

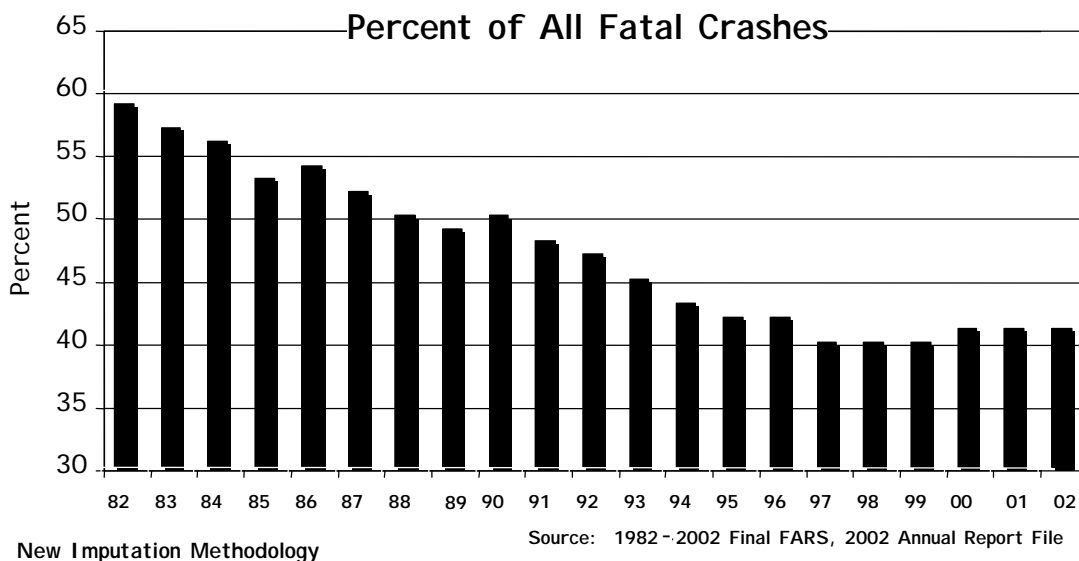
# Guidelines for Sentencing DUI Offenders in the United States

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## Background

Guidelines based upon research are needed to assist judges and prosecutors in reducing recidivism among people convicted of driving under the influence (DUI) or driving while intoxicated (DWI). While the work of judges, prosecutors and other professionals has contributed to the marked reduction in alcohol-related deaths on the highway since the early 1980s, in the past 6 years progress has stagnated (see Figure 1).



**Figure 1. Alcohol Involvement in Fatal Crashes**

The involvement of all practitioners in the DUI sentencing process is crucial from both community and public health perspectives. Dealing most effectively with serious traffic offenders can make a substantial difference in community members' health, quality of life, and public welfare.

The guidelines in this paper focus only on the offender convicted of DUI or DWI (the terms DUI and DWI are used interchangeably throughout this paper)—and does not differentiate between DUI offenders convicted as a result of a routine traffic stop and those convicted as a result of involvement in a crash. These guidelines also do not deal with the more serious charges that could result from a DUI such as vehicular homicide or vehicular manslaughter.

## Sanctions That Work Best

Data on the effectiveness of *all* the different DUI sanctions used in the United States are inadequate and some data are conflicting. However, available information supports the following generalizations:

- Consistency in sentencing should be balanced with the need to tailor sanctions and the extent of treatment to individual offenders.<sup>1,2,3,4</sup>
- When dealing with recidivists, the focus of sentencing should shift from deterrence to incapacitation or separation of the offender from the vehicle.<sup>5,6</sup>
- Ideally, an evaluation of an offender's problem with alcohol or abuse of alcohol, administered and interpreted by qualified professionals, should be conducted before deciding which sanctions to impose.<sup>2,7,8,9</sup>
- There is a growing body of evidence that sanctions administered on the vehicles of DUI offenders substantially reduce DUI recidivism during the period of implementation.<sup>10,6</sup>
- Intensive supervision probation combined with frequent meetings with the judge and close monitoring of compliance with the offender's sanctions (e.g. DUI Courts) appear to be effective in dealing with multiple repeat offenders.<sup>11,4</sup>

In general, effective sanctions fall into the following areas:

- Licensing sanctions
- Vehicle actions
- Assessment and rehabilitation
- Other sentencing options

Research indicates that a combination of sanctions is more effective than any individual sanction.

## Treatment Approaches That Work Best

Two generalizations can be made about treatment effectiveness:

- Treatments that combine strategies, such as education in conjunction with therapy and aftercare, appear to be most effective for repeat as well as first-time offenders.<sup>12,13,14,15,16</sup>
- The more severe the alcohol problem, the more intensive should be the treatment.<sup>17</sup> For alcohol dependent offenders, any one of three popular treatment philosophies appear to work equally well in reducing alcohol abuse up to one year post-treatment. These include cognitive-behavioral therapy (CBT), motivational enhancement therapy (MET) and 12-step facilitation therapy (TSF).<sup>18</sup>

Data are insufficient to determine the most effective specific treatment strategy for each offender. In general, evidence for alcohol problem treatment supports a 7-to-9-percent reduction of DUI recidivism and crashes averaged across all offender and treatment types.<sup>12</sup>

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

Regardless of treatment type, a treatment program should accomplish at least the following.<sup>19</sup>

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

## **DUI Courts**

There is growing evidence that DUI Courts, modeled after Drug Courts, hold promise in substantially reducing DUI recidivism of offenders who complete the requirements of such a court. DUI Courts generally involve:

- Frequent interaction of the offender with the DUI Court judge
- Intensive supervision by probation officers
- Intensive treatment
- Random alcohol and other drug testing
- Community service or some equivalent
- Lifestyle changes
- Positive reinforcement for successful performance in the program

Most DUI Courts assign non-violent offenders who have had two or more DWI convictions in the past to the Court. At the present time, there are multiple sources of funding for Drug/DUI Courts to help defray their costs. DUI Courts have been shown to hold offenders accountable for their actions, change offenders' behavior to reduce recidivism, stop alcohol abuse, treat the victims of DUI offenders in a fair and just way, and protect the public.<sup>20,21</sup>

## **Brief Interventions**

Recent research on the effectiveness of brief interventions in medical settings is promising. However, most of these interventions are accomplished before drivers are arrested or charged with DUI. Counseling by medical professionals of drinking drivers injured in crashes and treated at hospitals has been shown to reduce future alcohol-related episodes.<sup>15,22,23</sup>

The table below summarizes the evidence in the literature concerning various DUI sentencing options:

**Table 1. DUI Sentencing Checklist**

<b>OFFENDER</b>	<b>SANCTION</b>	<b>EFFECTIVENESS</b>	<b>COMMENT</b>
<b>FIRST CONVICTION</b>	<b>LICENSING:</b>		
	Suspension/Revocation (>=90 days; 30 days hard)	Reduces alcohol-related fatalities 6-19% (administrative) and reduces recidivism.	Studies show it does not cause employment problems.
	<b>VEHICLE ACTIONS: (FOR VERY HIGH BACS):</b>		
	Impoundment/ Immobilization	Reduces recidivism by 40%-70%.	Immobilization may be more cost effective.
	Alcohol Ignition Interlocks	Effective while on vehicle.	Breath test failures in first few weeks are best predictor of recidivism.
	License Plate Impoundment	Shown to be effective in MN.	More cost efficient than impoundment.
	<b>ASSESSMENT &amp; REHABILITATION:</b>		
	Treatment as appropriate to problem	Reduces recidivism by 7%-9%.	Should be paid by the offender when possible.
	<b>SENTENCING OPTIONS:</b>		
	Electronic monitoring Home confinement	Effective alternative to jail. Reduces recidivism by 33%.	Can be self-sufficient if paid by the offender.
Fines		Sometimes used to pay for programs.	
<b>MULTIPLE CONVICTIONS (Repeat Offender)</b>	<b>LICENSING:</b>		
	Suspension/ Revocation (>= 1 year) 30-90 days hard Remaining days on restricted license/work permit		Studies indicate 50-70% of offenders continue to drive anyway.
	<b>VEHICLE ACTIONS:</b>		
	Impoundment/Immobilization	Reduces recidivism by 40%-70%.	Immobilization may be more cost effective.
	Alcohol Ignition Interlocks	Reduces recidivism while on vehicle.	Breath test failures in first few weeks are best predictor of recidivism.
License Plate Impoundment	Shown to reduce recidivism in MN.	More cost efficient than impoundment.	

OFFENDER	SANCTION	EFFECTIVENESS	COMMENT
	<b>ASSESSMENT &amp; REHABILITATION:</b>		
	Mandatory assessment of drinking problem and mandatory treatment.	Reduces recidivism by 7%-9%.	Should be paid by the offender when possible.
	<b>SENTENCING OPTIONS:</b>		
	Electronic monitoring and home confinement.	Reduces recidivism by 33%.	Can be self-sufficient if paid by the offender.
	Intensive Supervision Probation.	Reduces recidivism by 50%.	Should be at least partially funded by the offender.
	Special DWI Facilities.	Reduces recidivism by 75%.	
	Day Reporting Center.	Integrates offender back into society.	More cost effective than jail.
	Fines. Reinstatement Fees.		Helps pay for costs of other sanctions.
	DUI Court (e.g. frequent contact with judge; intensive supervision probation; treatment; random alcohol/drug testing; lifestyle changes; positive reinforcement).	Some Courts reporting reductions in recidivism by 50% or greater.	Multiple funding sources available. NHTSA and NIAAA evaluations are underway.

When considering sanctions for DWI offenders, the guidelines in Table 1 provide judges with an overview of the various sentencing options and information on their effectiveness.

- <sup>1</sup> Donovan, DM; Marlatt, GA. Personality subtypes among driving-while-intoxicated offenders: Relationship to drinking behavior and driving risk. *J Consult Clin Psychol*, 50(2):241–249, 1982.
- <sup>2</sup> Perrine, MW; Peck, RC; Fell, JC. Epidemiologic perspectives on drunk driving. Paper presented at the U.S. Surgeon General's Workshop on Drunk Driving, December 1988, Washington, DC: Government Printing Office, (1988).
- <sup>3</sup> Wells-Parker, E; Landrum, JW; Topping, JS. Matching the DWI offender to an effective intervention strategy: An emerging research agenda. In RJ Wilson & RE Mann (Eds.), *Drinking and Driving: Advances in Research and Prevention* (pp. 267–289). New York: The Guilford Press, 1990.
- <sup>4</sup> Jones, RL; Lacey, JH. Evaluation of an individualized sanctioning program for DWI offenders. (DOT HS 808 842). Washington, DC: Natl Hwy Traffic Safety Admin, 1998 December.
- <sup>5</sup> Jacobs, J. B. Toward a jurisprudence of drunk driving recidivism. *Alcohol, Drugs and Driving*, 6(3-4):205–211, 1990
- <sup>6</sup> Marques, PR; Voas, RB; Hodgins, D. Vehicle interlock programs: Protecting the community against the drunk driver. *J Prev & Interv Comm*, 17(1):31–44, 1998

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- <sup>7</sup> Popkin, CL; Kannenberg, CH; Lacey, JH; Waller, PF. Assessment of classification instruments designed to detect alcohol abuse. (DOT HS 807 475). Washington, DC: NHTSA, 1988 December
- <sup>8</sup> Mayhew, DR; Simpson, HM. The hard core drinking driver. Paper presented at the Traffic Injury Research Foundation, Ottawa, Ontario, Canada, (1991)
- <sup>9</sup> Simpson, HM; Mayhew, DR; Beirness, DJ. Dealing with the hard core drinking driver. 107 pp. Ottawa, Canada: Traffic Injury Research Foundation, 1996
- <sup>10</sup> Rauch, WJ; Zador, P; Ahlin, EM; Baum, H; Duncan, D; Beck, K; Raleigh, R; Joyce, J; Gretsinger, N. Any first alcohol-impaired driving event is a significant and substantial predictor of future recidivism. In DR Mayhew & C Dussault (Eds.), Proceedings of the 16th International Conference on Alcohol, Drugs and Traffic Safety, August 4-9, 2002 (Vol. 1, pp. 161-167). Montreal, Canada: Société de l'assurance automobile du Québec, 2002
- <sup>11</sup> Jones, RK; Wiliszowski, CH; Lacey, JH. Evaluation of alternative programs for repeat DWI offenders. DOT HS 808 493. Washington, DC: National Highway Traffic Safety Administration, Office of Program Development and Evaluation, 1996
- <sup>12</sup> Wells-Parker, E; Bangert-Drowns, R; McMillen, R; Williams, M. Final results from a meta-analysis of remedial interventions with drink/drive offenders. *Addiction*, 90(7):907-926, 1995
- <sup>13</sup> DeYoung, DJ. An evaluation of the effectiveness of alcohol treatment driver license actions and jail terms in reducing drunk driving recidivism in California. *Addiction*, 92(8):989-997, 1997
- <sup>14</sup> National Institute on Alcohol Abuse and Alcoholism. Tenth special report to the U.S. Congress on alcohol and health from the Secretary of Health and Human Services. Washington, DC: U.S. Department of Health and Human Services, 2000.
- <sup>15</sup> Wells-Parker, E; Williams, M. Identifying and interviewing with drinking drivers in various venues: A research review. In Mayhew & Dussault (Eds.), Proceedings of the 16th International Conference on Alcohol, Drugs & Traffic Safety, August 4-9, 2002. Montreal, Canada: Société de l'assurance automobile du Québec, 2002
- <sup>16</sup> Cavaiola, A; Wuth, C. Assesment and treatment of the DWI offender. Binghamton, NY: The Haworth Press, Inc., 2002
- <sup>17</sup> Mayhew, DR; Simpson, HM. The hard core drinking driver. Paper presented at the Traffic Injury Research Foundation, Ottawa, Ontario, Canada, (1991)
- <sup>18</sup> Project MATCH Research Group. Matching alcoholism treatments to client heterogeneity: Project MATCH posttreatment drinking outcomes. *JSA*, 58(1):7-29, 1997.
- <sup>19</sup> Center for Substance Abuse Treatment (CSAT). Screening and assessment for alcohol and other drug abuse among adults in the Criminal Justice System, Treatment Improvement Protocol (TIP) Series 7. [SMA]94-2076. Rockville, MD: CSAT, Department of Health and Human Services, 1994
- <sup>20</sup> Tauber, J; Huddleston, CW. DUI/drug courts: Defining a national strategy. Alexandria, VA: National Drug Court Institute, 1999
- <sup>21</sup> Freeman-Wilson, K; Wilkosz, MP. Drug court publications resource guide (Fourth ed.). Alexandria, VA: National Drug Court Institute, 2002
- <sup>22</sup> Gentilello, LM; Rivara, FP; Donovan, DM; Jurkovich, GJ; Daranciang, E; Dunn, CW; Villaveces, A; Copass, M; Ries, RR. Alcohol interventions in a trauma center as a means of reducing the risk of injury recurrence. *Annals of Surgery*, 230(4):473-483, 1999
- <sup>23</sup> Longabaugh, R; Woolard, RF; Nirenberg, TD; Minugh, AP; Becker, B; Clifford, PR; Carty, K; Sparadeo, F; Gogineni, A. Evaluating the effects of a brief motivational intervention for injured drinkers in the emergency department. *JSA*, 62(6):806-816, 2001