 S.E. 2d 436 [N.C. 1981]; Cohen and Gobert 1983, 6.25);
- forbidding the use of alcohol or illegal drugs (People v. Whittington, 409 N.E. 2d 150 [Ill. App. 1980] prohibiting smoking, using, or ingesting any controlled substance);
- limiting access to certain places and association with certain persons (see generally Annot. 99 ALR 3d 967 [1980]; People v. Deskins 376 N.E. 2d 1086 [Ill. App. 1978]) and prohibiting the frequenting of places where alcoholic beverages are available (State v. Donovan, 568 P. 2d 1107 [Ariz. App. 1977]);

- mandating participation in educational, medical, or counseling programs, including residential programs (People v. Bray, 258 N.W. 2d 220 [Mich App. 1977]);
- submitting to searches (State v. McCoy, 263 S.E. 2d 801 [N.C. App. 1980]);
- submitting to questioning and giving information about others (U.S. v. Worcester, 190 F. Supp. 548, 568 [D. Mass. 1960]; Roberts v. U.S., 445 U.S. 552, 557 [1980]; and Douglas v. State, 376 So. 2d 11 [Fla. App. 1979] holding that a probationer could be questioned about his residency, job, and other noncriminal conduct, but was entitled to invoke the fifth amendment when questioned about new criminal conduct);
- obtaining permission before traveling (Berrigan v. Sigler, 499 F. 2d 514 [D.C. Cir. App. 1974]; Johnson v. Sate, 291 S.E. 2d 94 [Ga. 1982]);
- conforming to a curfew (Cohen and Gobert 1983, 6.21 p. 259);
- attending school, obtaining employment, and/or requiring attendance at an alcohol abuse education course (State v. Muggins, 222 N.W. 2d 289 [Neb. 1974] requiring attendance at alcohol abuse education course; also, Model Penal Code 301.1);
- providing samples for blood or urine testing (State v. McCoy, 263 2d 801 [N.C. App. 1980]); and
- other special conditions set by the court.

In 1994, 68 percent of the juveniles adjudicated for DUI were ordered to a term of probation (Snyder 1997b). Probation conditions also were imposed on 32 percent of non-adjudicated DUI offenders and 27 percent of informally handled juvenile DUI offenders. In some states, the court may impose conditions of probation on the parents of juvenile offenders, thereby making the parents responsible and answerable to the court for the conduct of the youth (Torbet 1993).

### A Probation Enhancement Program In Detroit, Michigan

Many courts lack the resources to provide adequate probation services. Partners Against Crime (PAC) is an innovative probation enhancement program operated by Volunteers in Prevention, Probation and Prisons, Inc. (VIP), a national, nonprofit organization dedicated to reducing crime through volunteer efforts. PAC works with the juvenile court in the city of Detroit to help keep juveniles from becoming repeat offenders. PAC matches trained volunteers from the community to serve as mentors to juvenile offenders. The program expects parental involvement, and this is required for a juvenile to successfully complete probation.

A 1995 study by Wayne State University investigated the impact of PAC on recidivism, compliance with court orders, and attitude change. On two out of three outcome measures, recidivism and compliance with court orders, the data consistently indicated that PAC participants performed better than probationers in the control group, and much better than those who refused to participate in the PAC program (Martin 1995). See the Resources section for program information.

Variations of probation for youthful offenders include the following:

### Intensive Probation

Intensive probation requires probationers to have more frequent contact with a probation officer, and the probationer's activity is more restricted, than is the case with traditional probation. An offender on intensive probation may be required to contact his or her probation officer at least twice a week and may be subject to

home curfews or home confinement (possibly with the use of electronic monitoring) and unannounced visits (Harding et al. 1989; Transportation Research Board 1995). One intensive probation program for repeat adult DUI offenders found that recidivism after one year for program participants was 5.6 percent, compared with 10.7 percent for offenders given traditional sanctions such as jail time, license suspension, and fines (Jones et al. 1996). No data are available on the effectiveness of intensive probation among youthful repeat DUI offenders.

### Home Detention

This approach allows a probationer to drive during the day to attend work, school, or treatment, but prohibits driving at night, when most impaired driving occurs. Home detention may be enforced by electronic monitoring. No data have been published on the effectiveness of this sanction for alcohol-related offenses among youthful offenders.

### Electronic Home Monitoring.

To enforce probation or home detention, an offender may be ordered to wear an electronic device that verifies that he or she remains at home, except when excused to attend school, work, or treatment. Justice system professionals debate the effectiveness of such systems, but agree that alone, this option is insufficient. To be successful, electronic home monitoring must be combined with other sanctions or treatment (Schonberg 1993). In a 7-year study among adult DUI offenders who were electronically monitored over 2–3 months while on probation, recidivism was less than 3 percent. However, recidivism increased after the monitoring period (Lilly et al. 1993). An evaluation of the Los Angeles County Electronic Monitoring/Home Detention program for repeat nonviolent adult DUI offenders found that the recidivism rate for program participants after one year was about one-third less than that of offenders who did not participate (Jones et al. 1996). The effectiveness of electronic home monitoring on reducing recidivism for DUI among youth has not been evaluated.

### License Suspension/Revocation

Protecting the public has traditionally been achieved primarily by license suspension, which temporarily invalidates a driver's license, and license revocation, which requires the licensee to apply for a new license after a specified length of time. Because a driver's license is an especially prized possession for young people, license suspension and revocation are thought to be powerful deterrents to underage drinking and impaired driving. To have a driver's license restored following either type of action, an offender may have to notify his or her insurance company of the charge, resulting in increased insurance rates. Some states also charge license reinstatement fees.

Studies of license actions among adults demonstrate the effectiveness of these approaches for reducing recidivism and the risk of crash involvement among drinking drivers. Research has found the following:

- Suspension periods between 12 and 18 months appear to be optimal for reducing DUI recidivism among adults, while suspension periods of less than 3 months seem to be ineffective (Homel 1981). Research on the optimum period of license suspension and revocation among youth is unavailable.
- Although up to 75 percent of adult offenders continue to drive under license suspension, they appear to drive less frequently and more cautiously to avoid apprehension (Ross and Gonzales 1988; Nichols and Ross 1990; Ross 1991; Simpson and Mayhew 1991). It is not certain that youth behave in the same fashion.

License revocation and suspension may be imposed by a judge as part of a DUI or other sentence or imposed administratively by a State driver licensing agency. The latter disposition is discussed in Chapter 8.

### Vehicle-Related Sanctions

In an attempt to reduce the large percentage of drivers who continue to drive after license suspension, some States control the suspended driver through vehicle sanctions. These sanctions, including the installation of breath alcohol ignition interlocks, vehicle immobilization, vehicle impoundment, and vehicle forfeiture, can be applied administratively by the court, depending on State statutes. The administrative application of these sanctions is discussed in Chapter 8.

While these sanctions have not been evaluated among youthful offenders, they have been found to be promising for reducing recidivism among adults, both during the period of incapacitation and after the vehicle is released (Crosby 1995; DeYoung 1997; Voas et al. 1997b; Beirness et al. 1997; Voas et al. in press). The effectiveness of these sanctions for protecting the public can be compromised if the offender finds a way to circumvent the device, or if the offender simply borrows, rents, or steals a different vehicle (EMT Group 1990; Jacobs 1990; Baker and Beck 1991; Popkin et al. 1992). In addition, the court may be unable to apply such sanctions to a youthful offender arrested while driving a car registered to his or her parents or any other person. The parents of a juvenile, however, can be subject to vehicle-related sanctions as a consequence of their child's offense.

## Accountability to the Victim and Community

Ensuring that illegal acts have consequences and that offenders take responsibility for their actions is a major feature of the judicial function and one that often—at least in drinking and driving cases—results in criticism of the court. Accountability is based on the recognition that, when an offense occurs, the offender incurs an obligation to the victim or, in such cases where no specific victim exists, to the community. Accountability-based sanctions, therefore, require offenders to acknowledge the impact of their behavior on the victim and/or community and work actively to make things right. Community organizations often work with the court to organize and manage community service projects and other accountability-based programs. These functions of community groups are discussed further in Chapter 8.

### Community service

Offenders may be held accountable for the harm they have caused by providing some service that benefits the community. Just as communities are harmed by offenses, they can be at least partially restored by meaningful service that contributes to their improvement. In addition, because limited jail space has placed a great deal of pressure on the courts to avoid jail sentences for DUI offenders, community service has been used as an alternative to incarceration. As of January 1996, 22 States specifically provided for community service in lieu of mandatory confinement, and this is an option under the probation powers of most courts. National studies by Klein (1989) and Zador and colleagues (1988) found that States that mandated either jail or community service for first-time DUI offenders had lower alcohol-related fatality rates following the adoption of the laws mandating such a sentence. Other studies have failed to find any significant effects of community service on recidivism or crashes among adult DUI offenders (Stenzel et al. 1987; Popkin and Wells-Parker 1994), and the effect of community service on recidivism has not been evaluated among youthful offenders.

Studies supported by NHTSA (1985) have demonstrated that well-run community service programs may produce considerable savings in jail expenses, in addition to the dollar value of the services to the community. Because the objective of a community service program is to hold the offender accountable by compensating the community, such programs are useful for the court even if reduced recidivism is not demonstrated. A well-run community service program may offer constructive work and potentially valuable educational experiences (e.g., working in emergency departments, speaking in schools) to young offenders. The court may receive considerable praise from local citizens if it produces highly visible benefits to the community.

### Restitution

Restitution is a sanction that holds offenders accountable for the financial losses they have caused their victims. The restitution payment is the sum of money paid by the offender to the victim to balance this monetary debt. Receiving a restitution payment can make victims feel that the justice system is working on their behalf to ensure they are justly compensated for their losses. Restitution orders are based on information provided by victims about their out-of-pocket losses and information about offenders' financial status and earning capacity. Parents of juveniles may be ordered to pay restitution when the juvenile cannot. A study of a restitution program used in the Utah juvenile court system found that youth were ordered to pay restitution in cases of robbery, assault, burglary, theft, auto theft and vandalism had lower recidivism than a comparison group (Butts and Snyder 1992).

### Victim-Offender Mediation

Victim-offender mediation provides victims the opportunity to meet the offender face-to-face in a safe and structured setting, along with a trained mediator and perhaps a family member or friend for each of them. Such programs usually are operated by private, nonprofit community organizations. During the mediation session, victims tell the offender about the physical, emotional, and financial impact the offense caused them; ask questions about the offense and the offender; and negotiate a form of restitution. A multisite study of 1,131 victim-offender mediations involving juvenile offenders found that the recidivism rate was lower among offenders who participated in mediation (18 percent), compared with similar offenders who did not meet their victims (27 percent) (Umbreit 1994).

### Attendance at Vctim Impact Panels (VIPs)

These forums, often sponsored by Mothers Against Drunk Driving (MADD), provide a less direct means than victim-offender mediation of acquainting offenders with the harm they have caused. In some jurisdictions, victim impact panels are being organized to include youthful victims in an effort to make them more meaningful to young offenders. One study of victim impact panels suggested that, among adults, participation did not consistently reduce DUI recidivism rates compared with controls (Shinar and Compton 1995). Another study, however, found that particiation in a VIP significantly reduced the probability of an offender being rearrested (Fors and Rojek in press). The effectiveness of this sanction among youthful offenders has not been studied.

### Fines

Youthful offenders may be fined for violations of the minimum legal drinking age (MLDA) laws and/or impaired driving laws. An offender may receive a fine in the form of a citation issued by the arresting police

officer or as a court-ordered sanction. Fines vary in amount and may increase with repeat offenses. Some States have minimum mandatory fines, and courts may also impose surcharges or fees for alcohol-related offenses. Although they have not been evaluated specifically among youth, an Australian study found that fines were effective in reducing recidivism among adult DUI offenders (Homel 1979, 1981; Nichols and Ross 1989).

### Emergency department visitation

This sanction requires offenders to spend a certain number of hours observing the medical treatment of patients in the emergency department or shock trauma unit of a local hospital. The visitation may be scheduled for a weekend night, when patients are likely to be victims of alcohol-related crashes. Data are forthcoming on the effectiveness of this sanction among youth. Additionally, NHTSA has an ongoing grant with the Corrective Behavior Institute to replicate this program in various locations throughout the country (Police Executive Research Forum, in press).

### Emergency Department Visitation In Tulsa, Oklahoma

The Youthful Drunk Driving Program in Tulsa, Oklahoma requires first-time DUI offenders ages 16–25 to visit an emergency department and a rehabilitation center for patients with spinal cord injuries, attend a victim impact panel presentation and a small group alcohol counseling session, and write an essay about their experiences in the program. After 2 years of operation, 328 people have completed the program and only 4 participants have been rearrested for DUI, a recidivism rate of 1.2 percent, compared to the national DUI re-arrest rate of approximately 30 percent (Police Executive Research Forum, in press).

## Providing Education and AOD Abuse Treatment Services for the Offender

Drinking and driving programs established by the U.S. Department of Transportation in the late 1960's focused on deterring the problem drinker by encouraging courts to establish relationships with local treatment providers to handle cases of drivers determined to have an alcohol problem. Due to this Federal support for including alcohol rehabilitation in the sentencing of impaired driving offenders, alcohol education and treatment paid for by the DUI offenders has become a ubiquitous feature of most traffic court probation systems.

While some States have legislated a requirement for completing a treatment program as a condition of license restoration, most DUI offenders are persuaded to accept treatment under the terms of their probation program. Thus the courts, as the result of the historic development of the Federal Alcohol Safety Action Projects (ASAPs) in the 1970's, tend to provide the principal incentive for moving DUI offenders into treatment. This role requires the court to take responsibility for providing for the screening and, if required, the assessment of DUI offenders, as discussed in chapter 4. Furthermore, with the exception of States such as Maryland that have provided for State-funded monitors, the court probation officers are responsible for overseeing the treatment monitoring.

Screening and assessment can help the court to identify the level of services that each offender needs (i.e., education or varying intensities of treatment) and to develop a plan for providing such services (McLellan and Dembo 1993). Varying levels of services are discussed below, as well as certain issues relating to the provision of services.

### Education

Even if screening indicates that an offender has no AOD problem, the court may consider ordering participation in an AOD education program. Generally, these programs inform participants about the effects of alcohol on the body and on driving performance, and about the legal consequences of underage drinking and impaired driving. Some but not all jurisdictions offer youth-specific education programs. Most education programs last from 2 to 6 weeks and consist of 10–16 hours of classroom time (Popkin 1994).

AOD education programs for youthful offenders are most effective if they are developmentally appropriate for young people (Acoca 1995). For instance, youth are more likely to respond to visual depictions of real-life consequences of impaired driving than to statistics (NHTSA and the Transportation Safety Institute [TSI] 1997). Young drivers are influenced by the negative consequences—such as death, injuries, inconvenience, and embarrassment—that can result from impaired driving. Youth also tend to relate more to sincere presenters giving freely of their time than to celebrities being paid or fulfilling a community service (NHTSA and TSI 1997).

Research among adult DUI offenders suggests that the combination of education and license suspension is more effective in reducing recidivism than license suspension alone (Popkin et al. 1988). Although education programs have been found effective for both first offenders and those characterized as nonproblem drinkers, such programs appear to have little or no value for repeat offenders or problem drinkers (Nichols 1990).

### Referral to Treatment

Offenders found to have an AOD problem require a more intensive and longer lasting intervention than education alone. It is important that judges, prosecutors, probation officers, and other justice system staff be trained in the effects of AOD abuse, knowledgeable about issues surrounding AOD treatment, and familiar with the basic treatment approaches appropriate for youth (Schonberg 1993; National Council of Juvenile and Family Court Judges [NCJFCJ] 1995). Before the adjudicatory hearing, the judge should be notified of the results of assessment and recommendations for treatment so that he or she can mandate treatment as early as possible (Schonberg 1993). For cases involving juveniles, the judge has the authority to order the juvenile's parents and other appropriate family members to participate in treatment (NCJFCJ 1995).

### What the Courts Should Ask Treatment Providers

The courts should be familiar with the treatment provider(s) in their jurisdictions and seek answers to the following questions about program credentials, service delivery, finances, and problem resolution. Answers to these questions may help the court decide where to refer a youthful offender for AOD treatment. For those addicted to other drugs, a different approach may be needed (Acoca 1995).

The court may not always have a wide range of local treatment programs from which to choose. However, when choices are available, the answers to the questions listed here may help judges and prosecutors decide which program may be best for the youthful offender. At the very least, answers to these questions will let the court know what to expect from the treatment program and will provide the court with benchmarks by which to select programs.

## Questions About The AOD Service Delivery

- How much time usually elapses between an offender being ordered into treatment and the treatment actually beginning?
- What percentage of court referrals reported to treatment? What percent completed the program during a specified period of time?
- How long is the program?
- Is there any method of following up on your clients after they have completed treatment? If so, are there any data on the extent to which clients have maintained sobriety and avoided rearrest for DUI?
- Do all clients receive the same treatment program or are there different treatment tracks based on an initial assessment?
- How are DUI offenders who have an AOD abuse problem beyond an alcohol problem handled?
- Is abstinence required during treatment? Are clients tested for alcohol when they report for treatment?
- Are random tests for drugs conducted?
- Does the program encourage attendance at AA meetings or other support groups?
- Does treatment address underlying family problems? Address personal problems?
- What provisions, if any, are there for family participation?
- What are the criteria for entry, expulsion, and completion?

## Questions To Ask About AOD Treatment Program Credentials

- Is the program certified by the state or other accrediting organization?
- What arrangements exist for clients in need of medical treatment?
- What are the professional qualifications of the staff?
- Is the organization insured? What does the insurance cover? Does the insurance cover injuries to clients on premises?

## Questions About Finances

- What is the cost to the client for treatment?
- When is payment required? Are considerations made for those who are unable to pay?
- Is the program covered under a health maintenance organization (HMO) or insurance health care provider?

## Questions About How Agencies Respond To Problems

- What consequences are imposed when an offender fails to pay fees, fails to attend treatment sessions, exhibits disruptive behavior, refuses to actively participate, or exhibits evidence of alcohol or other drug use during treatment?
- When is the court/prosecutor/probation informed of the above situations? What actions are recom mended? Will the youth be readmitted to the program?
- What action is expected of the court when an offender is reported for failing to complete treatment?

*Treatment Approaches.* Although a variety of approaches are available for treating youth for AOD problems, research into their effectiveness is limited. Research has not demonstrated the superiority of a particular treatment approach for youth over any other, but several studies have noted the benefits of treatment in general, compared with no treatment (Windle et al. 1996). Treatment approaches available to the court depend on the treatment facilities in the community.

*Alcoholics Anonymous (AA).* Although AA is beneficial for many people, participation in AA should not substitute for AOD treatment. Rather, AA participation should accompany treatment and continue after treatment completion. Researchers have questioned the practice of requiring all DUI offenders to attend AA meetings and to make it the core of offenders' aftercare for two reasons. First, AA is not effective for all persons; second, AA spokespersons have expressed concern that court-mandated AA attendance may overwhelm meetings with people who are not motivated and are hostile and disruptive (Speiglman et al. 1992; Emrick et al. 1993; McCrady and Miller 1993). There are no AA chapters or organizations created specifically for youthful alcoholics; Alateen is an organization for children of alcoholics.

*Treatment settings.* Inpatient and outpatient treatment options provide varying levels of care for youth with AOD abuse problems. Outpatient settings are generally preferred because they allow the offender to remain in school and maintain family relationships, and they facilitate treatment for the family (McPhail and Wiest 1995). Research indicates that outpatient treatment is often as effective as inpatient treatment and that, furthermore, outpatient treatment is less costly (Winters et al. in press).

*Relapse.* Although relapse may occur during AOD abuse treatment and recovery, relapse does not indicate treatment failure. Episodes of relapse should diminish in frequency and severity over time (NCJFCJ 1995). When relapse occurs, it is important to note the occurrence on the individual's record and to provide for immediate action as a consequence. Research suggests that young people are especially vulnerable to relapse triggered by social pressure and that more severe relapse tends to occur early in the follow-up period. Youth with greater behavioral coping skills, and a greater number of non–substance-using social supports, tend to have the better outcomes (Winters et al. in press).

*Financial considerations.* Financial considerations may restrict the level of AOD abuse treatment that the court can order for a youthful offender. The court can order the parents of juveniles to pay for their child's treatment. Young adults can be required to pay for their own treatment, but may not have the financial resources to do so. When the offender or offender's parents cannot pay treatment costs, the court may consider reducing fines and other fees to make money available for treatment.

The provision of adequate and effective AOD abuse treatment ordered by the courts often is controlled by health insurance coverage limitations. Such limits may restrict the time frame for treatment, the type of treatment provided, and the reimbursable costs. Courts may find that limitations by health insurance providers frequently inhibit the selection of treatment options that may seem the most appropriate and effective. Judges and prosecutors can urge State insurance commissions and State legislatures to consider requiring health insurers to pay for the court-ordered AOD abuse treatment of insured adults and their dependents. The NCJFCJ recommends that health insurance companies provide coverage for a broad range of services for AOD-abusing youth and families (NCJFCJ 1995).

If the offender or family is unable to pay for AOD abuse treatment and there is no health insurance coverage available, courts may place offenders in public sector treatment programs. However, changes in the way such programs are funded may make such placements increasingly difficult. Many States are transferring the administration of funds used previously to support public sector treatment providers to managed care organizations. It is important for the courts to understand the State's structure for managed care and to ensure that court-ordered treatment efforts are compatible with that structure.

*Community resources for youth services.* Ideally, a full continuum of services, including AOD education, treatment, and aftercare, would be available in every community (NCJFCJ 1995). Many communities do not have the resources to offer a range of youth services, however. It is important that judges and prosecutors be familiar with existing community services and programs that serve youth, and that prosecutors use their authority and status in the community to advocate for the development of supplemental services and programs as needed (NCJFCJ 1995).

### Increasing the Severity of Sanctions

An important role of the court is to order increasingly severe sanctions when an offender fails to respond to initial and subsequent interventions. For example, immediate sanctions such as fines, probation, community service, restitution, and education may be appropriate for first-time offenders and for alcohol-related repeat offenses other than DUI. Intermediate sanctions, such as intensive probation, home monitoring, or AOD abuse treatment may be appropriate for offenders who have failed to respond to immediate sanctions. Placement in more secure facilities, such as training schools, camps, and ranches, may be necessary for youth whose presence in the community would constitute a threat to public safety, or for youth who have failed to respond to community-based corrections (Coordinating Council on Juvenile Justice and Delinquency Prevention 1996).

### Parent/Guardian Involvement and Responsibility

The parents or guardians of juveniles can be held responsible, to some extent, for the offenses committed by their children. According to the National District Attorneys Association (NDAA), effective parental responsibility laws should include parents in the judicial process and force them to fulfill their parental obligations (NDAA 1996). Specifically, the NDAA recommends that parents be required to:

- attend all court proceedings, provided that their employers allow such attendance;
- participate in rehabilitative programs with their children;
- pay costs associated with the prosecution, placement, and treatment of their children, within appropriate limits, and subject to the ability to pay;
- participate in court-ordered programs that require parental involvement;
- participate in parenting skills classes when appropriate; and
- take responsibility at some level, for restitution to victims, if any.

It is important that all sanctions involving parents be ordered in addition to, not instead of, appropriate sanctions for the juvenile (NDAA 1996). To encourage parental responsibility, parents need to be informed about the laws affecting their children, their responsibilities for ensuring that their children obey the laws, and the potential for them to be held responsible for their children's offenses, including those offenses that require access to the parents' car (Beer et al. 1996). Parents' roles in monitoring their children's compliance with sanctions are discussed further in Chapter 6.

# VI. Monitoring And Enforcement

Compliance with court-ordered sanctions can be monitored by law enforcement agencies, probation departments, education and treatment program staff, and the parents of juveniles. This chapter discusses the importance of monitoring, problems the court faces in providing for monitoring, and what judges and prosecutors can do to improve monitoring, including involving parents.

## Importance of Monitoring

Monitoring is essential to ensure that youthful offenders comply with sanctions and that sanctions meet their goals of protecting the public, holding offenders accountable to the victim and/or community, and providing the necessary education or treatment services for the offender. Without some form of monitoring, the goals of sanctions may not be achieved, offenders may not be punished, and sanctions may lose their power to deter future offending. While the method of monitoring depends on the sanction, judges and prosecutors play important roles in responding to cases of noncompliance. Police, for example, are responsible for monitoring license actions. When a case of noncompliance is detected and brought to the attention of the court, judges and prosecutors are responsible for enforcing sanction compliance and completion by imposing harsher sanctions.

## Problems Involved in Monitoring and Options To Improve Monitoring

In the juvenile court system, compliance with sanctions usually is monitored by the probation department. Many traffic courts and other courts that handle youthful alcohol-related offenses have limited resources to monitor sanctions, however. In those jurisdictions where compliance with sanctions is not monitored, judges and prosecutors can use other methods to ensure compliance. The court can demand, for example, that offenders provide proof of sanction compliance at regular review hearings. In the juvenile court, judges can order parents to monitor sanction compliance and set consequences for parents' noncompliance. Judges and prosecutors also can use their influence to create or improve probation services in their jurisdiction.

Police and probation departments respond to the "messages" judges communicate regarding their attitude toward the importance of systematic monitoring and taking action for noncompliance. When judges discourage efforts to revoke probation or fail to take action against persons who drive after suspension, those responsible for monitoring become less vigilant or less inclined to call the violation to the judge's attention.

### Involving Parents In Monitoring Compliance

Juvenile court judges and others, depending on State statutes, have the authority to involve parents in the disposition of a juvenile's case and to order parents to monitor the juvenile's compliance with specific sanctions, as noted in chapter 5. According to the National District Attorneys Association, courts also must have the ability to hold parents in contempt for noncompliance to ensure that parents follow through with court-ordered participation in a juvenile offender's sanction. Care must be taken to ensure that all actions taken against parents are in addition to appropriate sanctions for juveniles, and not in place of such sanctions.

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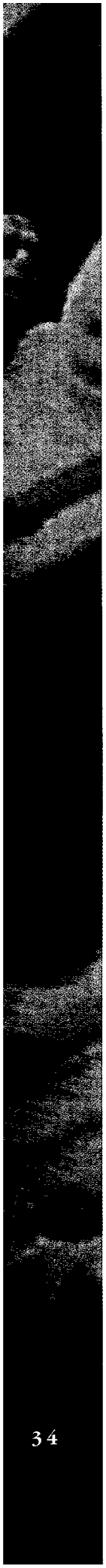

# VII. Recording, Sharing, and Using Information Regarding Youth Alcohol-Related Offenses

The judge's ability to tailor dispositions for youthful alcohol-related offenses to the offenders depends on the court's having access to current and complete data about both the offense and the offender. This chapter addresses the importance of record keeping and the accessibility of information, and it presents approaches designed to improve information sharing.

## Coordinated Information Systems

Individual record systems should be compatible and coordinated in a comprehensive system to be most effective in guiding the court's decision making. Such a system would ensure that judges, prosecutors, and other agencies that deal with youth would obtain accurate and comprehensive data to assist them in carrying out their responsibilities. Specifically, this type of system would allow for the sharing of relevant information among all agencies that come into contact with the youth and that have "a need to know" the information. This would include all those individuals or agencies who care for, treat, supervise, or protect the youth, or who have a legal responsibility to investigate or prosecute allegations of alcohol abuse or other criminal conduct. Maintaining the privacy of confidential information requires that any record-keeping system contain safeguards to protect against the release of such information to unauthorized persons (Etten and Petrone 1994). Records needed by the court to handle youth alcohol-related offenses effectively include those listed in the box below.

As noted in Chapter 4, it is important that adequate records be maintained so that youth being diverted in one jurisdiction will be ineligible for diversion in other jurisdictions. Also, court-ordered license suspensions and revocations should be reported to the State agency charged with the issuance of driver licenses to ensure consistency of records on a statewide basis. States such as Texas, Washington, and Utah have developed comprehensive, centralized record-keeping systems to facilitate information sharing within the justice system, and between the justice system and outside agencies (Curtis 1997; Gavin 1997; Phillips 1997).

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### Valuable Records For Court Decision-Makers

For the court to impose appropriate sanctions, access to the following types of records is needed:

***Driver Records.*** The development of sophisticated data systems has enabled State driver licensing agencies to establish records systems that keep track of the growing number of drivers, vehicles, and crash records and that have made it possible for courts to be aware of prior offenses that may suggest drinking problems.

***Juvenile court records.***

***Criminal court records.***

***Traffic court records.***

***Arrest records and records of police contact.*** These records, kept by police, reflect an individual's previous arrests and any other episodes involving the individual that resulted in police contact but may not have resulted in an arrest.

***National Driver Register (NDR) records.*** The NDR is a database of all drivers who have had their licenses revoked or suspended for cause, or who have been convicted of certain serious traffic violations such as DUI. NDR records are available to the court through the State's driver licensing agency. For more information on the NDR, contact NHTSA at (202) 366-4800 or, if you have access to the Internet, go to http://www.nhtsa.dot.gov/people/perform/driver/.

***Records of prior diversions.*** These records may be kept by police, prosecutors, or the court.

***Records of prior alcohol and other drug abuse treatment history.***

***School records involving alcohol- or drug-related incidents.***

## DUI Tracking Systems

A number of States have developed on-line record-keeping and information-sharing systems specifically to track impaired driving offenses. Such systems often are operated by the State's driver licensing agency but may be accessed by a court agency. According to NHTSA, a comprehensive DUI tracking system should provide for two specific functions. First, such a system should track all offenses, from arrest through dismissal or sentence completion. This information should be accessible on a central network, so that updates are available immediately. This function can provide decision-makers with adequate and timely information to guide case processing decisions and dispositions, and allow decision-makers to immediately identify an offender's prior offenses and charges, and the status of sanction compliance. Fines and fees assessed and collected can be managed through the system. Court-ordered and administrative license actions can be posted to the system as they occur, providing up-to-date information about an offender's license status. Because the system contains information specific to individuals, precautions must be taken to protect the privacy of confidential information (NHTSA 1997).

Second, NHTSA recommends that all DUI tracking systems provide statewide statistics on various measures of DUI that will allow legislators, policy-makers, treatment professionals, and others to evaluate the current DUI environment and the effect of countermeasures and laws designed to reduce DUI or provide services for DUI offenders. At a minimum, annual statistical reports should be available that identify arrests, convictions, fines assessed and paid, sanctions, and treatment effectiveness by age, sex, county, or court (NHTSA 1997).

In a survey of States concerning the existence of DUI tracking systems, NHTSA identified some form of DUI tracking in California, Florida, Louisiana, Mississippi, New Jersey, New Mexico, New York, and Utah (NHTSA 1997).

# VIII. Administrative And Community Responses To Underage Drinking And DUI: The Role Of The Judicial System

This chapter provides an overview of the Nation's comprehensive effort to reduce underage drinking and DUI, and the role of the justice system within this broad context. The first part of this chapter focuses on the administrative control system and the importance of court cooperation with the States' administrative agencies. The second part of this chapter deals with the roles of community organizations in preventing underage drinking and DUI, the importance of linkages between the community and the court, and ways in which judges and prosecutors can become involved in all levels of community efforts. Finally, this chapter presents research findings on the effectiveness of environmental efforts to reduce underage drinking and DUI.

## The Court as Part of a Comprehensive Safety System

The justice system is one component in a comprehensive effort to reduce underage drinking and DUI that also includes State administrative agencies and community organizations. These agencies and organizations complement and aid the courts by providing alternatives to traditional sanctions, reducing case backlogs, and preventing offenses. The activities and programs falling under each domain are shown in table 8-1. Areas of interaction between the systems are indicated by arrows. For example, the justice system often refers offenders to community service and victim restitution programs based in the community. In this way, community organizations are involved in providing accountability-based sanctions.

Together, the formal and informal programs represented in table 8-1 constitute a system that rests on a tacit compact: adults allow youth to drive (presenting higher risk for other drivers on the road, even when they are sober) as long as they agree not to drink. Thus, we license drivers at age 16, attempt to prevent liquor sales to persons under age 21, and impose sanctions for those who violate the law.

The courts (primarily juvenile or traffic court, but occasionally the civil or criminal court) interact with both the administrative driver control system and community-based activities. The State driver licensing agencies have record systems and administrative license revocation (ALR) authority that permit reasonable control of driving risk on the Nation's roads. Driver records provide the justice system with information required to recognize repeat offenders. State driver licensing agencies have authority over driver and vehicle licensing

*Table 8-1*

## The U.S. Alcohol Safety System

| Community-Based Activities | Justice System | Administrative Control System |
|---|---|---|
| Community Service<br>Victim Restitution | Accountability to the Victim or Community | Administrative License Revocation |
| | • Jail<br>• Community Service<br>• Fines | Graduated Licensing<br>Point Systems<br>Registration Cancellation |
| Limiting Availability<br>Responsible Sales Policies<br>Responsible Advertising<br>Media Advocacy | Public Safety<br>• Zero Tolerance Laws<br>• Use and Lose Laws<br>• Alcohol Safety Interlocks<br>• Vehicle Plate Confiscation | Zero Tolerance Laws<br>Use and Lose Laws<br>Alcohol Safety Interlocks<br>Vehicle Plate Confiscation |
| Legislative Advocacy | Education/Treatment<br>• Screening | |
| Alternative Nonalcoholic Events<br>Education/Treatment<br>Public Education Programs | • Education/Treatment | |
| Victim Advocates<br>Victim Impact Panels | • Monitoring<br>• Victim Impact Panels | |
| | Civil Court Actions<br>• Vehicle Impoundment<br>• Vehicle Forfeiture | Vehicle Impoundment<br>Vehicle Forfeiture |

*This table presents a schematic model of the three elements of the current US alcohol safety system: community-based activities, the justice system, and the administrative control System. The justice system interacts with both the community consortiums working to reduce the availability of alcohol to minors and the programs managed by the State driver licensing agencies, which are directed at protecting the public by preventing driving by high-risk operators. The three goals of sanctioning – public protection, accountability to the victim or community, and treatment or education for the offender – mesh with elements that are outside the court. It is important that judges and prosecutors have a good understanding of the overall State and community system to ensure that sanctioning decisions enhance the effectiveness of community efforts to reduce alcohol problems and State efforts to protect motorists from high-risk drivers.*

systems designed to remove high-risk drivers from the roads. While prosecutors and courts have authority over certain aspects of the driver control system, they may affect administrative operations negatively if they divert cases without administrative licensing sanctions or fail to report offenses and convictions. Community programs have increased pressures for more vigorous enforcement of drinking and driving laws and underage possession and sales laws, and for restitution and community service programs. Courts increasingly are sentencing offenders to attend victim impact panels sponsored by groups such as Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID). Thus, the three domains presented in table 8-1 work together and depend on each other to some extent, but emphasize different aspects of the same goals. The importance of cooperation among these domains is highlighted below.

## The Relationship Between the Administrative Control System and the Justice System

### The Role of Administrative Agencies

Through licensing and vehicle control, administrative agencies can remove potentially unsafe drivers from the road quickly and thus protect the public safety. This function, and the interaction between administrative agencies and the courts, is shown in table 8-1. State driver licensing agencies are responsible for maintaining a safe road system and ensuring that unqualified or dangerous drivers are not permitted to operate vehicles and put the general public at risk. This responsibility is reflected in the States' driver licensing laws and vehicle registration requirements. Use of the highways by qualified motorists and vehicles is ensured only through driver licensing tests and regulations, and through vehicle inspection systems. Detailed records of drivers' behavior and vehicles used on public highways also are maintained. The driver and vehicle record system is integrated with State and local police departments, which use the information from the system and enter information into the system.

Administrative agencies always have had significant authority to either approve or deny the use of public highways based on driver examinations and driving records through the use of a violation point system independent of the justice system. With the explosive growth of the Federal and local highway systems, and the number of drivers and vehicles using that system, there has been a trend to increase the authority of motor vehicle departments in both the licensing of drivers and the registration of vehicles.

Administrative license revocation procedures have survived various legal attacks. Through a line of cases, the Supreme Court has validated motor vehicle departments suspension procedures provided that an administrative hearing is offered to the driver. Bell v. Burson, 402 U.S. 535 (1971); Dixon v. Love, 431 U.S. 105 (1977). In addition, double jeopardy concerns were answered by the Court in 1997, in a case that held the proper test to decide if the Double Jeopardy Clause is violated is whether a proceeding is civil or criminal in nature. Hudson v. United States, 522 U.S. 93 (1997). Since administrative license revocation proceedings are civil in nature, the sanctions are not criminally punitive for double jeopardy purposes. Consequently, most states currently have implied consent laws and administrative license suspension laws.

The authority of State motor vehicle departments to take administrative action is not limited to driver licensing, but also can include action against a vehicle registration or license plate suspension. Thus, States such as Minnesota, Oregon, and Washington have implemented laws that provide for suspension or cancellation of a vehicle's registration or the marking or confiscation of a vehicle license plate when the vehicle is found to be operated by an unlicenced driver.

## The Courts and Administrative Control

Generally, the two systems—the administrative system and the justice system—work together well; however, harmonizing the two operations continues to produce significant challenges for both. For example, while traffic records are important to the justice system, there are procedures within the justice system that interfere with record keeping. For example, the records of juveniles are protected and may not be reported to a motor vehicle department, even for significant offenses, such as DUI. This presents a significant problem to motor vehicle departments, as accurate records are critical to their operations. In addition, conflicts between the administrative and the justice system result occasionally from poorly written legislation. In California, for example, a law mandated that the courts require installation of ignition interlocks for convicted second offenders in addition to the existing ALR program. Thus, judges are required to have offenders install ignition interlocks on their vehicles, but the offenders are not permitted by the motor vehicle department to drive.

## Administrative Control Strategies

A number of administrative strategies, including those described below, currently are being employed to protect the public safety. As shown in table 8-1 and noted in chapter 5, some of the sanctions that can be ordered by the court also can be applied administratively.

*Administrative License Revocation.* The success of offenders in avoiding license revocation or suspension through the justice process led to the implementation of ALR laws, which mandate that police officers at the time of arrest seize a driver's license as an administrative license suspension or revocation on behalf of the State's driver licensing agency. These laws ensure that DUI offenders receive a license restriction within a relatively short period of time after their arrest, independent of their progress through the justice system. This action may be taken as a consequence of the driver refusing to submit to a blood alcohol concentration (BAC) test or having a BAC that exceeds the legal limit (including zero tolerance limits in most States that have adopted these laws). When a police officer seizes a driver's license, he or she generally gives the driver a temporary driving permit and an official notice of license suspension to become effective within a certain time period. The suspension notice also provides information on recourses available to the offender, such as an administrative hearing or judicial review. An administrative license action is independent of any license action taken by the judge. Placing responsibility for the license suspension on the motor vehicle department reduces the burden of the court system in this area. In states with ALR statutes, it is no longer efficient for the offender to attempt to delay adjudication and no longer possible to avoid license suspension by plea bargains involving other sanctions.

ALR laws have been found to reduce DUI recidivism in the general driving population (Stewart et al. 1989) and to reduce alcohol-related fatal crashes among those both over and under 21 (Lacey et al. 1984; Zador et al. 1988; Klein 1989).

ALR is probably the most significant administrative control strategy relative to the adjudication of impaired driving cases. Removing license suspension from the adjudication process provides an opportunity to improve the efficiency of court operations and furthers the court's objectives. Both administrative agencies and the courts have a responsibility to protect the public safety. The court also is responsible for moving DUI offenders into education or treatment programs. Conceptually, administrative actions that prevent driving and court-ordered sanctions that promote treatment offer the most promise to reduce court caseloads, protect the public, and provide education or treatment as needed.

*Zero tolerance law violations.* Zero tolerance offenses are adjudicated through the court system in most States. In those States with ALR laws, apprehension triggers license suspension or revocation. In some States, California being the primary example, zero tolerance is only an administrative offense that results in a 1-year license suspension imposed within 30 days of apprehension by the motor vehicle department. In California, a zero tolerance violation is not a criminal offense and does not result in a criminal charge or court appearance, although, of course, there is an administrative hearing by the department of motor vehicles. Because the objective of this law is to deter young people from drinking and driving without criminalizing their behavior, it is likely that current zero tolerance laws gradually will be amended to involve only administrative sanctions. Therefore, fewer of these cases will be adjudicated in the courts.

*Use and lose laws.* Use and lose laws refer to State legislation that revokes driving privileges of underage youth who attempt to purchase alcohol using false identification. The adjudication of these attempt-to-purchase or, in some cases, possession laws occurs within the justice system. When the offense is reported to the motor vehicle department, that department takes action under its authority to suspend the license. Clearly, failure of the prosecutor to pursue charges, or failure of the courts to notify the motor vehicle department, reduces the department's ability to enforce the legislation.

*Vehicle-related sanctions.* As discussed in Chapter 5, vehicle-related sanctions have been developed in response to the large number of suspended drivers who continue to drive. These actions may be ordered by the court or applied administratively, depending on the State statutes.

*Alcohol ignition interlocks.* The ignition interlock is a technological attempt to keep a driver from driving after drinking, without requiring that he or she give up driving entirely. Considerable data have accumulated on these devices, and it appears that they achieve this end (Voas et al. 1997b; Beirness et al. 1997). Where the administrative capability to ensure that interlocks are installed on the vehicle and are maintained in good operating order is available, participation in such programs generally costs the offender about $60 a month. The authority to impose interlock programs varies from State to State. The courts have the lead role and are authorized to require the installation of interlocks at the time of sentencing in some States, whereas in other States, the motor vehicle department has the lead role and the authority to require interlock installation after a period of hard suspension and before the licensing privilege is restored.

*Vehicle plate and registration sanctions.* Some States have allowed a vehicle's registration to be canceled if the driver is caught driving without a valid license. To make the registration cancellation effective, either the plate is removed from the vehicle (as in Minnesota) or a sticker was placed on the license plate (as in Washington and Oregon). It should be noted that the laws in Washington and Oregon were not permanent and have been allowed to expire.

*Vehicle impoundment/immobilization.* Temporary vehicle immobilization and impoundment have been shown to be effective in reducing DUI recidivism among repeat adult DUI offenders in States such as Ohio and California, and in the Province of Manitoba in Canada (DeYoung 1997; Voas et al. in press). This action may be a local administrative or civil action, or an adjunct to the court process, but it usually is independent of the ultimate outcome of the court process itself. It generally is dependent upon seizing the vehicle at the time of the arrest and holding it for the period provided by law.

*Vehicle forfeiture.* Asset forfeiture has become a major feature of the enforcement of drug trafficking laws. Seizures under civil forfeiture laws to control high-risk drivers also are increasing. In Portland, Oregon, a local ordinance providing for the seizure of vehicles of "johns" was extended to include vehicles driven by

unlicensed drivers within the category of nuisance vehicles, thus allowing the city to seize the cars of offenders who were suspended as a result of a DUI conviction. A similar process is employed in California.

*Point systems.* For some years, nearly all States have had legislation that permits the motor vehicle department to suspend the license of an individual who accumulates a number of moving traffic violations. The number of violations that triggers suspension depends upon their nature and seriousness. Failure to report such violations to the motor vehicle department impinges on their ability to identify high-risk drivers. Point systems also may provide the State with an opportunity to motivate high-risk drivers to participate in driver education programs in order to avoid suspension.

## Community Initiatives

While the administrative control system seeks to protect the public from unsafe drivers, community-based organizations seek to prevent underage drinking and DUI. Community organizations throughout the Nation plan and implement prevention programs involving schools, law enforcement, media, alcohol retailers, and others. These organizations use media advocacy to garner support for law enforcement, conduct education campaigns targeting youth and their parents, and implement other strategies to restrict the availability of alcohol to youth while providing social alternatives that do not involve drinking. Some of the strategies described below have been found effective when implemented and systematically evaluated as part of a community-wide approach in randomized controlled community trials (Perry et al. 1993; Williams et al.1995; Hingson et al. 1996b; NIAAA 1996b; Perry et al. 1996; Toomey et al. 1996; Grube 1997; Holder and Reynolds 1997; Holder et al. 1997a, 1997b; Voas 1997; Voas et al. 1997a; Wagenaar et al. 1998).

### Media Advocacy

A critical problem for community organizations is focusing public attention on impaired driving. Media advocacy is a technique by which community groups attempt to attract press coverage of their efforts by contacting the media, issuing press releases and holding press conferences. Community groups attempt to mobilize public support behind the police and courts to assure that city, county, and State governments provide more funding for drinking-driving enforcement. They also push for local police departments to dedicate greater resources to the enforcement of underage drinking laws and impaired driving (Holder 1997a; Voas 1997).

### In-School Programs

School-based prevention programs may be part of community-wide efforts to prevent alcohol and other drug use. Research on the effect of these programs has been mixed. Early programs showed little evidence of success (Schaps et al. 1981), but over time, as greater scientific rigor was applied to the design, implementation, and evaluation of programs, greater effectiveness has been demonstrated for certain types of programs (Hansen 1992). These programs may seek to strengthen certain skills (e.g., communication skills, ability to resist peer pressure) and correct youth's often erroneous beliefs about the prevalence and acceptability of drinking. Some programs have proven effective in changing alcohol-related beliefs and resistance skills, and a few have resulted in small but significant delays in the onset of drinking (Botvin et al. 1984; Hansen et al. 1988a, 1988b; Pentz et al. 1989; Shope et al. 1992, 1997). For example, Project Northland, an ongoing school- and community-based intervention being conducted in Minnesota, is designed to delay,

prevent, and reduce alcohol use and related problems among underage youth. It includes social-behavioral curricula, peer leadership, parental involvement and education, and community-wide task force activities (Perry et al. 1993; Williams et al. 1995). The first three years of the intervention, conducted in grades six through eight, resulted in a significantly lower prevalence of monthly and weekly alcohol use among students in intervention communities compared with controls. These beneficial effects were notable particularly among students who had not yet begun experimenting with alcohol when the program began (Perry et al. 1996).

### Parental Involvement in Prevention

Research suggests that parents often underestimate their children's drinking behavior and are not involved adequately in preventing their children from drinking (Beck et al. 1987, 1995). According to surveys of high school students, parents could reduce teenagers' drinking more effectively by supervising parties, keeping closer control over alcohol kept at home, asking youth about drinking, and enforcing rules about drinking and driving (Atkin and Atkin 1986).

### Court Licensing Ceremonies

To help new young drivers in Virginia learn about the legal responsibilities that accompany the privilege of having a driver's license, all license applicants under the age of 18 must appear with a parent or guardian at a court licensing ceremony to receive their driver's license. The ceremony is conducted by the judge of the juvenile and domestic relations court district in which the juvenile lives. Each ceremony is usually attended by 75–100 juveniles and their parents or guardians. Each judge has discretion in the design of the ceremony. These ceremonies serve to educate juveniles and parents about the risks involved in underage drinking and impaired driving and the legal consequences of violating the State's "use and lose" law and other laws related to underage drinking and impaired driving. Police officers may appear at these ceremonies as guest speakers to discuss the consequences of drinking and driving. Before receiving his or her child's license, a parent must pledge that he or she will not give the license to the child until they have discussed a strategy for handling potential drinking and driving situations. This action makes the parent an active participant in the process and a partner with the court. Community coalitions have successfully worked with the juvenile courts in Virginia to develop and implement such a program. An example of such a coalition/court collaborative effort is "Children at Risk Today" (CART) in Chesterfield County, Virginia (Police Executive Research Forum, in press). This strategy has not been evaluated.

### Enhanced Enforcement

Some community consortiums established with the objective of reducing underage drinking have brought pressure on the police to increase sting operations in which police cadets or officers who appear to be underage attempt to purchase alcohol at convenience outlets. Because these cases involve adult proprietors and clerks, they rarely would come before a juvenile or traffic court. Sting operations are popular with community groups because they place pressure on the adult providers, rather than the underage drinkers. Alternatively, an unevaluated program known as "Cops in Shops" seeks to enforce laws against attempts to purchase and/or possess alcohol by having a police officer pose as a clerk in a convenience store and apprehend underage individuals attempting to purchase alcohol without identification or with false identification. Such offenders may be fined by the court and also may lose their driver's license.

## Responsible Beverage Service (RBS) or Server Training

RBS and server training programs educate salespersons in retail alcohol outlets and alcohol servers in restaurants and bars about how to avoid selling alcohol illegally to customers who are under 21 and to people who are intoxicated. Training may include information about how to detect false identification, how to spot purchases by adults who intend to pass the alcohol on to underage youth, and how to handle patrons who become belligerent when they are refused service. One study that evaluated the effect of a combination of increased enforcement, RBS training, and media advocacy found that, in combination, these efforts reduced retail sales of alcohol to underage youth. However, there was no evidence that RBS alone had an effect (Grube 1997).

## Alternative Nonalcoholic Social Events

Community organizations recognize that, if young people are to be asked to forgo alcohol, a feature of most adult social activities, it is essential that the community support nonalcoholic events for youth. "Sober graduation" programs are an example of such activities.

## Community Programs At Work

Government organizations and private funding agencies have supported the development of community coalitions to bring about policy changes and support efforts to enforce underage drinking laws and zero tolerance laws. Join Together, a nonprofit organization funded by the Robert Wood Johnson Foundation, maintains a list of over 1,000 such community organizations. "Drawing the Line on Under 21 Alcohol Use," in Montgomery County, MD, is an example of one such community coalition.

### "Drawing The Line On Under 21 Alcohol Use," Montgomery County, Md

*Drawing the Line on Under 21 Alcohol Use* is a multifaceted program designed to reduce underage drinking in Montgomery County, MD. The program conducts public education about the effects of underage drinking by holding press conferences, making presentations at schools and meetings of community organizations, and publishing pamphlets for the public. *Drawing the Line* also sponsors alcohol-free events for county residents who are under 21, including after-prom and after-game parties and dances. In addition, the program supports law enforcement efforts related to underage alcohol use by providing training for police, sponsoring a party hotline, and supporting the use of sobriety check-points and party patrols. Through program efforts, police departments in the county have improved their cooperation with one another. A 1995 evaluation of the program found that *Drawing the Line* had reached over 11,200 community members through its education efforts, that more than 22,350 underage youth participated in alcohol-free activities sponsored by the program, and that the number of underage alcohol-related citations had increased, demonstrating greater emphasis on this area of law enforcement (Gold et al. 1995). For more information see Resources list.

## The Relationship Between Judges, Prosecutors, and Community Organizations

In addition to their prevention activities on national, State, and local levels, community organizations also are involved in programs to help the victims of alcohol-related offenses. Many communities have organizations that manage accountability-based sanctions ordered by the court.

### Community Service Providers

Many communities have a private, nonprofit group that supervises individuals assigned by the court to community service. These organizations normally support themselves from offender fees and, to a lesser extent, from payments from the organizations that receive services. Program provider costs include advertising to attract firms willing to use community service offenders, insurance to cover injury to workers or damage to employers, and administrative costs (NHTSA 1985). Generally, evaluation of these programs has tended to demonstrate that the value of services delivered to the community is several times that of the administrative costs (NHTSA 1985, 1986a). Since these administrative costs are frequently borne by the offender, the community tends to receive a useful benefit for which the court can take credit.

### Victim Advocates

Victim advocates, such as members of MADD, frequently have come into conflict with the courts when judges and prosecutors have been viewed as not taking drinking and driving offenses seriously enough and being too lenient in their sentencing of DUI offenders. The court needs to be cognizant of the significance for victims of the conviction of the offender. Most States now provide that victims injured by a drinking driver can receive compensation from the State criminal compensation fund. However, this generally is true only if the driver who caused the injuries is convicted of impaired driving. Plea bargains and diversion programs that result in the offender avoiding a DUI conviction may result in loss of compensation for the victim. Prosecutors can play an important role in explaining the process of the criminal justice system to victims, keeping victims informed at all stages of this process, and ensuring that their views are presented to the court. Victims also frequently have considerable difficulty understanding the judicial process and feel that they and their needs are being ignored by the court. While exchanges between judges, prosecutors, and victims sometimes can be quite heated, it generally is useful for a judge and prosecutor to meet with the MADD organization to clarify court procedures and show an interest in victims' concerns. The judge and prosecutor often can obtain considerable support from MADD, particularly where he or she makes use of the victim impact panels in dealing with drinking-driving offenders.

### Judges' and Prosecutors' Interaction with Community Organizations

Judges and prosecutors can play important roles in all levels of community action. Prosecutors can work with advocacy groups to influence alcohol-related legislation. Judges and prosecutors can work with community-

level organizations to garner public support for law enforcement, gain the attention of youth in educational settings, and involve parents in efforts to prevent underage alcohol offenses. Judges and prosecutors also can work with community organizations involved in managing community service programs and other programs to ensure offender accountability.

The National District Attorneys Association (NDAA) has stated that "coupled with effective enforcement and protection efforts, crime prevention initiatives are important and necessary" (NDAA 1996). As respected members of the community, judges and prosecutors can raise community awareness and concern about the risks involved in underage drinking. Judges and prosecutors can consider speaking at forums such as schools, PTA meetings, meetings of MADD and Students Against Destructive Decisions (SADD), and at other forums about laws related to underage drinking and impaired driving, the risks involved in committing these offenses, and the justice system's response to these offenses. Judges and prosecutors can speak to parents about youth drinking and the situations in which drinking can occur, and parents' potential ability to help prevent their children's drinking (Beck and Lockhart 1992).

Community organizations dedicated to reducing underage drinking, and drinking and driving provide judges and prosecutors with the opportunity to participate in nonpartisan programs directed at protecting both youth and the general public. Research on community action has demonstrated the importance of gaining public attention for health problems that a community group is attempting to promote (Holder et al. 1997a). In communities that do not have traffic safety advocacy organizations, judges and prosecutors can assist in such a group's formation by fostering linkages with other community leaders.

Judges and prosecutors can assist community organizations in attracting press attention and in providing a credible voice for communicating with the public. They can help community coalitions dramatize the risks involved in underage drinking and DUI. Judges and prosecutors who participate in these efforts are likely to become principal spokespersons and to have a good opportunity to frequently come before the public on a topic with which most adults agree.

Concerns about judicial neutrality should not interfere with a judge's community outreach activity, unless the activity involves advocating a specific policy. The American Bar Association's Canons of Judicial Conduct encourages judicial involvement in community prevention activities, including community task forces. Such activity not only advances public education and improves the judicial process, it also enhances public confidence in and respect for the judicial system (McConville 1997).

## Environmental Efforts To Reduce Underage Drinking and DUI: Research Findings

Efforts to reduce underage drinking and DUI go beyond the activities of community programs, administrative agencies, and the courts. Environmental efforts (those efforts aimed at modifying the availability of alcohol) to reduce underage drinking and DUI include a variety of laws, policies, and practices, many of which have been evaluated by research. To inform judges and prosecutors about research findings on the effectiveness of environmental efforts, brief descriptions of these laws, policies, and practices and the relevant findings are presented below.

## Laws, Policies, and Practices to Reduce Underage Persons' Access to Alcohol

*Alcohol taxes.* Higher taxes on beer have been associated with reductions in the levels and frequency of drinking and heavy drinking among youth and lower traffic crash fatality rates, especially among young drivers (Grossman et al. 1987; Saffer and Grossman 1987; Coate and Grossman 1988; NIAAA 1996b).

*Alcohol beverage control systems.* Laws regulating who can sell alcoholic beverages and when they can be sold vary from State to State, ranging from State monopolies to privatized license systems. In addition, a State may have a monopoly system for one type of alcoholic beverage (e.g., distilled spirits) and a license system for others (e.g., wine and beer) at either the wholesale level, the retail level, or both. The privatization of alcohol sales typically results in an increased number of outlets, longer sale hours, and increased marketing (Wagenaar and Holder 1991), which therefore may increase the availability of alcohol to youth. One study of the effects of privatizing wine sales in five States found that sales increased in each State, and that increases ranged from 15 to 150 percent (Wagenaar and Holder 1995).

*Zoning laws.* Increased density of alcohol retail outlets has been associated with increased alcohol sales (Gruenewald et al. 1993) and increased motor vehicle mortality (Dull and Giacopassi 1988). Local zoning laws can restrict the density of alcohol retail outlets, as well as their hours of sale.

The following laws may be promising, but their effectiveness for reducing underage access to alcohol has not been evaluated:

- *Keg registration laws.* These laws require establishments that sell alcoholic beverages in kegs to register the names and addresses of the individual who purchases the kegs. Each keg must be identified with a unique tamper-proof identification number, allowing the purchaser to be identified if the keg is later found to be a source of alcohol for underage drinkers (Sidwell 1997).
- *Alcoholic beverage control (ABC) at retail establishments.* It is generally a criminal offense for the owners or employees of establishments that sell alcoholic beverages to sell such beverages either to persons under 21 years old or to intoxicated persons. Individuals convicted of violating these prohibitions may be punished by either a jail sentence, a fine or both. In addition, the business where the violation occurred may have its license to sell alcoholic beverages either suspended or revoked. Massachusetts law (MA G.L. ch. 90 §24 J) requires that judges ask defendants adjudicated or convicted of drunk driving where they were last served. If they report a licensed establishment, the name of the establishment is sent to both State and local liquor licensing control agencies. Multiple citations have suggested irresponsible service of alcohol.
- *Distinctive licenses for drivers under age 21.* The use of a unique license design for drivers under age 21 may help combat the use of false IDs and make it easier for alcohol sellers to determine quickly if a person is 21. The under-21 license may include two pictures or a profile picture, or a different color background may be used for the photograph. Some States also place holograms on all new licenses, making them more difficult to alter or replicate (NHTSA 1991).
- *SmartCard Licenses.* NHTSA is evaluating the effectiveness of a program that requires all youthful-appearing buyers to verify their age with an electronically-coded driver's license in York Co., Pennsylvania. All retail outlets and service establishments have been equipped with a special device to read the encoded cards. (Beirness, 1997).

## Laws Pertaining To Alcohol Possession And Use In Vehicles

- *Open container laws.* These laws make it a criminal offense for a person to possess an open container of an alcoholic beverage in the passenger compartment of a motor vehicle. These laws usually cover any person riding in the passenger compartment of the vehicle. "Open container" includes any *open* receptacle that is capable of holding an alcoholic beverage. This could include bottles, cans, cups, glasses, and other containers.
- *Anti-consumption laws.* These laws make it a criminal offense for a person to *consume* alcoholic beverages in the passenger compartment of a motor vehicle. In many States, this law applies only to drivers.

## Encouraging Safe Driving By Youth

Because a driver's license is especially prized by youth, some prevention strategies, such as those described below, are designed to use the driving privilege as motivation for youth to drive safely.

*Graduated licensing.* It always has been recognized that certain minimum skills are required to operate a vehicle on the public highway. Research has demonstrated that in addition to basic driving skills, driving experience is significant in producing a safe driver. Currently, safety groups are organizing a major national campaign to have States enact graduated licensing programs that would introduce novice drivers step by step into the traffic stream, which would limit their exposure to risk while they are acquiring experience. Thus, the novice driver would begin by operating a vehicle only while an adult licensed driver is present and move on to driving on his or her own during the daytime until sufficient experience is gained to drive at night. Traffic infractions would extend the period of limited driving privilege or would completely suspend the driving privilege. Additional restrictions may be placed in the statutory system, such as mandatory seat belt use for all occupants, and limits on the number and age of passengers. Violations of such restrictions may be enforced through administrative action or by the court. Evaluations of graduated licensing programs in Maryland, Oregon, and California have shown reductions in crash rates and traffic violations among young drivers (NHTSA 1998b).

A *nighttime driving curfew* is a key component of graduated licensing. Nighttime driving is riskier than daytime driving for a number of reasons, including the greater likelihood of alcohol use. Nighttime driving curfews generally prohibit nighttime driving by new young drivers, but allow exceptions for young drivers who are accompanied by a parent and those who need to drive to or from school or work at night. Nighttime driving restrictions have been found to be effective in reducing crashes both overall and specifically during curfew hours (Preusser et al. 1984; Ferguson et al. 1996).

*Delayed licensure.* Research indicates that delaying the age of licensure is associated with reduced crash rates among young drivers (Leaf et al. 1994).

# IX. Recommendations for Policy and Research

This chapter presents policy recommendations and it identifies areas where further research is needed to increase the effectiveness of dispositions for alcohol-related offenses among youth.

## Policy Recommendations

The goal of this *Guide* is to help judges and prosecutors effectively sanction cases of underage drinking and impaired driving. To that end, the NIAAA-NHTSA Expert Panel on Sentencing and Dispositions of Youth DUI and Other Alcohol Offenses endorses the following recommendations:

### On Case Processing

- Efforts should be made to handle cases involving underage alcohol offenders as swiftly as possible.
- Courts must coordinate with administrative agencies to ensure that public safety is not compromised while a case is pending.

### On Sentences and Dispositions

- It is important to pay close attention to all alcohol offenses among youth and to recognize that such offenses may contribute to impaired driving and other problems.
- Any sentence or disposition for a case involving underage alcohol-related offenders should seek to protect the public, hold the offender accountable to the victim and/or community, and provide education or treatment for the offender.
- Effective dispositions must incorporate increasingly severe sanctions when an offender fails to respond to initial and subsequent interventions.

### On Screening, Assessment, and Treatment For Offenders

- All DUI offenders entering the court should be screened for alcohol and other drug (AOD) problems.
- When screening indicates the need for assessment, assessment should be conducted by trained professionals.
- Screening and assessment instruments used to evaluate underage alcohol offenders should be appropriate for youth.
- To avoid conflict of interest, assessment and treatment referral should be conducted by an agency not associated with any treatment program.

- Judges, prosecutors, probation officers, and other justice system staff should have general knowledge about screening, assessment, and other issues surrounding AOD abuse treatment and should seek information about locally available agencies and the quality of the services they provide.
- The results of assessment and recommendations for treatment should be made available to the judge and prosecutor before sentencing.
- Judges and prosecutors should be familiar with the treatment provider(s) in their jurisdictions and use their authority to advocate for the development of supplemental services and programs as needed.
- When the offender (or offender's parents) cannot pay treatment costs, the court should consider substituting community service for fees and fines associated with the offense to help them pay for treatment.

### On Diversion

- Diversion decisions should not be made by police authorities.
- Diversion is not recommended for impaired driving offenses.
- For nondriving alcohol offenses, diversion programs should be designed to hold offenders accountable for their acts and include elements aimed at rehabilitation, prevention, and education. Offenders who participate in a diversion program should not be able to avoid the imposition of mandatory sanctions, such as license revocation.
- Any diversion program should contain provisions to ensure that offenders who do not successfully complete the diversion program will be referred back to the prosecutor's office for prosecution.
- Adequate records should be maintained to ensure that a youth receiving a diversion sanction in one jurisdiction will not be eligible for a similar program in other jurisdictions.

On the role of parents in the justice system:

- Parents of juvenile offenders should be involved in the judicial process and should be required to attend court hearings; participate in rehabilitative and other court-ordered programs that require parental involvement with their children; pay certain costs associated with their children's criminal behavior, within appropriate limitations and subject to the ability to pay; and fulfill other obligations as ordered by the court.

### On Information Sharing

- Relevant information concerning underage alcohol offenders should be shared among all entities that come into contact with the offender. This information should be available on a "need to know" basis with appropriate safeguards to protect against the release of confidential information to unauthorized persons.
- The records of all impaired driving offenders, regardless of where their cases are handled, should be kept in a central repository and should be accessible to all relevant entities.
- Judges and prosecutors should encourage States to improve their systems for tracking DUI offenses.

### On Monitoring and Enforcement

- The court should have the resources, and should implement procedures, to monitor all sanctions.
- The court should take immediate action when an offender fails to comply, and the probation department should have the authority to impose immediate consequences.
- All courts should be provided with adequate resources to permit intensive monitoring of high recidivism-risk offenders.

### On Judges' and Prosecutors' Roles in Prevention

- Judges and prosecutors should take an active role in community activities designed to prevent alcohol-related offenses among underage persons.

## Research Recommendations

There is a pressing need for research findings to guide policies and practices related to underage drinking and DUI offenses, cases, and their dispositions. Specific needs include the following:

- Well-designed evaluations to assess the implementation process and outcome effectiveness of interventions with youthful DUI offenders and with youth who violate other alcohol-related laws. Preferably, the interventions would involve random assignment to various interventions individually and in combination. Intervention options may include various administrative license restrictions, court-mandated alcohol screening and treatment programs, and innovative types and conditions of youth probation (e.g., mandated parental involvement).
- Additional evaluations might focus on the impact of intensive monitoring on recidivism and other program outcomes, and on comparing the age-specific effectiveness of various sanction and treatment programs, since most have been evaluated only with adults, but not with offenders under age 21.
- Research on the impact of intensive law enforcement and rapid adjudication of youthful violations of DUI, minimum legal drinking age (MLDA), and alcoholic beverage control (ABC) laws on costs, community reaction and recidivism rates.
- Studies comparing the procedures, sanctions, and outcomes of handling juvenile DUI offenses in juvenile and in traffic courts. These studies also might test the impact of a special alcohol court (or inclusion of youthful alcohol offenses in a juvenile drug court setting) for underage youth.

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# XI. Resources

**Al-Anon Family Group Headquarters**
1600 Corporate Landing Parkway
Virginia Beach, VA 23454–5617
http://www.al-anon.alateen.org

Makes referrals to local Al-Anon groups, which are support groups for spouses and other significant adults in an alcoholic person's life. Also makes referrals to Alateen groups, which offer support to children of alcoholics.

Locations of Al-Anon or Alateen meetings worldwide can be obtained by calling the toll-free numbers Monday through Friday, 8 a.m.–6 p.m. (e.s.t.):
U.S.: 1–800–356–9996
Canada: 1–800–714–7498

**Alcoholics Anonymous (AA) World Services**
475 Riverside Drive, 11th Floor
New York, NY 10115
Phone: 212–870–3400
Fax: 212–870–3003
http://www.alcoholics-anonymous.org

Makes referrals to local AA groups and provides informational materials on the AA program. Many cities and towns also have a local AA office listed in the telephone book.

**American Probation and Parole Association**
c/o The Council of State Governments
Teen Courts Project Manager
Iron Works Pike
P.O. Box 11910
Lexington, KY 40578–1910
Phone: 606–244–8215
Fax: 606–244–8001
http://www.csg.org/appa

**Center for Substance Abuse Prevention**
5600 Fishers Lane, Rockwall II
Rockville, MD 20857
Phone: 301–443–0365
Fax: 301–443–5447
http://www.samhsa.gov

**Center for Substance Abuse Treatment**
5600 Fishers Lane, Rockwall II
Rockville, MD 20857
Phone: 301–443–5052
Fax: 301–443–7801
http://www.samhsa.gov

**Children at Risk Today (CART)**
14005 Steeplestone Drive
Midlothian, VA 22113
Phone: 804-378-7757

**Corrective Behavior Institute**
6151 Fairmount Ave., Suite 113
San Diego, CA 92120
Phone: 619-528-9001

**Court Licensing**
**Juvenile and Domestic Relations District Court**
**Judge Philip Trompeter**
305 E. Main St.
Salem, VA 24153
Phone: 540–387–6126
Fax: 540–387–6231

**Drawing the Line on Under 21 Alcohol Use**
Nancy Rea, Program Coordinator
8630 Fenton Street, 10th Floor
Silver Spring, MD 20910
Phone: 301–217–1123
Fax: 301–217–3054
http://www.co.mo.md.us/services/hhs/publhlth/dtl/dtl.html

**Higher Education Center for Alcohol and Other Drug Prevention**
Education Development Center, Inc.
55 Chapel Street
Newton, MA 02158–1060
Phone: 1–800–676–1730 x 2393
Fax: 617–928–1537
http://www.edc.org/hec/

**International Conference of Young People in A.A.**
P.O. Box 19312
Eastgate Station
Indianapolis, IN 46219
Phone: 847–733–0462

**Mothers Against Drunk Driving (MADD)**
511 East John Carpenter Freeway, Suite 700
Irving, TX 75062
Phone: 1–800–GET–MADD (1–800–438–6233)
Fax: 972–869–2206
http://www.madd.org

**National Clearinghouse on Alcohol and Drug Information (NCADI)**
P.O. Box 2345
Rockville, MD 20847–2345
Phone: 1–800–729–6686 or 301–468–2600
Fax: 301–468–6433
http://www.health.org

**National Commission Against Drunk Driving (NCADD)**
1900 L Street NW, Suite 705
Washington, DC 20036
Phone: 202–452–6004
Fax: 202–223–7012
E-mail: KWilli2636@aol.com
http://www.ncadd.com

**National Council of Juvenile and Family Court Judges**
P.O. Box 8970
Reno, NV 89507
Phone: 702–784–6012
Fax: 702–784–6628
http://www.ncjfcj.unr.edu

**National Council on Alcoholism and Drug Dependence (NCADD)**
12 West 21st Street
New York, NY 10010
Phone: 1–800–NCA–CALL or 212–206–6770
Fax: 212–645–1690
http://www.ncadd.org

Provides telephone numbers of local NCADD affiliates (who can provide information on local treatment resources) and educational materials on alocholism via the above toll-free number.

**National District Attorneys Association**
99 Canal Center Plaza, Suite 510
Alexandria, VA 22314
Phone: 703–549–9222
Fax: 703–836–3195
http://www.ndaa.org

**National Highway Traffic Safety Administration**
**U.S. Department of Transportation**
**Impaired Driving Program, NTS–11**
400 Seventh Street, SW
Washington, DC 20590
Phone: 202–366–9581
Fax: 202–366–2766
http://www.nhtsa.dot.gov

**National Institute on Alcohol Abuse And Alcoholism (NIAAA)**
**Prevention Research Branch**
6000 Executive Boulevard, Suite 505
Bethesda, MD 20892–7003
Phone: 301–443–8767
http://www.willco@niaaa.nih.gov

Makes available free informational materials on all aspects of alcoholism, including the effects of alcohol on driving, violence, and aggression.
Office of Juvenile Justice and Delinquency Prevention

**Juvenile Justice Clearinghouse**
P.O. Box 6000
Rockville, MD 20849–6000
Phone: 800–638–8736
Fax: 301–519–5212
http://www.ncjrs.org/ojjhome.htm

**Partners Against Crime Mentoring Program**
(operated by Volunteers in Prevention, Probation, and Prisons, Inc.)
163 Madison Avenue, Suite 207
Detroit, MI 48226–2135
Phone: 313–964–1110
Fax: 313–964–1145
E-mail: vip-pac@bigfoot.com
http://comnet.org/vip

**Remove Intoxicated Drivers (RID)**
P.O. Box 520
Schenectady, NY 12301
Phone: 518–372–0034
Fax: 518–370–4917
E-mail: ridusa@crisny.org
http://www.crisny.org/not-for-profit/ridusa

**Responsible Driving, Inc.**
6795 E. Tennessee Ave., Suite 310
Denver, CO 80224
Phone: 303–399–2150
Fax: 303–399–2151
E-mail: kateku@aol.com

**Students Against Destructive Decisions, Inc. (SADD)**
P.O. Box 800
Marlboro, MA 01752
Phone: 1–888–723–3462
http://www.nat-sadd.org

# THE U.S. ALCOHOL SAFETY SYSTEM

| COMMUNITY-BASED ACTIVITIES | JUSTICE SYSTEM | ADMINISTRATIVE CONTROL SYSTEM |
|---|---|---|
| Community Service<br>Victim Restitution | ACCOUNTABILITY TO THE VICTIM OR COMMUNITY | Administrative License Revocation |
| | • Jail<br>• Community Service<br>• Fines | Graduated Licensing<br>Point Systems<br>Registration Cancellation |
| Limiting Availability<br>Responsible Sales Policies<br>Responsible Advertising<br>Media Advocacy | PUBLIC SAFETY<br>• Zero Tolerance Laws<br>• Use and Lose Laws<br>• Alcohol Safety Interlocks<br>• Vehicle Plate Confiscation | Zero Tolerance Laws<br>Use and Lose Laws<br>Alcohol Safety Interlocks<br>Vehicle Plate Confiscation |
| Legislative Advocacy | EDUCATION/TREATMENT<br>• Screening | |
| Alternative Nonalcoholic Events<br>Education/Treatment<br>Public Education Programs | • Education/Treatment | |
| Victim Advocates<br>Victim Impact Panels | • Monitoring<br>• Victim Impact Panels | |
| | CIVIL COURT ACTIONS<br>• Vehicle Impoundment<br>• Vehicle Forfeiture | Vehicle Impoundment<br>Vehicle Forfeiture |

*This table presents a schematic model of the three elements of the current US alcohol safety system: community-based activities, the justice system, and the administrative control System. The justice system interacts with both the community consortiums working to reduce the availability of alcohol to minors and the programs managed by the State driver licensing agencies, which are directed at protecting the public by preventing driving by high-risk operators. The three goals of sanctioning – public protection, accountability to the victim or community, and treatment or education for the offender – mesh with elements that are outside the court. It is important that judges and prosecutors have a good understanding of the overall State and community system to ensure that sanctioning decisions enhance the effectiveness of community efforts to reduce alcohol problems and State efforts to protect motorists from high-risk drivers.*

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