WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES

EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

SEPTEMBER 24, 2001

PREPARED BY:

THE DIERINGER RESEARCH GROUP, INC.

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LITERATURE REVIEW

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EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

PHASE 1: DATABASE SEARCH

JULY 18, 2001

PREPARED BY:

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

> "The Departments of Corrections, Health and Family Services and Transportation shall jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a second or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug."

At the request of the above mentioned departments, The Dieringer Research Group (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study's principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin
Step Two: Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin
Step Three: All 72 Wisconsin counties

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Phase One.

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
  - Elements of the adjudication process (arrest through post-sentencing).
  - Penalty structure/sentencing guidelines (fines/forfeitures, incarcerations, demerit points, license suspension/revocation, occupational license eligibility, AODA assessment/driver safety plans, work release privileges)
  - County jail diversions programs
    (deferred prosecution, bail monitoring, electronic monitoring, treatment alternative programs, deferred payment agreements, community service programs, home detention programs).

Phase Three:

- Assess and evaluate the effectiveness of the various practices.

Introduction

For this first phase, The DRG conducted a comprehensive literature search of numerous databases, primarily utilizing the services of a worldwide research and business intelligence service, FIND/SVP, in New York.

This research has found there are many alternative strategies for dealing with drinking drivers. Research consistently shows that one particular strategy by itself is not effective with many drinking drivers; it takes a variety of strategies used in combination to effectively fight the menace of motorists operating their vehicles while intoxicated (OWI)[1].

For several years, public pressure has encouraged state and local governments to be "tougher" on drinking drivers—frequently with mandatory incarceration. This research report, using a wide variety of secondary sources, finds that incarceration definitely has its place in combating OWI, but that place varies in different circumstances and is usually most effective when used with other sanctions and education or treatment.

This report also finds that it is improper to frame the issue of incarceration and alternative measures as "incarceration vs. alternatives." Incarceration is most effective when used with other measures, and frequently the other measures are most effective when used in conjunction with incarceration. This report examines the alternatives to incarceration for the repeat offender, but incarceration is not left out of the analysis; some of these alternatives work best when used as part of a whole systematic approach, which may include incarceration.

This report summarizes the results of many research projects conducted over the last 20 or so years. These research projects take many forms, including:

- Case studies of the best practices of jurisdictions fighting drunk driving
- Experiments in which one or more variables are manipulated in one "test" jurisdiction but not in another "control" jurisdiction
- Descriptions of drunk driving measures in one or more jurisdictions

Rather than have separate sections for case studies, for experiments, and for descriptions, all three types of research are integrated in this report. The report is organized by subject rather than by methodology. In the research, we did not find any jurisdiction that has "solved" the problem of drunk driving; there is no "silver bullet." However, we did find many jurisdictions that have implemented successful measures and have successfully addressed drunk driving. Each research study mentioned in this report is cited, with a complete reference in the bibliography.

The study of the effectiveness of anti-OWI measures is hampered by the haphazard nature of research studies and the variability of their quality. While there is a great number of research studies that examine the problem of drunk driving and what should be done about it, they almost always study one specific area at one specific time, and the applicability to Wisconsin in 2001 is often limited. In addition, the studies frequently have methodological problems such as biased samples, limited access to data, and lack of long-term measurement. Typically, these problems are unavoidable because of lack of funds or access to confidential records, but they confound understanding the effectiveness of measures designed to combat drunk driving.

[1] Note on language: Drunk driving is called several things, such as Operating While Intoxicated (OWI), Driving While Intoxicated (DWI), and Driving Under the Influence of Alcohol or Other Drugs (DUI). This report will use OWI to conform to typical usage in Wisconsin. However, when quoting reports or laws, the original terminology will be quoted.

Introduction

While reading this report, one should keep in mind that it is a literature review, not the definitive solution to drunk driving. This report summarizes the published experiences of a variety of geographical areas over the last two decades. Just as different jurisdictions have had different experiences, conditions have changed over the years. Like most things in life, the world of drunk driving is always in flux, as is the research on drunk driving. Therefore it is not surprising that there are many examples of both agreement and disagreement in the findings of research studies. Both the areas of agreement and disagreement are noted in this report.

Focus of This Report

This report will focus on measures to combat drunk driving—specifically on measures other than incarceration in dealing with repeat OWI offenders. Although repeat offenders make up only about one-third of the convictions in Wisconsin, they account for a disproportionate number of crashes and alcohol-related automobile deaths[2].

This report will also focus on the repeat offender from the moment of arrest—that is, it will address the issues that begin when the driver has been detected and stopped. It will not address issues that occur before a specific OWI violation occurs, such as whether the blood alcohol limit should be .10% or .08%, or how prevention programs should be structured. It will also not address patrolling or detection strategies. The focus of this report will be on the OWI process immediately after a police officer determines that the stopped driver is operating his or her vehicle while intoxicated. The entire OWI sequence is identified in the list below. This report begins at step 8:

Before the OWI violation takes place:

1. Legal strategies (e.g. BAC limit laws)
2. Prevention programs (e.g. underage drinking prevention programs)
3. Publicity programs (e.g. OWI awareness campaigns)
4. Enforcement strategies (e.g. OWI information tracking systems)

At the scene of the OWI violation:

5. Detection
6. Arrest
7. Collection of evidence
8. Administrative measures (e.g. Administrative License Suspension—ALS)

After the violation:

9. Adjudication
10. Conviction
11. Disposition (which may include punishment, treatment, education, work release, or education release)

[2] For information on the disproportionate effect of repeat offenders see Simpson and Matthews (1991), which is cited on p. 23 of this report.

Introduction

Drunk Driving Law in Wisconsin

The first Wisconsin law against operating a vehicle while intoxicated was enacted in 1849, long before automobiles were invented. In 1911, the first law in Wisconsin concerning driving a motor vehicle went into effect. The law also prohibited riding in an automobile while intoxicated. There was a fine for the first offense, and the possible penalties for second and subsequent offenses included incarceration. In 1921, the law was changed, including provisions for incarceration for first-time offenders. There were no references to second and subsequent offenders.

A specific blood alcohol content (BAC) law was first enacted in Wisconsin in 1949; the law specified .15% as *prima facie* evidence of intoxication, although additional corroborating evidence was also needed.

In 1969, Wisconsin's Implied Consent Law was enacted. According to this law, a driver of a vehicle on a highway is considered to have given his or her consent to submit to a chemical alcohol test when requested by a police officer. In 1973, the *prima facie* BAC was reduced to .10%, but the need for corroborating evidence was retained. By 1973, the penalty for the first offense no longer allowed the option of jail time.

A 1981 law dropped the need for corroborating evidence for drivers with BAC of .10% or more. It eliminated the ability of prosecutors to plea bargain OWI offenses to lesser offenses. It required alcohol assessment as a condition of sentence for every person convicted of OWI, and it established a surcharge fund for the purpose of helping to underwrite the assessment and treatment of alcoholism or other drug abuse problems of OWI offenders.

In 1983, a law changed the minimum legal drinking age from 18 to 19 and created an absolute sobriety provision for persons under the legal drinking age. In 1985, when the legal drinking age was changed to 21, the absolute sobriety provision was left at age 19.

In 1988, a law took effect that created immediate (30 days after the violation) license suspension for six months (Administrative Suspension) for any person with a BAC of .10% or greater. In 1993, a law took effect that created new penalties and treatment opportunities for OWI repeat offenders, including possible seizure of vehicles, increased penalty for Homicide by Intoxicated Use, a *per se* limit of .08% for persons with two or more prior OWI offenses, and easier access to treatment.

In 1999, Act 109 made several substantive changes, including increased penalties for repeat offenders, lowered prohibited alcohol concentration in some instances, such as creating a .02% *per se* limit after the third OWI offense, and expanded the ability for courts to use ignition interlock devices (IIDs).

Introduction

Currently in Wisconsin, the possible penalties increase with each OWI offense. For example, the penalties for a first offense include a fine or forfeiture of $150 - $300, license revocation of six to nine months, and immediate access to an occupational license. There is no provision for jail time for a first OWI offense. Penalties for a second OWI offense include a fine of $350 - $1,100, five days to six months in jail, 12 – 18 month license revocation, and access to an occupational license after 60 days. Penalties increase to the fifth and subsequent OWI offenses. Laws and penalties are somewhat complex, and it is beyond the scope of this report to list them all. For a more detailed information, see *1999 Wisconsin Alcohol Crash Facts*, Section 3 "Legal Sanctions." All the information in this section is from that document. Tables showing OWI and related alcohol penalties in effect on January 1, 2001, are on pages 11 – 13 of that document. This document may be accessed online at http://www.dot.state.wi.us/dtim/bts/safety-facts.htm.

In 1999, more than 37,500 drivers were arrested in Wisconsin for OWI. During that year, approximately 35,000 cases were adjudicated in Wisconsin, for offenses occurring in 1999 or previously. Of the adjudicated cases, over 92% resulted in convictions. The following table shows the percentage of cases with each disposition:

Dispositions from 1999 of Adjudicated OWI Citations

Outcome	Percent
Guilty	92.2
Not guilty	0.2
Dismissed	4.2
Amended	3.4
TOTAL CASES	**35,190**

Source: *1999 Wisconsin Alcohol Crash Facts*, Section 5 "Alcohol Convictions," p. 20
http://www.dot.state.wi.us/dtim/bts/safety-facts.htm

Of the drivers convicted of OWI in Wisconsin in 1999, almost two-thirds were first-time offenders. The breakout of offenders in 1999 is:

Number of OWI Offenses for Drivers Convicted in 1999

Number of Offenses	Percent
First offense	64.6
Second offense	18.8
Third or subsequent offense	16.6
TOTAL CONVICTIONS	**32,434**

Source: *Pretrial Intoxicated Driver Intervention Grant Program: Biennial Evaluation Report, WI DOT, 2000.*

SUMMARY AND CONCLUSIONS

Summary and Conclusions

Background

The 1999 Wisconsin Act 109, Section 88 (1) requires the Wisconsin Departments of Corrections, Health and Family Services, and Transportation to jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or need for incarceration of persons convicted of a second or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug. The study will be conducted in three phases.

The research objectives of Phase One were to review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide and identify examples of best practices including detailed case study profiles. To do this, The DRG conducted a comprehensive literature search of numerous databases, primarily utilizing the services of a worldwide research and business intelligence service, FIND/SVP, in New York.

Findings

The literature on OWI includes many "lessons" on dealing with the drinking driver. Following is a list of experts' suggestions that seem to appear regularly. These are "overall" or *gestalt* suggestions. One cannot necessarily go to one specific source to find a certain suggestion. In fact, if a suggestion is made by only one or a few sources, it does not appear on this list. The reader should keep in mind that these are not suggestions or "lessons" from The Dieringer Research Group. The DRG is not an authority on drunken driving. All of the following suggestions come from literature reviews of people who have studied the issue in depth from many different perspectives.

The main "lessons" are below. [*Wisconsin practices are in square brackets for reference.*]

- There should be a variety of measures to use on drunk driving offenders. The most appropriate ones should be used in combination with each other. No one measure, or set of measures, is most effective on every offender. [*Wisconsin uses a variety of measures.*]

- Sanctions and/or treatment and educational programs should be tailored for each offender. Virtually all of the sources say that an assessment should be made of each offender. [*Assessment has been required by Wisconsin law since 1981.*]

- Almost all of the researchers conclude that there should be sanctions. They conclude that without sanctions, many drunken drivers do not take the penalties seriously. Although some favor treatment or education alone, most say that sanctions should be included with that treatment or education. Treatment is not a substitute for sanctions, and sanctions are not a substitute for treatment. [*Wisconsin uses both sanctions and treatment or education, as appropriate.*]

- All offenders should be closely monitored to ensure that they are meeting program requirements—and penalties for not meeting the requirements should be certain and immediate. [*Wisconsin monitors compliance with Driver Safety Plan—required treatment or education.*]

Summary and Conclusions

- Although different analysts recommend a variety of measures, the single most popular measure seems to be Administrative License Suspension (ALS). [*Wisconsin has used ALS since 1987.*]

- Since one of the most important sanctions is suspension or revocation of the offender's driver's license, researchers stress that sanctions on convicted offenders who drive after losing their licenses should be particularly harsh.

- Because persistent drinking drivers cause a greatly disproportionate share of the alcohol-impaired vehicle crashes and deaths, any fight against drinking drivers should emphasize the repeat offenders. Unfortunately, these "hard core" offenders are more likely to have alcohol problems and are less likely to be influenced by "rational" sanctions such as threats of fines or incarceration. For these offenders, the emphasis should be on incapacitation rather than on deterrence. Vehicle confiscation or immobilization may be necessary. [*Wisconsin jails only repeat offenders, with longer mandatory minimum sentences with each subsequent offense.*]

- It is vital to keep good records. Without good records, offenders who have been caught driving drunk can pass themselves off as "first time offenders" several times. Many researchers oppose allowing "first time" offenders to escape having the OWI conviction included on their records because doing so allows them to repeatedly be "first time" offenders. [*Wisconsin counts prior offenses for a person's lifetime.*]

- For almost all of the researchers, incarceration—or at least the threat of it—is very important as one tool to fight drunken driving. By itself, it is not particularly effective, but it can be very useful when used with other measures. Some, but not all, of the situations in which incarceration can be valuable are:

  - ✓ As a sanction for an offender who violates the terms of his or her probation
  - ✓ As part of a combination of sanctions—such as one week of incarceration followed by two months of intensive probation.
  - ✓ As a sanction for an offender driving after his or her driver's license has been taken away
  - ✓ As a sanction to "get the attention" of an offender to participate in an education and/or treatment program

  [*Wisconsin law provides for the possibility of incarceration for the second and all subsequent offenses.*]

- Long-term incarceration for repeat offenders is not effective in changing the offenders' behavior after release, but it does get the offender off the streets for the term of the sentence. However, the financial cost of widespread long-term incarceration to the state is prohibitively high. [*Wisconsin does not practice widespread long-term incarceration.*]

Summary and Conclusions

- Generally, the swiftness and sureness of a sanction is more important for deterring drinking drivers than the severity of the sanction.

- The studies consistently find that more effort is more effective. That is, more intensively supervised probation is usually more effective than less supervised probation. Programs that are better funded and more intensive are more effective than those that are not. [*Wisconsin expends significant resources in its OWI education and treatment programs to ensure that they are tailored to individual offenders and are as effective as possible.*]

- In implementing any program to fight drunk driving, it is vital to gain the support of all the interested parties, such as judges, prosecutors, and probation officials. If one or more of these individuals do not understand or agree with the program, they can subvert it or make it unenforceable. For example, if judicial officials perceive drunk driving sanctions as too harsh, they will reduce charges or impose only minimal penalties. [*Various departments of the anti-OWI effort work well together in Wisconsin. Wisconsin's statutory OWI penalties give judges a minimum-maximum range for fines, jail time and driver's license suspension, but judges are also given sentencing guidelines within judicial administrative districts to help increase the consistency in sentences for given aggravating and mitigating circumstances.*]

MAIN FINDINGS

Background

The search for measures to combat drunk driving is an old one. There have been many suggestions over the years. One common reaction from many citizens is a demand that sanctions be more severe. As the public has asked for harsher penalties, the state and local governments have responded. The federal government has also involved itself in the issue. As part of the Drunk Driving Prevention Act of 1998, Congress established the Section 410 Program (in 23 U.S.C. 410). The main focus of the Section 410 Program is to provide grants to states that meet certain criteria aimed at fighting drunken driving. The provisions of the 410 Program have been altered over the years, but the main criteria that states have been called on to meet, and are relevant to this report, are listed below.

- Establish an Administrative License Suspension or Revocation System
- Establish a Program for Drivers with high BAC
- Establish Self-Sustaining Drunk Driving Prevention Programs
- Establish an effective tracking system for tracking DUI offenses
- "Other innovative programs"

[*Wisconsin has met Section 410 requirements since they began and has used the funds to underwrite a variety of innovative drunk driving programs.*]

Other interested parties have also made suggestions. One is a group of OWI experts who met at a U.S. Transportation Research Board (TRB) Workshop on the Persistent Drinking Driver in 1994. They listed several recommendations for government policy in dealing with drunk drivers. The eight recommendations relevant to this report are listed below.

1. All States need the basic foundation of providing for prompt and certain revocation of the driving license for first and repeat offenders--the sanction found to be most effective. Administrative License Revocation (ALR) is the best way to achieve this goal.

2. States should improve their traffic records and the delivery system for information to the courts and the police officers on the road. In this way, prosecutors and judges will have access to the complete prior record of the offender when charging and sentencing. In addition, the officer coming in contact with a driver will have the ability to quickly ascertain if that driver is legally licensed to drive and if that driver has been involved in an alcohol-related driving offense in the past. This information will allow officers to accurately identify, at the scene, repeat offenders and those who are driving illegally. The officer then can apply the full range of administrative sanctions the state permits to be taken against these offenders.

3. Driving while a license is suspended, revoked, or otherwise invalid, because of a DWI or a related offense, such as for a refusal to submit to a breath test, should be treated as a very serious offense.
4. States should eliminate programs that permit drivers arrested for DWI to avoid losing their licenses by entering a treatment or education program. Any treatment or education program should be in addition to the loss of license. Entering such programs could help to shorten the suspension period or be made a condition of relicensure. In the same vein, entering such a program should not result in the DWI arrest not appearing on the driver's record.

5. For those drivers who persist in driving with a suspended license for a DWI offense, the next step is to separate them from the vehicle they were driving when caught driving illegally, and possibly from any other vehicle to which they might have access. As has been proven effective with the licensing sanction, this vehicle sanction should be applied administratively, although it may take a number of forms. For example, the vehicle can be impounded, immobilized, or confiscated, or the license plates can be seized.

6. Licenses reinstated following a DWI conviction should carry a lower legal BAC limit. Alcohol detected at or above this lower limit would be a basis for revoking a driver's license again.

7. All juvenile DWI offenders should be prosecuted as adults, and the record of these offenses should be preserved after the offender reaches adulthood. These actions will permit early identification of young adults who are becoming persistent drinking drivers.

8. Refusal to take a breath test should receive the same or greater administrative penalty as a positive test result.

(These recommendations may be found at: http://mir.drugtext.org/druglibrary/schaffer/Misc/driving/s1p3.htm.)

The following list is only a subset of measures that have been tried in the United States. The main part of this report will examine the myriad of alternatives systematically. The page number of this report that discusses each measure is also listed below:

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Section One: Personal Sanctions on the Driver

Introduction

All of the studies on sanctions against drunk driving agree that the speed and sureness of the sanctions are more important in deterring OWI than their severity. Efforts aimed at increasing the speed and certainty of punishment are much more likely to be effective than efforts to increase the severity of the punishments.

Incarceration

It may seem strange to begin a report on "alternatives to incarceration" with a section on incarceration. However, it is included here to show that:

A. short-term incarceration, by itself, is most effective on first-time offenders, not repeat offenders,

B. long-term incarceration, by itself, is not effective in changing the attitudes or behavior of repeat offenders,

C. the cost of a widespread long-term incarceration strategy would be cost-prohibitive, and

D. incarceration can be used in a comprehensive program of treatment and education.

This section is also included because many discussions of alternative measures often compare those measures to incarceration. We could find no source that recommends incarceration alone.

The issue of incarceration is also addressed in the next section of this report, Treatment and Education of the Driver. This is because many institutions that confine offenders do so in order to treat them. There is no perfect rule about whether a facility that confines offenders against their will should be considered "incarceration" or "treatment." In this report, facilities that exist principally to treat offenders will be covered in the Treatment and Education section.

A. Short-Term Incarceration: Several states have mandatory short-term incarceration built into their OWI sanctions. Incarceration may be less than a day in jail for first-time offenders or for more than a year in prison for repeat offenders.

Studies on the effectiveness of incarceration show mixed results. Several studies have found that short-term incarceration can work on first-time offenders to "get their attention." For example, one study (Compton 1986) found a 40% decrease in recidivism in Tennessee after a mandatory two-day sentence was imposed on first-time offenders. Another study in Minnesota (Falkowski 1984) found a 20% reduction in nighttime injury accidents after two-day jail terms began being imposed on first-time offenders. However, another study in the state of Washington (Grube and Kearney 1983) could not find any decrease in alcohol-related fatalities after a quasi-mandatory (subject to the judge's discretion) incarceration penalty was imposed.

In a review of several studies about drunk driving (1995), H. Laurence Ross concluded that jail is not effective in reforming offenders. He found that it is most successful at temporarily incapacitating drunk drivers.

> *"However, in no jurisdiction are jail stays by routine offenders long enough to reduce their driving exposure by more than a small amount, and in many jurisdictions jail sentences are possible in theory but not in practice due to a lack of facilities."*

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One problem that several studies have pointed out is that sometimes judges perceive the incarceration punishments as too severe, or crowed jails make incarcerating drunk drivers less feasible. In those cases, offenders may not be sentenced as often as the law would seem to indicate. For example, in a 1983 National Institute of Justice study of Seattle and Los Angeles after the adoption of mandatory jail laws, conviction rates dropped from 80% before the law to 60% after, while deferred prosecution rose from 1.5% to 12%. In Los Angeles, judges granted more probation sentences, and only 25% of first-time offenders were incarcerated (cited in Wheeler and Hissong, 1988). [*The Wisconsin conviction rate is 92%.*]

In one program in New Hampshire, second offenders enter jail on Monday and are out by Thursday; they serve time but are out before the weekend, when the facilities are most heavily used. (http://www.dwidata.org/treatment/how.cfm).

Sometimes, the incarceration takes place in special facilities devoted to OWI cases. In Maryland, one program has the offender stay in a special OWI facility for 28 days, followed by at least a year of intensely supervised probation. This program has proved to be effective, although more with first-time offenders than repeat offenders (Voas and Tippetts, 1990).

B. Long-Term Incarceration: Longer sentences do not appear to have any perceptible impact on offenders' subsequent behavior (Ross 1992). Apparently, the sureness and swiftness of incarceration is more important than the severity. In one study in Australia, longer periods of imprisonment seemed to encourage re-offending for OWI, instead of the other way around (Homel, 1988). In a study in Norway and Sweden, traffic deaths decreased after legal reforms were adopted in 1988 and 1990 that abandoned mandatory incarceration (Ross and Klette, 1995).

C. Cost of Incarceration: One study conducted in the 1980s (Wheeler and Hissong, 1988) concluded that fines and probation were superior to incarceration as a measure to deal with drunk driving because they are as effective as incarceration but have several advantages, especially cost-effectiveness. They studied 397 convicted offenders in Harris County (Houston), Texas, and found no differences in the effectiveness of three alternative measures (fines, probation, and jail) on three-year recidivism. The study results are shown on the following table:

3-Year* Recidivism Rates for 397 Harris County, Texas, DWI Offenders

Sanction	Offender Status	
	DWI First	**Prior DWI Conviction**
Fine	14%	19%
Probation	11%	10%
Jail	8%	25%
Sample Size	*329*	*68*
No differences are statistically significant (p>.10)		

*Three years is counted from the original filing date of the DWI offense to the filing date of a reconviction DWI offense.

Source: Wheeler and Hissong (1998).

Besides the cost, the study authors pointed out some other problems with incarceration:

- General deterrence: With overcrowded jails, the threat of incarceration has become "a sham" with little credibility or deterrent effect.
- Sentence equity: There are serious disparities in sentencing, with poor people more likely to be confined and only minimal variations between sentences of first-time offenders and repeat offenders.
- Potential for education and rehabilitation: The emphasis on mandatory jail time has possibly reduced availability of treatment programs aimed at changing offenders' behavior.

One report (Simon, 1992) using Minnesota data found that long-term incarceration could be effective in lowering the number of alcohol-related deaths, but the cost in housing the offenders would be prohibitive. The report includes a table that shows that number of offenders who would be incarcerated and the number of estimated lives that would be saved. In a state where the prison population was 3,103 at the time of the study, if all offenders with two or more OWI arrests were confined for four years, the total OWI population alone would be 26,476 after four years and would result in saving 26 lives. The table showing different scenarios is below:

Cumulative Prison Population of Repeat Offenders if Incarcerated for Four Years After Arrest

Prior Arrests	Arrested Each Year	Number in Prison at End of Four Years	Lives Saved
2+	6,619	26,467	26
3+	2,984	11,936	14
4+	1,361	5,444	7
5+	627	2,508	3

Source: Simon, S. (1992).

The author concludes:

> *"The limited effectiveness in the saving of lives by the long-term incarceration of repeat DWI offenders combined with the lack of existing space to incarcerate them and the tremendous cost of building new prison or jail space, should be a compelling argument against the adoption of felony-type, lengthy prison sentences."*

D. Incarceration as Part of a Comprehensive Program: However, this same report (Simon, 1992) found that short-term incarceration was effective if it was included as part of a comprehensive program with education and treatment. Such a program is based on three main concepts or goals:

- Protection of the public through supervision of the offender
- Sanctions or punishment for the offender so that the offender is held accountable for his actions
- Treatment and/or education for the offender to provide the offender with the resources to deal with addiction, unemployment or lack of education (quoted from Larivee, 1991)

This report described a four-stage program used in Anoka County, Minnesota, that used incarceration as the first stage.

1. Incarceration, with offenders being allowed to go to work. A total of 73% serve between 30 and 119 days.
2. House arrest, with offenders being allowed to go to work. This stage lasts a minimum of two months.
3. The offender is no longer incarcerated but must be at the OWI facility during the evenings and weekends. This stage lasts a minimum of five months.
4. The last stage is traditional probation, which lasts for the rests of the offender's probationary period.

During Stages 2 and 3, the offender pays for 60% of the program costs. An offender who violates any rules during this process is subject to sanctions, including return to incarceration. Although the author clearly favors this program, he does not provide any data about its effectiveness. However, he did cite studies about the effectiveness of other programs that showed that program participants had lower rates of recidivism than other offenders (Morris and Tonry, 1990; Reis, 1983).

Detention Facilities for Repeat Offenders

As alternatives to traditional jails and prisons, many states have established facilities dedicated to repeat OWI offenders (see www.dwidata.org/sanctions/incarceration.cfm for more discussion). These facilities typically provide confinement along with treatment. Detention usually ranges from two weeks to three months. Chicago's Haymarket House combines detention, community service, treatment, and payment of fines. Offenders are sentenced in one-week increments, with a maximum period of 28 days.

In New Hampshire's "Multiple DWI Offender Intervention Detention Center," offenders are required to attend by court order or as a condition of license reinstatement. The facility's program lasts seven days and includes a counseling and treatment program. The program costs $950, which is paid by the offender. These fees cover about 50% of the facility's costs.

Home Confinement

One form of incarceration that is less costly than jail or prison time is home incarceration, often with some form of electronic monitoring (sometimes known as an Electronic Monitoring Program or EMP). The offender may be allowed to leave the home for pre-approved purposes such as work, treatment, or community service. Home confinement is typically enforced with random telephone calls and sometimes involves the offender blowing into an alcohol-breath tester while being monitored with a camera.

One study (Jones et al. 1992) found that that recidivism was 8% among offenders with home confinement, compared to 11.5% of a control group. Another study (Jones et al., 1997) studied Milwaukee and Los Angeles Counties. It compared repeat OWI offenders who participated in home confinement with electronic monitoring, those receiving intensive supervision probation with treatment, and those receiving traditional jail sentences. The study found that offenders receiving the home confinement and the intensive probation with treatment had lower one-year recidivism rates than those who served jail terms (this study is also relevant to the section below on intensive supervised probation).

There are two other benefits of home confinement. First, it is much less costly than institutional confinement; so more offenders can be confined at the same time within a specific budget. (In many programs, the offender is forced to pay the cost of his own confinement.) Second, offenders who stay at home have less opportunity to meet criminals in jail or prison and have an incentive to work, look for work, or participate in educational or treatment programs (Simpson, Mayhew, and Beirness 1996).

Intensive Supervision Probation

Intensive supervision probation involves probation that is much more intense than regular probation and typically includes more treatment and education services, as well as lower caseloads. One advantage of intensive supervision is that it is easier to get the offender to participate in an education or treatment program.

In one study in Maryland, offenders who were confined in a special OWI facility and then participated in intensive supervised probation were only one-fourth as likely to recidivate as those who had not participated in either program (Voas and Tippetts, 1990).

Another study in Minnesota sponsored by the Department of Public Safety found that over two to three years, the re-arrest rate for those participating in the program was 13%, compared to 28% for those who did not (www.dwidata.org/sanctions/intense_super_prob.cfm).

Pretrial Intensive Supervision Program (ISP)

A variant of intensive supervision probation is to conduct it before the trial. This program gets offenders into treatment as soon as possible—before conviction. Wisconsin has used Pretrial Intensive Supervision (ISP) since 1993. Milwaukee County first used it, and since 1993 nine other counties have begun using it. In this program, offenders are assessed and may undergo intensive supervision if they qualify for the program (typically offenders qualify if they have two or more OWI incidents and are not also being charged with a more serious offense, such as a violent offense). The program is different for each county but usually includes office visits, drug and alcohol tests, and drug and/or alcohol abuse treatment. In addition, some counties require the offenders to attend victim impact panels. Depending on the county, program participation usually lasts about three to six months.

The Milwaukee County ISP program was evaluated in 1996. In that study (Jones et al., 1996), 8.5% of a group of repeat OWI offenders who participated in this program recidivated within two years, compared to 16% of a control group. Some offenders told researchers that one reason for the program's success was that the repeated contact with the program and its staff reminded them of their offenses. That close contact helped them avoid returning to their old behaviors and provided them with direction and support over an extended period of time.

In a 2000 report, the Bureau of Transportation Safety (Division of Transportation Investment Management of the Wisconsin Department of Transportation) evaluated the ISP programs in all ten Wisconsin counties and found that (to quote the report):

- Repeat OWI offenders who successfully completed an ISP program were less likely to be re-arrested for OWI than were repeat offenders who did not participate in an ISP program. Collectively, the successful ISP participants were about one-third (8% versus 23%) less likely to be re-arrested.
- For the few repeat OWI offenders who successfully completed an ISP program and were re-arrested once for OWI, the average elapsed time (from their previous OWI arrest) was longer than for repeat offenders who did not participate in an ISP program. Collectively, the difference was nearly one-third longer (326 days versus 252 days).
- Repeat OWI offenders who successfully completed an ISP program were less likely to be re-arrested more than once for OWI than were repeat offenders who did not participate in an ISP program. Collectively, the successful ISP participants were nearly one-half (1.5% versus 2.7%) less likely to be re-arrested more than once.

Section One: Personal Sanctions on the Driver

Individualized Sanctions

A study (Jones and Lacey, 1998) of a program that offers individualized sanctions in Rockdale County, Georgia, was published in 1998. In this county, Judge William F. Todd, Jr. began the "Todd Program" in which he individually assessed sanctions on OWI offenders. The sanctions depended on an offender's prior OWI convictions, BAC at the time of arrest, age, sex, circumstances surrounding the OWI incident, the offender's demeanor and appearance in court, and the judge's personal knowledge of the offender. In addition, Judge Todd maintained close and extended contact with the offenders during probation and/or treatment.

The study compared Rockdale County's recidivism rate to neighboring Georgia counties that generally imposed only the minimal sanctions required by law. The study found that the recidivism rate in Rockdale was about half that of other counties. The results are shown in the following table:

Georgia Recidivism Rate Comparisons

Time Period	Rockdale County	Other Counties
1 Year	6.0%	11.1%
4 Years	13.8%	24.7%

Source: Jones and Lacey (1998).

Work Release

Most studies favor releasing offenders from jail or home confinement to go to work or to seek educational or treatment programs. Allowing them to keep their jobs allows for punishment and treatment but keeps the offender connected with his social system. Since many offenders have serious alcohol and/or drug problems, it would not make sense to deprive an offender of treatment. Because work release is always part of another program, we found no sources that measured the effectiveness of work release specifically. One advantage of work release is that it allows the authorities to tailor the program specifically to individual offenders.

Community Service Work

Community service could mean a variety of things, including picking up trash from highways and improving public parks and recreational facilities. It is usually used in conjunction with other types of sanctions, such as a condition of an offender's probation. Although we could find no evidence in the literature that public service is effective in reducing recidivism, some anecdotal evidence indicates that having offenders perform disagreeable jobs in public view may have deterrence value.

In Arizona, some OWI prison inmates perform uniformed highly visible jobs, such as picking up trash. They are "paid" 75 cents per hour for their work, of which the state keeps 50 cents to pay for the program. This payment completely pays for the program.

Some problems associated with community service are the difficulty in finding appropriate work, the liability risk, the cost of supervision, and the offender's failure to do the work satisfactorily (National Hardcore Drunk Driver Project).

Section One: Personal Sanctions on the Driver

Restricted Plea Bargaining

Some states allow offenders to plea bargain an OWI charge to a lesser charge, such as disorderly conduct. Most sources (e.g. www.dwidata.org/prosecution/sentencing_factors.cfm) oppose widespread plea-bargaining. They point out its negative consequences.

- Plea-bargaining undermines the credibility of the sanctions and reduces their deterrence value.
- It exempts the offender from programs that might be beneficial.
- It distorts law enforcement records so that the full OWI problem is not understood.

Fines

Fines are not discussed very often in the literature; it seems to be "assumed" that they are imposed. We found no evidence indicating that larger fines are more or less effective than smaller ones. Almost always larger fines are imposed for second and subsequent offenses than for first offenses.

One study that did look at fines (Yu, 1994) said that it appeared that when license withdrawal is mandatory, swift, and severe, fines may reduce drunk driving recidivism. That study also found that when license withdrawal was mandatory, an increase in the fine significantly reduced the incidence of recidivism. It also found that failure of authorities to actually collect the fines has undermined those fines as a source of deterrence. Other studies (cited in Yu, 2000) found that fines tended to reduce recidivism in Europe but were not very effective in the United States.

A comparison of American fines with European fines has shown that American fines are often much lower. In the United States, they averaged (at the time of the study) to about $250, whereas in Europe they were frequently one and one-half month's salaries, which was about $1,500 (Ross, 1992).

One obvious advantage of fines is that the local or state government receives money, which reduces the cost of the OWI program to the taxpayers (although a percentage of fines are never collected). The revenue also allows the state to administer more, or more intensive, programs for the same amount of tax expenditure.

Many types of programs are not strictly fines, but they do involve the offender paying for all or part of his or her "service." For example, an offender may pay for all or part of a treatment or education program, and sanctions that immobilize or limit the use of vehicles, such as ignition interlock devices, often require the offender to pay all or part of the program costs.

One condition of the Section 410 program is that drunk driving prevention programs are "self-sustaining." Clearly, requiring the offender to pay for treatment is consistent with that condition.

Section One: Personal Sanctions on the Driver

Harsher Sanctions for Persistent OWI Offenders

One Canadian source (Simpson and Mayhew 1996) notes that hard core drinking drivers account for only about one percent of all drivers on the road at night but account for almost half of the fatal crashes at that time. They also make up 27% of all fatally injured drivers and almost two-thirds (65%) of all fatally injured drivers who have been drinking. They also account for about two-thirds of all convicted OWI drivers in Canada.

Because of the disproportionate amount of damage they do, several sources favor harsher sanctions imposed on the hard core OWI offenders. In fact, the punishments for second, third, and subsequent OWI convictions are virtually always higher than they are for first-time offenses. However, a serious problem with greater sanctions on multiple offenders is that those offenders are often alcohol abusers and tend to be the least rational people and are least affected by threats of sanctions. One study in New York State (Yu, 2000) found that "sanctions do not seem to effectively decrease the chance of recidivism of…offenders who demonstrate problem drinking behavior."

Several studies (e.g. Simpson and Mayhew, 1991) say that the more severe the alcohol or drug problem, the more intensive the response of the authorities should be. However, if judicial authorities perceive the sanctions to be too harsh, they may avoid them by reducing the charges or imposing minimum penalties (Ross, 1992).

Many studies (e.g. Jacobs, 1990) point out that with recidivists, eventually the emphasis should shift from deterrence and treatment to incapacitation of the driver and/or vehicle (see Section 4 of this report).

Victim Impact Panels

Victim Impact Panels (VIPs) are community meetings in which victims and/or witnesses describe the experiences they or loved ones have endured because of drunk driving. The VIPs typically meet once a month. OWI offenders are sometimes required to attend as one of their sanctions. The purpose of a VIP is to increase the offender's understanding of the consequences of drunk driving.

One study (Shinar and Compton, 1995) looked at data from two panels. It found that VIPs had had an impact on males over 35 years old in one panel but not in the other. The study also found that repeat offenders are less likely to be affected than first-time offenders. The study also found that multiple meetings work better than single meetings and that the meetings are more effective if the victims are matched with the offenders (for example, a teenage boy is more likely to be affected if he hears from another teenage boy). Another study (Russell, 1995) found that VIPs had psychological benefits to victims who participated in them.

Other Personal Sanctions

We have found other personal sanctions that are used, but we have not found studies that evaluate their effectiveness. They are:

- Printing offenders' names in the local newspaper
- Requiring offenders to visit morgues to view drunk driving victims

Section Two: Treatment and Education of the Driver

Introduction

In one massive meta-analysis of 215 separate studies on the effects of remedial interventions with drunk driving offenders, the authors (Wells-Parker et al., 1995) found that treatment and education programs resulted in a 7% - 9% reduction in recidivism and alcohol-related crashes:

> *"When records-based DUI recidivism was examined, the magnitude of the remediation effect on both DUI recidivism and alcohol-related crashes, in easily comprehensible terms, was in the range of a 7% – 9% reduction."*

This meta-analysis by Wells-Parker et al. (1995) found that treatment programs should be individually designed for each offender. If they cannot be, the most effective programs would be those that combined types of programs for everybody:

> *"In the absence of specific information that could permit assigning the most effective intervention to each offender, programs in which all participants receive treatment modalities with some education, psychotherapy, and follow-up—'something for everyone'—might be the most effective type of intervention overall."*

Treatment Programs

All sources on drunk driving support the use of treatment programs. It is extremely difficult to measure the effectiveness of rehabilitation programs in general because the programs are so different from each other. Generally, they tend to be more effective for first-time offenders and less effective for repeat offenders (like all measures).

All of the sources note that treatment is most effective when combined with other measures, such as incarceration, long-term counseling, education, and probation. As one source (Taxman and Piquero, 1998) said:

> *"Various scholars have found that alcohol and drug education programs combined with punishment have reduced DWI recidivism among both first time and multiple offenders. The alcohol education sentence appears to augment the punishment of having a driver's license taken away (Popkin et al., 1988; Tashima and Peck, 1986). Also, Sadler and Perrine (1984) found that repeat offenders who received treatment and license restrictions had fewer subsequent DWI convictions than individuals who received only full license suspension."*

The study by Wells-Parker (1995) also found that combinations of programs tend to work better than individual programs:

> *"Some combinations of modalities, in particular those including education, psychotherapy/counseling and some follow-up, such as contact probation, showed larger effect sizes than other modes, while simple contact probation tended…to be less effective than education or combination modes."*

Another source (Mann et al., 1994) found that when treatment was optimally combined with counseling, education, fines, and other sanctions, it could reduce recidivism by 20% or more.

The sources also point out that close monitoring of the offender is vital to ensure program compliance—and that swift action is necessary to correct non-compliance.

A 1999 study (Jones and Lacey) was an evaluation of a day reporting center for repeat offenders in Maricopa County (Phoenix), Arizona. The Center is a highly structured non-residential facility offering supervision, reporting, employment, counseling, education, and community resource referrals. The study tracked 177 offenders who participated in the program. In exchange for program participation, they plea-bargained their charges down from felony OWI to misdemeanor OWI. All participants were screened to be non-violent and to meet other criteria. The study found recidivism rates to be the same for program participants and for participants in the standard probation program (8% after two years). It was much less expensive than jail and had an added benefit of helping offenders to get jobs, education, and treatment. One methodological problem with the study is that participants to this program were screened to be non-violent, while other offenders were not, thereby making the two groups of offenders less comparable.

Treatment often includes education. Education programs typically last two to six weeks, with 10–16 hours of classroom time. Wisconsin has two levels of education programs, one for first-time offenders and a longer one for multiple offenders. In Ohio, a Driver's Intervention Program (DIP) is mandatory on the first offense. It requires offenders to complete a 72 hour intensive pre-treatment educational program (http://www.dwidata.org/treatment/how.cfm).

Dedicated OWI Treatment Facilities

There are some dedicated OWI detention centers run specifically for residential treatment. Detention typically lasts from two weeks to three months. For example, Baltimore County runs a facility in Ownings Mills, Maryland that provides both inpatient and outpatient care. Program participants are charged part of the program costs, which run from about $10,000 to $18,000 for a 28 day private residential treatment program. The 12 month and the 18 month recidivism rates are about 4%, compared to 35% for other OWI offenders (http://www.dwidata.org/treatment/baltimore.cfm).

The Longwood Treatment Facility in Massachusetts is a minimum-security prison for offenders with three or more OWI convictions. Inmates spend an average of 90 days in the facility. In a study conducted in the 1980s, the facility showed a 14% recidivism rate after 24 months, compared to a 25% rate for offenders in the state prison population. However, the facility has been criticized for not having any mandatory aftercare or structured monitoring program after the offender has left. The facility now houses other inmates besides OWI offenders (http://www.dwidata.org/treatment/longwood.cfm).

The Suffolk County DWI Alternative Facility in New York is a minimum-security facility. Program participants are hardcore multiple offenders who would otherwise be going to jail. Offenders typically spend three to five months incarcerated then three to five years on probation. Probation treatment varies in intensity. Failure to comply with program conditions result in the offender being returned to jail to serve the entire sentence. Program administrators have said that the recidivism rate for program participants is 18% for all criminal offenses (http://www.dwidata.org/treatment/suffold.cfm).

Section Two: Treatment and Education of the Driver

Use of Alcoholics Anonymous

Many OWI programs include offenders' participation in Alcoholics Anonymous (AA). Wells-Parker et al. (1995), in their review of 215 studies, found that *"use of Alcoholics Anonymous as the primary intervention showed negative results on DUI recidivism."* However, they did not conclude that participation in AA was useless. They noted that often the highest-risk offenders are forced to attend AA. They also noted that mandatory participation in the AA program might not be as effective as voluntary participation. In addition, they wrote that many programs that include AA as one component have been successful.

Diversion into Education or Treatment Programs

Many states allow convicted OWI offenders to "divert" from punishment into an education or treatment program. The "diverted" offender may avoid incarceration, license suspension, a fine, or an official OWI conviction on his or her record.

Pennsylvania has an Accelerated Rehabilitation Disposition (ARD) program that is available only to first-time offenders. If an offender completes the ARD program, all OWI charges are dropped. If the offender violates any program conditions, he can be dismissed from the program and OWI charges can be reinstated. The program can include license suspension for one to 12 months and court supervision for six to 12 months. The program cannot last longer than two years. About 70% of OWI charges in the state involve the ARD program (www.dwidata.org/prosecution/diversion.cfm).

The state of Washington has a program that is not limited to first-time offenders. It involves two years of treatment and a probationary driver's license for five years. If the offender completes the program, the OWI charges are dismissed. If the offender does not complete the program, a guilty verdict is summarily pronounced. A study found that offenders who completed the program had a recidivism rate of 22%, compared to 48% for offenders who did not participate in the program (www.dwidata.org/prosecution/diversion.cfm).

Although there is disagreement on the advisability of diversion, most sources, including the National Transportation Safety Board, disagree with allowing offenders to "divert" to non-punitive measures. They say that such diversion lessens the deterrent effect of sanctions and allows offenders to avoid having the OWI conviction on their records. This is the position of the Transportation Research Board. The TRB says,

> *"States should eliminate programs that permit drivers arrested for DWI to avoid losing their licenses by entering a treatment or education program. Any treatment or education program should be in addition to the loss of license. Entering such programs could help to shorten the suspension period or be made a condition of relicensure. In the same vein, entering such a program should not result in the DWI arrest not appearing on the driver's record."*

The TRB notes that The National Transportation Safety Board (1984) and The Presidential Commission on Drunk Driving (1983) have recommended that diversion programs not be used in place of license revocation and that "diverted' participants should have records that indicate their offenses. The TRB also cites a study (Nichols and Ross, 1990) that shows that diversion to treatment leads to higher accident and violation rates than full license suspension.

Proponents of diversion say that states can use the program to the benefit of both sides—the offenders can get the treatment they need, and the state saves money by not incarcerating the offender. Proponents point out that diversion programs are usually only for first offenders, and if safeguards are built into the system, offenders could be stopped from using diversion twice. They also point out that in some states, if the offender is later re-arrested for OWI, the original offense can be re-classified and sanctions can be imposed.

Section Three: Licensing Sanctions on the Driver

Introduction

Revoking or suspending the offender's driver's license is probably the most common sanction imposed on drinking drivers. Many studies have found that "imposition of license revocations..." appears to be an effective tool, although more for first-time offenders than for repeat offenders (Taxman and Piquero, 1998).

Administrative License Suspension (ALS)

Several sources favor Administrative License Suspension. This type of suspension usually involves the arresting officer confiscating the offender's driver's license and giving the offender a receipt. The receipt serves as a temporary license to permit the offender to make arrangements for living without a license. The advantage of this system is that it is swifter and more sure than the judicial system, which could take months. There is no opportunity to plea bargain the OWI charge down to a lower level infraction. (Typically, the administrative arm handles license and vehicle sanctions but not personal sanctions, which are handled exclusively through the judicial process.)

This is one criterion in the Section 410 Program and the first recommendation from the TRB. The recommendation reads,

> *"All States need the basic foundation of providing for prompt and certain revocation of the driving license for first and repeat offenders--the sanction found to be most effective. Administrative license revocation (ALR) is the best way to achieve this goal."*

The TRB says, along with several other sources, that the best way to maximize the deterrence effect of a law is to increase the certainty and swiftness of punishment, which can take several months in OWI cases.

The TRB cited one study (Zador et al., 1989) that found administrative revocation laws reduced fatal nighttime crashes by about nine percent. Another study (Sigmastat, 1989) found a six percent average reduction in fatal crashes.

One study (Ross 1991) found that administrative license suspension resulted in reductions in night-time crashes of 5% to 9% in New Mexico, 4% in Minnesota, and 3% to 14% in Delaware. Another study in Manitoba, Canada (Beirness et al., 1997) found that offenders who were given 90 day administrative license suspensions were less likely to recidivate than offenders before the administrative license suspension was used. In addition, the time between the driver being charged and convicted decreased by almost 50%.

Section Three: Licensing Sanctions on the Driver

In a review of many drunk driving studies, H. Laurence Ross (1992) found that OWI sanctions generally did little to reform drunk drivers. However, he did find that the sanctions are useful for keeping the drunk drivers off the roads. The most important device for this purpose is the administrative suspension:

> *"There is good evidence that current sanctions are at least partially successful from the viewpoint of incapacitation, keeping the known drunk driver off the road. Moreover, the way is indicated for achieving greater success. I refer principally to license actions, suspension or revocation of the drivers' licenses of suspected drunk drivers….From the viewpoint of economical and effective incapacitation of offenders, administrative license suspension or revocation is probably the best legal sanction available."*

Some people have criticized ALS for leading to loss of offenders' jobs because they could not get to work. However, a 1996 study (Knowbel and Ross) sponsored by the National Highway Traffic Safety Administration (NHTSA) found that ALS does not actually have a great impact on offenders' jobs and incomes. When 233 multiple offenders were asked how they got to work without driver's licenses, the answers were:

- 22% said they drove themselves
- 41% said someone else drove them
- 15% took taxis
- 15% walked or rode bicycles
- 7% responded "other"

Another study sponsored by the NHTSA (1991) studied ALS laws in Nevada, Mississippi, and Illinois and found that increased revenues from license reinstatement fees more than offset the programs' cost. Using a cost-benefit analysis of ALS, the study found that reductions in crash-related costs were over 100 times the cost of the program implementation.

Harsher Sanctions for Offenders Who Drive After Revocation/Suspension of License

The sources are nearly unanimous that penalties should be harsh for offenders who continue to drive after their licenses have been taken for OWI violations. This is a criterion in the Section 410 Program. According to documentation with Section 410, penalties could include suspension of the vehicle's registration, seizure of the license plates, or special "drunk driving" license plates.

The TRB (Sweedler, 1996) favors treating driving while a license is withdrawn (and refusal to submit to a breath test) "as a very serious offense." The recommendation of the TRB is:

> **"***Driving while a license is suspended, revoked, or otherwise invalid, because of a DWI or a related offense, such as for a refusal to submit to a breath test, should be treated as a very serious offense."*

According to the TRB:

- About 75% of suspended drivers continue to drive at least occasionally.
- The majority of traffic convictions and accidents that occur during periods of suspension or revocation are not prosecuted as suspension violations.
- Fines and jail sentences are often not levied against drivers convicted of suspension violations.
- According to Fatal Accident Reporting System (FARS) data for California for 1991 and 1992, 13% of all fatal-accident drivers were suspended or revoked at the time of their accidents. Considering that about six percent of all drivers had suspended licenses at the time, those with suspended licenses were approximately twice as likely to be involved in fatal accidents as all drivers.

We have not found any writers who think that driving illegally on an OWI suspended license is acceptable behavior. However, some studies have found that "even though researchers have found that many convicted drunk drivers continue to drive after license suspensions, the drivers maintain lower mileage and drive safer to decrease the likelihood of detection (Taxman and Piquero, 1998)."

[3] The facts cited here by the TRB should be viewed with caution. Although the TRB seems to imply that the driver's licenses were suspended because of drunk driving, it does not say so explicitly. Licenses may have been revoked for other types of traffic offenses or non-traffic offenses. Therefore, we do not have data that explicitly concern OWI license suspensions.

Section Four: Sanctions on the Vehicle

Introduction

Sometimes repeat offenders persist in driving without valid driver's licenses. When that happens, sometimes the best solution is to remove the vehicles from the control of the drivers. The TRB (Sweedler, 1996) favors impounding or immobilizing the vehicles. The recommendation is:

> *"For those drivers who persist in driving with a suspended license for a DWI offense, the next step is to separate them from the vehicle they were driving when caught driving illegally, and possibly from any other vehicle to which they might have access. As has been proven effective with the licensing sanction, this vehicle sanction should be applied administratively, although it may take a number of forms. For example, the vehicle can be impounded, immobilized, or confiscated, or the license plates can be seized."*

Seizure of the Vehicle

Several states and Canadian provinces have provisions for confiscating the vehicles of drunk drivers. Sometimes, the vehicles are seized immediately under administrative action. Others are seized as a result of judicial actions. States vary on the reasons for impounding the vehicles; some do so only after several OWI convictions, and others do so if the offender drives with a suspended license.

The TRB cites a study (Rogers, 1994) that found that police-issued impoundment had one-half the recidivism rate (8% at 12 months and 13% at 24 months) compared with violators who had received no impoundment order.

A study in Manitoba, Canada (Beirness et al., 1997) found that offenders whose vehicles were impounded were less likely to recidivate than those who had been arrested before impoundment was used.

A program in San Francisco, the Traffic Offender Program (STOP) provides for a 30-day impoundment for any vehicle driven by a person with a suspended or revoked license or who has never had a license. Although the program is not aimed specifically at drunk drivers, it has been credited with reducing OWI. Over 14,000 vehicles were impounded in two years. In its first two years, the program was credited with reducing alcohol-related fatal and injury collisions by 63% and hit-and-run fatal and injury collisions by 43% (www.dwidata.org/sanctions/impound.cfm).

One problem with vehicle seizure is the administrative burden of implementing the program. In addition, a study in Wisconsin found that an offender often has time to transfer the title of the vehicles to somebody else before it is "seized" (Wisconsin Department of Transportation, 1995).

Another problem is that although the offender usually pays the towing and storage costs, those expenses sometimes are greater than the vehicle's value, so the offenders just abandon them. The Wisconsin study found that seized vehicles are often worth less than the cost of seizing them.

However, members of the Wisconsin task force voted by ballot that vehicle seizure and/or forfeiture had the greatest deterrent effect when compared to Ignition Interlock Devices and vehicle immobilization (see below for discussions of these options).

One way San Francisco has brought in extra revenue is to force offenders to pay all outstanding parking tickets and by charging registration fees.

One problem with evaluating seizure programs is that states have been criticized for inconsistent application of the program, making the programs' effectiveness difficult to measure.

Disabling the Vehicle

Sometimes a jurisdiction might be justified in seizing a vehicle but does not have the facilities to store it. A jurisdiction may also not want to claim the vehicle if the owner fails to retrieve it (it may be worth less than the towing and storage costs). In these cases, a jurisdiction might disable the vehicle by putting a "boot" on a wheel that immobilizes it or a "club" that prevents anyone from driving it.

A study in Franklin County, Ohio (Voas et al., 1996) suggests that preventing the use of the vehicle for one to six months is a promising sanction for repeat offenders. It found that the program, whose primary component was immobilization, appeared to reduce recidivism even after the sanction was no longer in effect. However, the effects of the program are impossible to isolate because the state of Ohio began the immobilization program and an Administrative License Revocation law on the same day.

A Wisconsin study found that there can be logistical problems with vehicle immobilization, such as where the vehicle is parked and liability exposure of the law enforcement agency. In addition, immobilization can be an administrative burden if the vehicle is stored in a different jurisdiction, such as a different state (Wisconsin Department of Transportation, 1995).

Vehicle Forfeiture

Vehicle forfeiture is different from seizure or impoundment because the government keeps the vehicle. This measure is used for repeat offenders and offenders who drive after license suspension. A study in Portland, Oregon (Crosby, 1995), found that offenders whose vehicles were confiscated recidivated only half as often as those whose vehicles were not taken.

Devices Allowing the Offender to Drive Under Specified Conditions

Some sanctions involving the offender's vehicle allow the offender to drive under specified conditions, such as going to work or to educational or treatment programs. Two devices make these restrictions possible; both based on the time of the day the vehicle is used.

The first is an Autotimer. It does not stop the vehicle from being used, but it does record the times the vehicle is operated. The offender can operate the vehicle at any time but will be discovered if he or she drives it at improper times. The main disadvantage of this device is that the offender could drive the vehicle during the proper time for the proper purpose, but the offender could be intoxicated while driving.

The second device is a fuel lock. It permits the vehicle to be operated only at specific times of the day. A computer in the car keeps fuel from flowing to the engine at all other times. It has the same limitation as the Autotimer.

Neither the Autotimer nor the fuel lock has been used very much, and we know of no studies of their effectiveness.

Ignition Interlock Device (IID)

With this device, an offender may keep the privilege of driving when sober. A device called an Ignition Interlock Device (IID) or an Alcohol Ignition Interlock (AII) forces the offender to breathe into a testing unit. The vehicle will not operate if the BAC is higher than a pre-set level, such as .02 or .05. These devices are typically used in conjunction with other sanctions such as probation. The offender usually pays the cost of the device and its installation.

Studies have shown the IID to be effective. In one study in California (EMT Group, 1990), 3.9% of an IID group were re-convicted of OWI, compared to 5.5% of a control group. In an Ohio study (Morse and Elliott, 1990), the IID was tested on a group of first-time offenders with BAC levels of .20 or more. After two years, 3.4% of the IID group had been re-arrested for OWI compared to 9.8% of the control group. A study in Maryland (Beck et al., 1997) examined more than 1,380 alcohol offenders whose driver's licenses were either suspended or revoked for multiple alcohol offenses and who were eligible for license reinstatement after undergoing some treatment. The offenders were randomly assigned to a test group with an IID and a control group without one. After a year, the alcohol traffic violation arrest rate was significantly lower for IID participants than for members of the control group.

A yearlong study in West Virginia (Tippetts and Voas, 1996) found that offenders who had the IID installed had a recidivism rate of 1.6% compared to a 6.4% rate for a control group of offenders who had not had the device installed. A study in Alberta, Canada (Beirness et al., 1997), found that OWI offenders who had used an IID had significantly lower recidivism rates than a similar group of offenders who had not used the device. A 1998 study (Longest) using Maryland data found a 63% reduction in recidivism with the use of an IID.

A two-year study in Alberta, Canada, showed that drivers who used IIDs tended to adjust their driving so that by the end of their IID sentences, they "failed" their breath tests much less often than they did in the beginning. The same study compared IID use in two cities and found that in the city where offenders had access to educational support, case management support, motivational support, and help in planning, they tended to "fail" their breath tests less often. (The study was published before long-term recidivism could be measured for offenders in the two cities.) (Marques et al., 1999)

One advantage of IIDs is that they are relatively easy to administer. The Wisconsin task force voted that of the three alternatives, IID, immobilization, and seizure, the IID posed the least administrative burden (Wisconsin Department of Transportation, 1995).

The main limitation of the IID is its lack of long-term effect; after it is removed, recidivism rates goes up to the level of other offenders (Jones, 1993; Popkin et al., 1993; Marques et al., 1997).

Section Four: Sanctions on the Vehicle

Seizure of the License Plates

Some states allow the removal of the vehicle's license plates for OWI convictions or for driving with a suspended driver's license. In some states, plate seizure can take place after only one OWI conviction, in some it can take place only after two convictions, and in others, it takes place only after three convictions. A study in Minnesota showed that plate seizure was effective in reducing recidivism among multiple OWI offenders (Minnesota Dept. of Public Safety, 1990, cited in Simpson, Mayhew, and Beirness 1996).

Another study (Rodgers, 1994) found that when the Minnesota license plate impoundment law was administratively enforced, it had a significant impact on recidivism. The impact was greatest when the plate was taken by the arresting officer at the scene, rather than at a later time. This phenomenon is similar to the administrative suspension of the driver's license. Voas (1995) found that when the plate seizure was managed through the judicial system, only 6% of the eligible third-time offenders had their plates removed. But when the law was applied administratively, 68% of the third-time offenders had their plates impounded.

Use of Special Stickers or License Plates on Offender's Vehicles

Stickers: Two states (Washington and Oregon) have used special striped "zebra" stickers as sanctions against drivers who drove after their licenses had been suspended. The stickers were placed on the license plates of a vehicle stopped by officers in which the driver had a suspended driver's license. The officers placed the stickers on the plates at the time of the OWI stop. In implementing the program, police officers were more likely to stop the "zebra" vehicles than other vehicles.

A study in Oregon (Voas and Tippetts, 1994) showed that drivers with suspended licenses had fewer violations and were involved in fewer crashes after the stickers were used than before.

Both Washington and Oregon allowed the sticker laws to lapse, and no state is using stickers now.

Plates: Three states—Iowa, Minnesota, and Ohio—have enacted provisions for issuing special license plates to offenders with suspended driver's licenses. The special plates might have special numbers, letters, or colors. The police would know if an offender with a suspended driver's license owned the vehicle. Special plates are not being used today, and no known studies have measured the effectiveness of the special plates.

Some people have raised Constitutional issues with the stickers and special plates. People claimed that they unfairly brand anyone driving the vehicle as suspect and cause the police to stop innocent drivers without legitimate probable cause.

Section Five: Additional Advice on OWI Measures

Lowering the BAC limit from .10 to .08 is a contentious issue in much of the United States, including Wisconsin, and is beyond the scope of this report. However, there is much in the literature about sentencing; a great deal of it about differential sentencing for different BAC levels.

Tiered BAC Limit, With Greater Sanctions for Higher BAC

Drivers with higher BAC are much more likely to be involved in crashes than other drivers. For example, a driver with a BAC of .15 or above is 200 times more likely than the average non-drinking driver to be involved in a fatal crash (Simpson, Mayhew, and Beirness 1996). Even among the "drunk" drivers, those with a BAC of .15 are more likely to be involved in crashes than those with a BAC of .10.

Some states use tiered BAC systems (Simpson, Mayhew, and Beirness 1996). For example, Iowa and South Dakota require a substance abuse assessment if the offender's BAC is over .20 (Iowa) or .15 (South Dakota). The state of Washington classified OWI offenses into two categories--.10 to .15 and above .15. The severity of the penalties is greater for the higher BAC; for example, the minimum fine increases from $350 to $500 and the minimum incarceration increases from one day to two days.

Other countries use tiered BAC systems. Denmark uses five BAC levels (.08, .121, .151, .201 and over .25) and Germany uses four BAC levels (.08, .11, .16, and .20), with increasingly severe penalties at each level. In Victoria, Australia, the requirements for restoring a suspended license depend on the BAC level at the time of arrest (and on the offender's age and prior OWI offenses).

Although the idea of a tiered BAC system seems obvious, we are not aware of any tests of its effectiveness in the literature.

Lower BAC Limit for Previous Offenders

Some sources favor lower BAC limits for people who have been convicted of OWI. The TRB favors this. The specific recommendation is:

> **"***Licenses reinstated following a DWI conviction should carry a lower legal BAC limit. Alcohol detected at or above this lower limit would be a basis for re-revoking a driver's license."*

According to the TRB, when Maine lowered its BAC limit to .08 for the general population and to .04 for previous OWI offenders, nighttime fatal crashes declined 38% in the following three years. In comparison, within those same three years, nighttime fatal crashes increased 50% in neighboring states that did not change to lower BAC limits (New Hampshire and Vermont).

Section Five: Additional Advice on OWI Measures

Treat Juvenile OWI Offenders as Adults and Retain Their OWI Records

The Transportation Research Board favors treating juvenile OWI offenders as adults and retaining their conviction records so that the authorities will know if they are repeat OWI offenders. According to the TRB:

> *"All juvenile DWI offenders should be prosecuted as adults, and the record of these offenses should be preserved after the offender reaches adulthood. These actions will permit early identification of young adults who are becoming persistent drinking drivers."*

Harsh Penalties for Refusal to Take BAC Test

Because it is sometimes more difficult to obtain a OWI conviction without a breath test, and because lesser penalties are sometimes assessed if there is no breath test data, some OWI offenders refuse to take the tests. The Transportation Research Board recommends that refusal to take a breath test should carry the same or greater administrative penalties as a positive test result. The TRB recommendation is:

> ***"****Refusal to take a breath test should receive the same or greater administrative penalty as a positive test result."*

The TRB also favors counting a refusal to take the test as a positive test result.

Section Six: Administrative Supports to Dealing with Repeat OWI Offenders

Much of the literature addresses administrative or bureaucratic steps that can be taken to assist law enforcement and judicial officials to deal most effectively with repeat OWI offenders.

Effective OWI Tracking System for Gathering Data

This is a Section 410 Program criterion. It includes a database of the individual cases, from arrest to final disposition of the case. The database would serve several purposes:

- Keep track of all offenders so that one offender could not claim to be a "first-time offender" several times.
- Assess the effectiveness of sanctions and other measures taken to fight DUI.
- Inform authorities when offenders have been re-arrested.
- Provide basic statistics about case dispositions, including geographic and demographic information

This database would be absolutely essential to make sure drivers did not habitually claim to be first-time offenders and to determine how often offenders are caught driving with suspended or revoked driver's licenses.

Having the database would be essential, but it would be much more effective if the information in it were given to the proper authorities when they needed them. "Proper authorities" would include the police officers on the streets, the prosecutors, the judges, the people operating the educational and treatment facilities, and others.

The Transportation Research Board recommends:

> *"States should improve their traffic records and the delivery system for information to the courts and the police officers on the road. In this way, prosecutors and judges will have access to the complete prior record of the offender when charging and sentencing. In addition, the officer coming in contact with a driver will have the ability to quickly ascertain if that driver is legally licensed to drive and if that driver has been involved in an alcohol-related driving offense in the past. This information will allow officers to accurately identify, at the scene, repeat offenders and those who are driving illegally. The officer then can apply the full range of administrative sanctions the state permits to be taken against these offenders."*

Others have called for "hot sheets" that police officers could use so that they could determine immediately if drunken drivers have previous records or suspended driver's licenses. This knowledge could assist them in their decisions to apply administrative measures, such as Administrative License Suspension.

Section Six: Administrative Supports to Dealing with Repeat OWI Offenders

Judicial OWI Seminars

One source (www.dwidata.org/prosecution/sentencing_factors.cfm) points out that court officials, including judges, who do not understand the dynamics of OWI, may avoid imposing harsh or other appropriate penalties. This source argues for conducting seminars to inform and educate the court officials so that they work as part of the system fighting drunken driving.

Special OWI Courts

Some jurisdictions, such as the City of Chicago, have special courts that deal exclusively with OWI cases. In these courts, the prosecutors and judges become experts on dealing with drunk drivers (www.dwidata.org/prosecution/sentencing_factors.cfm).

Court Monitoring

In one study conducted in Maine (NHTSA, 1990), researchers found that if concerned citizens' groups monitored OWI court cases, conviction rates of offenders increased, dismissal rates declined, and sanctions became harsher, with more jail sentences and longer jail terms imposed.

APPENDIX
BIBLIOGRAPHY OF SOURCES

Appendix – Bibliography of Sources

Beck, K.H., Rauch, WJ., and Baker, EW 1997. *The sects of Alcohol Ignition Interlock License Restrictions on Multiple Alcohol Offenders: A Randomized Trial in Maryland.* Insurance Institute for Highway Safety, Arlington, Virginia.

Brown, David, B., Maghsoodloo, Saeed, 1991. *The Evaluation of Alcohol and Drug Assessment Programs in Alabama and El Cajon, CA.* Association for the Advancement of Automotive Medicine, Toronto, Canada

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

DeYoung, David, J., January, 1995. *An Evaluation of the Effectiveness of California Drinking Driver Programs.* California Department of Motor Vehicles

EMT Group. 1990. *Evaluation of the California Interlock Pilot Program for DWI Offenders.* Sacramento, CA.

Falkowski, K. 1984. *The Impact of Two-Day Jail Sentences for Drunk Drivers in Hennepin County, Minnesota.* DOT HS 806 839. Final Report. Washington, DC: National Highway Traffic Safety Administration.

Federal Register. December 1998. *"Rules and Regulations" Incentive Grants for Alcohol-Impaired Driving Prevention Programs.* Federal Information & News Dispatch, Inc.

Grube, J.W. and Kearney, K.A. 1983. *A 'Mandatory" Jail Sentence for Drinking and Driving.* Evaluation Review vol 7, no. 2: 235-245.

Hedlund, J. 1995. *Commentaries: Comments on Wells-Parker et al's article "Final results from a meta-analysis of remedial interventions with drink/drive offenders,"* Addiction. 90: 1593-1594

Hedlund, James, December 1995. *Meta-analysis helps to define the policy-relevance of drink driving research.* University of Minnesota. Addiction, vol. 90, no. 12: 1593-1594.

Jones, B. 1993. *The Effectiveness of Oregon's Ignition Interlock Program.* In: H.D. Utzelmann, G. Berghaus, and G. Kroj (eds.) Alcohol, Drugs and Traffic Safety – T92, Band 3: 1460 – 1465. Cologne, Germany: Verlag TUV Rheinland.

Jones, R.K., Wiliszowski, C.H., and Lacey, J.H. 1996. *Evaluation of Alternative Programs for Repeat DWI Offenders.* National Highway Traffic Safety Administration, Washington, D.C. DOT HS 808 493.

Jones, R.K., Lacey, J.H., Berning, A. and Fell, J.C. 1996. *Alternative Sanctions for Repeat DWI Offenders.* In: 40th Annual Proceedings of the Association for the Advancement of Automotive Medicine, pp. 307 – 315. Des Plaines, IL: AAAM.

Appendix – Bibliography of Sources

Jones, Ralph, K., Lacey, John, H., August 1999. *"Final report" Evaluation of a day reporting center for repeat DWI offenders*. Report prepared for US Department of Transportation
NHTSA, People Saving People, Winchester, Massachusetts.

Jones, Ralph, K., Lacey, John, H., December 1998. *"Final report" Evaluation of an individualized sanctioning program for DWI offenders.* Report prepared for US Department of Transportation
NHTSA, Washington DC

Jones, Ralph, K, Lacey, John, H., Wiliszowski, Connie, H., January 1998. *Problems and Solutions in DWI Enforcement Systems* (final report) U.S. Department of Transportation, Washington DC

Kenkel, Donald, 1998. *A Guide to Cost-Benefit Analysis of Drunk-Driving Policies*. Journal of Drug Issues, vol. 28, no. 3: 795-812.

Kenkel, D.S., 1993. *Drinking, driving, and deterrence: The effectiveness and social costs of alternative policies.* Journal of Law and Economics, vol. 36: 877-913.

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

Larivee, J., 1991. *Day Reporting in Massachusetts: Supervision, Sanction and Treatment.* Overcrowded Times, vol. 2, no. 1: 7-8.

Longest, Darrel, L., JD, May/June 1998. *Ignition Interlocks: Are They the Silver Bullet for Fighting DUI/DWI?* IDU: 49.

Longest, Darrel, L., JD, Fall, 2000. *What is the Future for Ignition Interlocks?* IDU: 77-78.

Mann, R.E., Anglin, L., Wilkins, K., Vingilis, E.R., Macdonald, S., and Sheu, W.-J. 1994. *Rehabilitation for convicted drinking drivers (second offenders): effects on mortality.* Journal of Studies on Alcohol, Addiction Research Foundation, Toronto, Ontario, Canada. 55, 372-374.

Marques, Paul R., Voas, Robert, B., December, 1999. *Behavioral Monitoring of DUI Offenders with the Alcohol Ignition Interlock Recorder*. Addiction, 94: 1861-1870.

Martin, Susan E., Preusser, David, F. 1995. *Enforcement Strategies for the Persistent Drinking Driver.* Strategies for Dealing with the Persistent Drinking Driver, Transportation Research Board, Transportation Research Circular No. 437. National Research Council: 38.

Morris, M., Tonry, M., 1990. *Between Prison and Probation*. Oxford University Press, New York

Morse, B.J., and Elliott, D.S. 1990. *Hamilton County Drinking and Driving Study: 30 Month Report*. Bounder, CO: University of Colorado Institute of Behavioral Science.

Appendix – Bibliography of Sources

National Hardcore Drunk Driver Project. Prosecution.
www.dwidata.org/prosecution/

National Hardcore Drunk Driver Project. Sanctions.
The Century Council www.dwidata.org/sanctions/

National Hardcore Drunk Driver Project. Treatment.
The Century Council
www.dwidata.org/treatment/

National Highway Traffic Safety Administration. 1991. *Cost-Benefit Analysis of Administrative License Suspensions.* National Highway Traffic Safety Administration. DOT HS 807 689.

National Highway Traffic Safety Administration. October 1996. *State Legislative Fact Sheet*. National Highway Traffic Safety Administration, U.S. Department of Transportation, Washington, D.C.

National Highway Traffic Safety Administration. November 1997. *Summary of Important Statutory Provisions and Court Decisions Concerned with Drunk Driving.* National Highway Traffic Safety Administration, U.S. Department of Transportation, Washington, D.C.

Nichols, J.L., and Ross, H.L. 1990. *The effectiveness of legal sanctions in dealing with drinking drivers.* Alcohol, Drugs and Driving. vol 6, no. 2: 33-60.

Ohio Department of Public Safety, June, 1994. *Hot Sheet News.* Columbus, Ohio

Perrine, M.W., Peck, R., and Fell, J., 1989. *Epidemiologic perspectives on drunk-driving, In Surgeon General's Workshop on Drunk Driving: Background Papers.* U.S. Department of Health and Human Services, Public Health Service, Office of the Surgeon General, Rockville, MD

Piquero, A., & Palernoster, R., 1998. *An Application of Stafford and Warr's reconceptualization of deterrence to drinking and driving.* Res Crime and Del, vol. 35, no. 1: 3-30.

Popkin, C., Stewart, J., and Lacoy, J., 1988. *A follow-up evaluation of North Carolina's alcohol and drug education traffic schools and mandatory substance abuse assessments: Final report*. Chapel Hill, NC: Highway Safety Research Center, University of North Carolina.

Popkin, C.L., and Wells-Parker, E. 1994. *A research agenda for the specific deterrence of DWI, J*
Traffic Med. vol. 2, no. 1: 1-14.

Radler, D., and Perrine, M., 1984. *An evaluation of the California drunk-driving countermeasure system: Volume 2, In the Long-Term Traffic Safety Impact of a Pilot Alcohol Abuse Treatment as an Alternative to License Suspensions*. California Department of Motor Vehicles, no. 90, Sacramento, CA

Appendix – Bibliography of Sources

Rodgers, A. *Effect of Minnesota's license plate impoundment law on recidivism of multiple DWI violators*. Alcohol, Drugs, and Driving, vol. 10, 1994: 127-134.

Ross, H.L., 1991. *Administrative License Revocation for Drunk Drivers: Options and Choices in Three States*. AAA Foundation for Traffic Safety, Washington, DC

Ross, H.L. 1992. *Are DWI sanctions effective?* Alcohol, Drugs and Driving, vol. 8, no. 1. UCLA Brain Information Service/Brain Research Institute, Los Angeles, California: 61-69.

Ross, H.L., 1973. *Law, Science and accidents: the British Road Safety Act of 1967*. The Journal of Legal Studies, vol. 2: 1-78.

Ross, H.L., Simon, S., and Cleary, J. 1996. *License Plate Confiscation for Persistent Alcohol Impaired Drivers.* Accident Analysis and Prevention 28: 53 – 61.

Russell, A. 1995. *Citizen activists' assessments of the DUI problem, public attitudes, and selected responses to the drinking driver*. Strategies for Dealing with the Persistent Drinking Driver. Transportation Research Board, Transportation Research Circular No. 487. Washington, D.C. National Research Council: 69-71.

Shinar, D., and Compton, R.P. 1995. *Victim impact panels: their impact on DWI recidivism,* Alcohol, Drugs and Driving. vol. 11, no. 1: 73-87.

Sigmastat, Inc. *Changes in Alcohol-Involved Fatal Crashes Associated with Tougher State Alcohol Legislation.* National Highway Traffic Safety Administration, Washington, D.C., July, 1989.

Simon, Stephen, M. 1992. *Incapacitation alternatives for repeat DWI offenders.* UCLA Brain Information Service/Brain Research Institute, University of Minnesota, Minneapolis

Simpson, H.M., and Mayhew, D.R. 1991. *The hard Core Drinking Driver*. Ottawa, Ontario: Traffic Injury Research Foundation of Canada.

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

Sweedler, Barry, M., 1996. *Strategies for Dealing with the Persistent Drinking Driver*. National Transportation Safety Board, Washington, D.C.

Tashima, H., and Peck, R., 1986. *An evaluation of the California drunk driving countermeasure system: Volume 3, In An Evaluation of the Specific Deterrent Effects of Alternative Sanctions for First and Repeat DUI offenders.* California Department of Motor Vehicles, Sacramento, CA

Taxman, Faye, S., Piquero, Alex, 1998. *On Preventing Drunk Driving Recidivism: An Examination of Rehabilitation and Punishment Approaches.* Journal of Criminal Justice, vol. 26, no. 2: 129-143.

Appendix – Bibliography of Sources

Tippetts, A. S., and Voas, R.B. 1996. *The Effectiveness of the West Virginia Interlock Program.* The Pacific Institute, Bethesda, Maryland.

Traffic Injury Research, 1996. *The Hard Core Drinking Driver: Prevention Programs.* The Hard Core Drinking Driver, Canada Safety Council

U.S. Department of Transportation, May, 1996. *Effects of Administrative License Revocation on Employment.* National Highway Traffic Safety Administration

Voas, R.B. and Tippetts, A.S. 1993. *Are Licensing Sanctions Effective at Reducing Impaired Driving?* Paper presented at national Transportation Research Board Meetings, January 13, 1993.

Voas, R.B., and Tippetts, A.S. 1994. *Assessment of Impoundment and Forfeiture Laws for Drivers Convicted of DWI: Phase II Report*. Washington: National Highway Traffic Safety Administration.

Voas, Robert, B., Holder, Harold, D., Gruenewald, Paul, J., June 1997. *A community prevention trial to reduce alcohol-involved trauma.* Addiction 92 (Supplement 2), S221-S236 Society for the Study of Addiction to Alcohol and Other Drugs. Berkley, California

Voas, R.B. 1995. *Can administrative programs control the persistent drinking driver?* Strategies for Dealing with the Persistent Drinking Driver, Transportation Research Board, Transportation Research Circular No. 437. Washington, D.C. National Research Council: 52-56.

Voas, R.B, Hause, J.M., 1987. *Deterring the drinking driver: the Stockton experience* Accident Analysis, vol. 19: 81-90.

Voas, R.B. and Tippetts, A.S., 1990. *Evaluation of treatment and monitoring programs for drunken drivers.* Journal of Traffic Medicine 18: 15-26.

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

Wells-Parker, E., Bengert-Drowns, R., McMillen, R., and Williams, M. 1995. *Final results from a meta-analysis of remedial interventions with drink/drive offenders.* Addiction, 90: 907-926.

Wheeler, Gerald, R., Hissong, Rodney. January 1988. *Effects of Criminal Sanctions on Drunk Drivers: Beyond Incarceration*. Crime & Delinquency, vol. 34, no. 1: 29-42.

Wilson, Deborah, G., December 1989. *"Feature Article" Alternatives to incarceration in Jefferson County, Kentucky: Intensive Probation, Home Incarceration, and work release.* www.jrsainfo.org/pubs/forum/archives/Dec89.html

Wisconsin Department of Transportation. 1995. *Governor's Task Force on Operating After Revocation and Operating While Intoxicated: Summary of Findings.*

Appendix – Bibliography of Sources

Wisconsin Department of Transportation. 2001. *1999 Wisconsin Alcohol Crash Facts.* http://www.dot.state.wi.us/dtim/bts/safety-facts.htm

Yu, J., 1991. *Calculating DWI/DWA recidivism with limited data using state driver license file for drinking-driving research*. J Drug Ed, vol. 21, no. 4: 285-292.

Yu, Jiang, 2000. *Punishment and alcohol problems recidivism among drinking-driving offenders.* Journal of Criminal Justice, vol. 28, no. 28: 261-270.

Yu, J., 1994. *Punishment celerity and severity: issuing a specific deterrence model on drunk driving recidivism.* Journal of Criminal Justice, vol. 22, no. 4: 335-366.

Zador, P., Lund, A., Fields, M., and Weinberg, K. *Fatal crash involvement and laws against alcohol-impaired driving.* Journal of Public Health Policy, vol. 10, 1989: 467-485

FOCUS GROUPS

WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES

EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

PHASE 2, PART 1: FOCUS GROUP RESULTS

AUGUST 10, 2001

PREPARED BY:

THE DIERINGER RESEARCH GROUP, INC.

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

> "The departments of corrections, health and family services and transportation shall jointly study and evaluate the desirability of using treatment progams and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a 2nd or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug."

At the request of the above mentioned departments, The Dieringer Research Group (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study's principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection/Case History Development

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin
Step Two: Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin
Step Three: 72 Wisconsin counties

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Step One of Phase Two.

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.
- Identify examples of best practices including detailed case study profiles.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
  - Identify the practices currently being used in Wisconsin to reduce repeat drunk driving.
  - Assess the effectiveness of various measures in reducing repeat drunk driving.
  - Learn about the characteristics of drunk drivers in Wisconsin.
  - Obtain insight and advice about reducing drunk driving.

Phase Three:

- Assess and evaluate the effectiveness of the various practices.

Introduction

For this Step One of Phase Two, The Dieringer Research Group, Inc. conducted four focus groups with experts on drunk driving. Two groups were held in Milwaukee on Wednesday evening, May 23, 2001; another two groups were held in Madison on Thursday evening, May 24, 2001.

A total of 41 experts on drunk driving participated in the focus group discussions. All of the focus group participants lived within driving distance of Milwaukee or Madison, although several in the Madison discussions lived in neighboring rural counties.

Focus group participants were intentionally selected so that each of the four groups was composed of people with a variety of jobs, with different perspectives on drunk driving. For example, the groups included prosecuting attorneys, defense attorneys, police officers, and treatment, counseling, and education professionals. The composition of the four groups is shown on the following table:

FUNCTIONAL AREAS OF FOCUS GROUP PARTICIPANTS

Functional Areas	Milwaukee May 23, 2001		Madison May 24, 2001	
	1 6:00 p.m.	2 8:00 p.m.	3 6:00 p.m.	4 8:00 p.m.
Law Enforcement	X	X	X	X
Legislative/Court System – Defense	X	X	X	X
Legislative/Court System – Prosecution	X	X	X	X
Government/Public Health	X	X	X	X
Social Services	X	X	X	X
Corrections	X	X	X	X
Education	X	X	X	X
Treatment/Counseling Programs	X	X	X	X
Probation/Parole Agents	X	X	X	X
Correctional Product Vendor	X			
Advocate	X			X
Other		X	X	
Number of Participants	11	10	10	10

SUMMARY AND RECOMMENDATIONS

Summary and Recommendations

Summary

There were many areas of agreement, and a few areas of disagreement, among the focus group members. The main findings of the four focus groups are:

- The clear emphasis of the focus group members was that the laws and policies concerning drunk driving should aim at reforming the offender, not punishing him or her. Although everybody was in favor of some punishment, they made it clear that the ultimate goal of all drunk driving measures should be to restore the offenders to law-abiding non-drinking drivers.

- All of the focus group participants favored mandatory assessments of all drunk drivers, followed by the proper mix of punishment, treatment, and education. They said each offender should receive tailored sanctions, treatment, and education that would be most beneficial to him or her. Most, but not all, favored giving judges more discretion to handle offenders appropriately.

- The focus group members stressed the need for treatment and education. They said that offenders are unlikely to change simply by being punished.

- The focus group members tended to classify drunk drivers into two main categories—first and second-time offenders, and more frequent offenders. Although the groups did specify the differences between a drunk driver with one, two, three, four, or more offenses, they did generally differentiate between the drivers with only one or two and those with many offenses.

  They said that typically, a driver with one or two offenses is a normal person with a job and family—somebody with something to lose. This type of driver is not accustomed to being involved in the criminal justice system and can be shocked by a short jail term. This type of driver can be very susceptible to corrective measures. The multiple repeat offender is less likely to have a job, a family, or a support system—and more likely to have "nothing to lose." The persistent offender is more likely to have mental or emotional problems, and is less likely to think rationally, especially about alcohol. This type of driver is more likely to be accustomed to being in the criminal justice system and is less likely to be affected by jail terms or corrective measures in general.

- Every focus group participant favored the use of incarceration in fighting drunk driving. They all said that incarceration should be part of the measures that are available to deal with drunk drivers. Nearly everyone said that incarceration should be used with second-time offenders "to get their attention," but very few suggested using incarceration with first-time offenders.

- They were reluctant to be vindictive. Although some said that the public has a right to expect that offenders be punished, they tended to oppose excessive incarceration that might cost offenders their jobs, and some opposed extremely high fines that made recovery harder for the offenders. They felt that these harsh measures contribute to a downward spiral, making it even harder for the offenders to overcome their problems.

Summary and Recommendations

- Generally, the focus group members were not very positive about the effects of fines for drunk driving. Most said that large fines do little good; the wealthy offenders just pay them, while the poor offenders do not pay them because they do not have the money. In addition, some said, extremely high fines keep offenders from getting their lives back together after treatment and education. However, nobody suggested getting rid of fines.

- The general consensus among focus group members was that intensive probation, with attentive case management, is vital to a good system to fight drunk driving. Many suggested using probation on second and third-time offenders.

- The focus group members were overwhelmingly negative about the effectiveness of sanctions aimed at offenders' driver's licenses. They said that suspending or revoking a driver's license can be effective for first-time offenders but is seldom effective for most offenders. They simply drive without the licenses.

- Many focus group members said that one good way to reduce repeat drunk driving is to stop the first offense. They suggested:

  - Make the severity of the penalties for the first offense more widely known.
  - Make the penalties for the first offense more severe.
  - Change people's attitudes so that drunk driving is perceived as a more serious offense.

- They discussed several other specific measures to fight drunk driving. Their general opinions on a series of measures were:

  - They thought Ignition Interlock Devices (IIDs) tend to be effective.
  - Most said that home confinement with electronic monitoring tends to be effective.
  - They said that Victim Impact Panels can be effective, especially for first and second-time offenders.
  - Some thought that public humiliation would be effective for first and second-time offenders, especially in rural areas where "everybody knows everybody."
  - Some favored special "zebra" license plates, and a few favored a special driver's license for drunk drivers.
  - The focus group members were mixed on the effectiveness of vehicle seizure. Some said it works, while others said it does not. Several said it costs more than it is worth.
  - The focus group members opposed vehicle immobilization. They said it was ineffective and difficult to implement.
  - They were divided on community service work. Some said that the offenders require too much supervision to do any meaningful work, but others said they have used public service work successfully for years.

Summary and Recommendations

Recommendations

Several recommendations can be derived from the four focus group discussions. Many of them are consistent with current Wisconsin policy, while others are not:

- Use treatment and education as much as possible. Offenders will not change their ways without some intervention.
- Customize sanctions, treatment, and/or education as much as possible to fit each individual OWI offender.
- Keep incarceration in the mix of possible sanctions for offenders with two or more OWI convictions.
- Continue using home electronic monitoring of offenders with two, three, or maybe four OWI convictions.
- Put most resources into punishing, treating, and/or educating the first-time and second-time offenders. They are the easiest offenders to influence. The state will get the "most bang for its buck" with these offenders.
- Make extensive use of intensive probation. Possibly include probation for second and third-time offenders.
- Continue using Ignition Interlock Devices (IIDs). They tend to be effective.
- Use vehicle seizure sparingly. Do not use vehicle immobilization.
- Continue driver's license suspensions and revocations, including Administrative License Suspensions/Revocations. However, do not count on them to be very effective sanctions or deterrents for most of the OWI offenders.
- Continue imposing fines on drunk drivers. However, do not count on large fines to be very effective sanctions or deterrents for most OWI offenders.
- Consider the use of special "zebra" license plates or driver's licenses.
- Continue using Victim Impact Panels and consider expanding their use.
- Address the issue of repeat drunk driving by trying to stop the first OWI offense:

– Do a better job informing the public of OWI penalties, especially for the first offense. The public is not aware of the severity of the fines, and greater knowledge could have some deterrent value.
– Increase penalties for the first OWI offense.
– Try to change people's attitudes so that drunk driving is perceived as a serious offense.

MAIN FINDINGS

Main Findings

Overall Perspectives of the Focus Group Participants

The focus group members approached the issue of alternatives to incarceration for repeat OWI (Operating While Intoxicated) offenders from the point of view of creating laws and policies that aim at reforming the offenders, not merely punishing them. Although everybody was in favor of some punishment, they made it clear that the ultimate goal of all drunk driving measures should be to restore the offenders to law-abiding citizens who don't drink and drive. It was clear that the focus group participants did not want to punish offenders beyond the point necessary to restore them as lawful citizens who don't drink and drive.

Many pointed out that swift and sure measures are very important. Offenders can "disconnect" the punishment, treatment, or education from the offense if it occurs too long after it. In addition, sometimes offenders have been arrested for a subsequent OWI offense before their previous offenses have been adjudicated.

The focus group members said that no one approach works for everybody, so policies should use a variety of approaches. The result will be that each approach will be effective for somebody, and together, they will be the most effective for the largest number of people. As one person said:

> *"What you're looking for is to deter. Treatment would deter some. Fines would deter others." (Group 4)*

First and Second-Time Drunk Drivers vs. Habitual Drunk Drivers

Many focus group members pointed out that drunk drivers with one or two arrests tend to be much different from those with three or more arrests. Several said that the first or second offense is the most important offense because the authorities have an opportunity to intervene to prevent OWI from becoming a habit. Offenders who have only one or two offenses can still be dissuaded from driving while drunk, but habitual offenders are much harder to reach or affect. One man said:

> *"[Arrest] number two is critical. Either they stop or they are perennial. If the lesson is not learned at number two, then there's no stopping them." (Group 1)*

Many pointed out that first-time and second-time offenders tend to have jobs and families—and generally, much to lose. They are usually normal citizens without criminal records. The fear of jail (for first-time offenders) or the experience of jail (for second-time offenders) tends to influence them to not drink and drive. On the other hand, multiple OWI offenders are less likely to have jobs, families, or other supports systems at home and are less likely to be shocked by incarceration. One person said that offenders with many OWI convictions:

> *"…have an attitude, 'You're not going to change me.' Start it earlier. Scare them earlier. By the fifth offense, you've lost them. I'm not going to bother with them. If I have to warehouse them, fine." (Group 1)*

Some focus group participants said offenders with large numbers of OWI incidents are problem drinkers who are immune to rational consideration of penalties. Simply increasing the severity of penalties makes their lives harder without addressing the causes of drunk driving. For example:

> *"Rational penalties mean nothing to 'chronics.' Increasing penalties creates a downward spiral." (Group 3)*

Focus group members generally favored more resources being devoted to first and second-time offenders because they are the easiest to influence. However, some said they would devote the most intensive, and longest lasting, probation to the multiple OWI offenders with three or more offenses.

Although the moderator told the focus group members to concentrate on the repeat offenders, some of them said that the problem of repeat offenders could best be attacked before the drivers become second-time offenders. Harsher first-time punishments could work. Three people said:

> *"Focus on the first offense. You want to make it bitter. It must be quick. You can't languish for a year." (Group 1)*

> *"We don't have penalties that are strong enough. The first offense is the most important. That's where we get them. Why don't first offenders pay more?" (Group 4)*

> *"Treating the first offense as civil trivializes the offense. Are we doing a disservice to society and the offender? If we were tougher the first time, maybe they would not recidivate." (Group 4)*

One person said that the state does not adequately inform the general public of the penalties of the first OWI conviction.

> *"We do a poor job of advertising of penalties." (Group 1)*

Some suggested making education part of the first offense.

> *"Get education before the second offense….If they go through education after the first, there might not be as many seconds. Try to change behavior." (Group 2)*

In addition, some focus group members said preventive measures could be taken, such as teen drinking prevention, and punishing teen OWI offenders more harshly. One person said:

> *"We should get something done for underage drinking. [Now there are] no assessments, no societal changes to de-normalize drinking and driving." (Group 2)*

Main Findings

The Importance of Assessment, Treatment and Education

Focus group members agreed that treatment and education are extremely important. Without them, merely using sanctions will not change offenders' behavior. One person favored combining education with incarceration:

> *"Incarceration shows the severity of [the OWI offense], but you can't make a lifestyle change with incarceration. You need education and treatment." (Group 2)*

Treatment and education are particularly necessary for repeat OWI offenders; without some intervention, they will continue to be chronic offenders, impervious to rational arguments and sanctions. One person said that incarceration is not enough to change offenders:

> *"If incarceration worked, they wouldn't be coming back. If nothing is done, they are going back out there." (Group 1)*

Focus group members said that pre-disposition services are important. It is a good idea to get to the offenders as soon as possible after the OWI stop. Several people pointed to the success of the Pretrial Intensive Supervision Program operating in Milwaukee County and nine other Wisconsin counties.

They agreed that assessments should be mandatory for all offenders, and treatment and education should be tailored to fit each individual as much as possible. Two people said that drunk driving needs to be considered from the point of view of being a disease.

> *"You have to enter a disease model into the equation. Once [the concept of] disease is in there, there is more you can do." (Group 3)*

> *"These [drunk drivers] are people with serious substance abuse problems." (Group 1)*

One person in Group 3 said that some drunk drivers have multi-faceted problems. According to this person, they are "psychiatrically undiagnosable."

One focus group member pointed out that some chronic drinkers are "self-medicating" for an underlying problem. They may lack the money or health insurance for a physician to diagnose their illnesses. If these offenders can get attention and proper diagnoses, they may be able to obtain the proper medication and stop their dependence on alcohol.

Some people said that health insurance companies should pay for more of the cost of AODA and other OWI treatment, especially when the need is for long-term treatment:

> *"It is a big step in the right direction to have the private sector kick in." (Group 3)*

> *"The private sector doesn't want to touch public cases due to low payments." (Group 3)*

One person said that the Wisconsin state legislature is "beefing up mandates" to private funding of OWI treatment.

Most participants agreed that treatment and educational services should be provided to offenders while they are in jail. They said that mere jail time will not change offenders' behavior.

However, some pointed out that it is easy for prisoners to remain sober because they cannot get alcohol. The real test is the ability of the offender to remain sober, at least while driving, when back in the community. Post-confinement treatment is also very important for this reason.

Most, but not all, of the focus group members favored giving judges more discretion so that punishment and treatment/education could be tailored to fit the individual offender. One person said that now judges are not needed because sentencing OWI offenders "is nothing more than law reading." (Group 2) Another person said courts are "hamstrung" with minimums and maximums. Somebody noted that judges do not now have enough information to use increased discretion:

> *"If we give judges more discretion, we need to give judges more information. [Now] a judge has little information on an offender, especially when it changes." (Group 2)*

One focus group member said judges should be more creative. He cited an Illinois judge who required offenders to live close to taverns.

However, some focus group members opposed more judicial discretion. They liked having more definite penalties in place. In addition, one person said that if judges had more discretion, offenders and their attorneys would go "judge shopping."

The Importance of Incarceration

Everybody agreed that the alternatives to incarceration, such as treatment and education, should be used in conjunction with jail time, not instead of it. Although some group members emphasized incarceration to varying degrees and sometimes did not agree on the proper sentences, every single participant agreed that incarceration needs to be in the mix of measures used to combat drunk driving.

There was consensus among focus group members that some incarceration is beneficial to second-time offenders. It "gets their attention." One person said that jail time can "scare them" so it is easier to "educate them." One person said jail time can convince offenders to get treatment:

> *"Jail is a slap and wakeup. Something needs to happen for them to get treatment." (Group 1)*

One person said that, unlike fines that have little impact on wealthy offenders, jail time affects all offenders; he said the "number one leveler is jail."

A focus group participant said incarceration is most effective with the second-time offenders. One person said:

> *"Second offense—we get the most bang for our buck. It doesn't have to be long term. Third and fourth—it doesn't make a difference. We need treatment options. Incarceration gives diminishing returns." (Group 4)*

However, although all focus group members favored some use of incarceration, very few focus group members suggested sending first-time offenders to jail.

There was a reluctance to incarcerate offenders needlessly. Some pointed to the high costs of incarceration and the lack of space in Wisconsin jails and prisons. Other focus group members pointed to the need to keep the offenders connected to their families, jobs, and communities. Several people favored home confinement, and some favored remote sobriety testing.

Many focus group members noted the expense of incarceration and lack of jail space. One person said:

> *"Numbers is the issue—jail space. It leads to mixed messages. Should a second offender be in jail? Someone else just robbed a bank." (Group 4)*

On the other hand, some focus group members said that drunk driving is a serious offense that warrants jail time—and complained that society did not view it as being serious enough. One person in Group 3 said that *"society views drunk driving as a far less serious offense than property crimes."* Another person in Group 4 pointed to the potentially lethal consequences of drunk driving and said, *"I'm more concerned with a drunk driver killing me than getting my window smashed by a robber."*

Most agreed that house arrest with electronic monitoring tends to work. One person cited a program of home detention in which approximately 95% of the offenders abided by the rules. One person whose jurisdiction uses Global Positioning System (GPS) said GPS works very well.

However, one person noted that with the problem drinker who has five or more OWI convictions, home detention with access to a vehicle is a time bomb waiting to explode. He said of offenders with five or more OWI convictions:

> *"The vast majority are heavy drinkers. They are constitutionally incapable of not drinking. If they have home detention and access to a vehicle, it is a time bomb." (Group 3)*

There was a consensus favoring giving offenders incentives for treatment and education, such as less jail time (but not eliminating jail time entirely). As one person said:

> *"Incarceration has to be a part of [the mix, but] treatment should mitigate it." (Group 1)*

One focus group member said that the threat of jail can influence an offender to cooperate in probation:

> *"Jail should be there as a component of probation. The judge needs to have more to hang over their head." (Group 2)*

Some focus group members said that using jail as a threat can encourage offenders to participate in education and/or treatment. For example, a judge could stay a sentence until the offender completes treatment and/or education. One person described a program in which offenders are not incarcerated while they are in the program. As long as they participate in the program, they stay out of jail, but if they violate the program's rules, they serve their entire sentence from the beginning, and "time on the bracelet" does not count as time already served.

Other focus group members said that a different approach has also worked: the offenders start in jail and must "work their way out" by participating in treatment and/or education. One person in Madison who had studied the behavior of prisoners said that "earning privilege" works better in influencing prisoners' behavior than taking away privileges for misbehavior.

Several focus group members said that punishment should be included in the mix of OWI measures because the public expects drunk drivers to be punished. The goal of retribution is important and should not be overlooked.

However, most were opposed to punishing first and second-time offenders to the point where they lost their jobs or were otherwise kept from being productive citizens. Some opposed long license suspensions, especially in rural areas, because they force the offenders to decide between driving without licenses and losing their jobs.

The Need for Intensive Probation and Case Management

Many focus group members pointed out that some offenders have long histories of addiction to alcohol or other drugs and that merely addressing the driving aspect of their problem would be unlikely to be successful.

They said case managers should involve the offender completely, including:

- Involve the offender's family
- Involve the offender's job
- Treat the whole person, not just the substance or alcohol abuse
- Include the offender's health, including mental health. Some drunk drivers are self-medicating and could be taking effective medication if their disease were diagnosed

Some participants noted that intensive supervision, with intensive case management, can work, even for multiple offenders. "Hand holding" can be successful for offenders who don't know what else to do.

Some mentioned using the offender's family and friends to help manage him or her. One person suggested requiring another person to sponsor an offender regaining a license. According to this person:

> *"'Concerned others' are a big part of multiple offenders' programs. [They say] 'why am I being punished?'" (Group 4)*

Many focus group members said that probation should be restored to second-time offenders. They said that long-term monitoring could be helpful. Others said that third-time and fourth-time offenders were "perfect candidates" for probation.

Some thought that there is not enough long-term monitoring for drunk drivers. One person said:

> *"We don't have long-term monitoring programs. There's pretrial, but once [they are] sentenced, they are done. There's no guardian angel—no case management. There is nothing in between their offenses." (Group 1)*

Some focus group members emphasized attacking the OWI problem from the perspective of transportation—find ways for offenders to get to and from work without driving. Use alternative transportation programs, such as Safe Ride.

Measures Aimed at the Vehicle

Generally, most focus group members spoke highly of Ignition Interlock Devices (IIDs), although they acknowledged that some offenders find ways around the devices. One person suggested making them less expensive so that more offenders could use them, thereby giving them more mobility, especially to go to work, while protecting the public.

The focus group members tended to be mixed on vehicle seizure. Some said it can be effective. One person said:

> *"You don't need a license to drive, but you do need a car." (Group 1)*

But other focus group participants said the vehicles are frequently not worth seizing. One person said the typical seized vehicle is "a 1984 Nissan with 234,000 miles." According to one person:

> *"Seizure is a losing proposition. There is no equity in it. It is not worth the time to go after the vehicle. It is more of a burden." (Group 2)*

However, somebody suggested that seizure might be effective for first-time offenders who tend to have better vehicles. But some focus group members said that judges are reluctant to seize expensive vehicles.

Some suggested seizing the vehicles even if they were owned by somebody else, were rented, or still had liens on them. Others pointed out that judges would be unlikely to approve seizing vehicles owned by third parties or those with liens on them, although some focus group members favored doing so. One person pointed out that the lending industry, the holders of the liens, would oppose any efforts to seize vehicles with liens. One focus group member said:

> *"It is not realistic to stiff the bank." (Group 4)*

In addition, they said the offenders simply drove other vehicles after theirs were seized. Some suggested prohibiting offenders from buying replacement vehicles, but others said it would be impossible to enforce such a law.

Nobody favored vehicle immobilization. Focus group members said that it was too much work to immobilize vehicles and that, again, offenders just obtained other vehicles. One person said:

> *"They find another junker, steal, or drive someone else's. There are multiple cars in a family available to them. People [not vehicles] are the root cause." (Group 4)*

Interestingly, at least one person in each group suggested putting an IID in every car in the United States. They said doing that would reduce drunk driving. But they acknowledged that the American public would be unlikely to support such a measure.

License Suspensions and Revocations

There was consensus that sanctions aimed at driver's licenses are seldom effective. They might have some impact on younger drivers and on conscientious first-time offenders, but the typical offender just drives without a license. One person in Madison summed up the limitation of license-oriented measures:

> *"The license is not the carrot to get them to do what we want." (Group 3)*

One person said that Administrative License Suspension "would be great if people obeyed it." (Group 4)

Some participants pointed out that by denying driver's licenses to offenders, the state is "forcing" the drivers to drive without licenses, which voids their auto insurance, which causes problems when there are accidents.

Some said that occupational licenses were often abused because of loopholes in the arrangements; for example, drivers are able to go places other than work or approved places. One person said that "occupational" licenses sometimes amount to 24 hour driving privileges. She said that the licenses should be "more precise on time." However, nobody suggested eliminating occupational licenses.

Several focus group participants said that both vehicle seizure and driver's license suspension and revocation share a problem—that offenders need to get to work. In urban areas, offenders usually have access to public transportation, but in rural areas, strict enforcement of prohibiting offenders from driving will result in them losing their jobs. Focus group members from rural counties said that case management should include "managing their [the offenders'] transportation to and from jobs." (Group 3)

Fines

The focus group members said that increasing fines does not have much impact on drivers' behavior. Most people are not deterred by the fines because they are not aware how large they are. Among the offenders who are fined, the wealthy simply pay the money without much pain, and the poor do not pay the fines because they do not have the money. One person suggested basing the fines on the income levels of the offenders.

Some focus group members said that high fines sometimes keep offenders from getting their lives together, so the fines have a deleterious effect. They noted that there are other financial costs to OWI convictions, such as increases in auto insurance costs, so the "official" fines are only part of the actual monetary penalties to the offenders.

One man suggested rebating fines over years in exchange for offenders staying sober, not driving drunk, or participating in treatment and/or educational programs. Doing this would give the offender an incentive to stay with the program:

> *"Use a high fee structure, and if you go three years [sober], you get $1,500 plus interest….Everyone wants to get rewarded. The state says, 'Thank you. Here's some money." (Group 4)*

Other Measures

The focus group members discussed other measures that could be taken to fight drunk driving. They were mixed on the value of community service. Some said that it is more work than it is worth to supervise offenders, and others said that service agencies, such as the Salvation Army, do not want offenders who are working involuntarily. However, other focus group members said they had used community service effectively. One person in Madison said he had successfully used offenders in public service for 8,000 hours of work.

One person said that working in hospitals or rehabilitation centers where victims are recovering from traffic accidents could be effective community service for drunk drivers, but cleaning litter from highways does not do much to reform the offenders. Another person suggested having offenders talk to students about drunk driving.

Focus group members spoke highly of Victim Impact Panels. They said they were effective on first and second-time offenders. Some suggested using Offender Impact Panels, in which offenders who have killed or hurt people talk with new OWI offenders. One problem with these panels is the difficulty of keeping them going.

Public humiliation, such as listing offenders' names in the local newspapers, can work, especially for first-time or second-time offenders who still consider themselves to be upstanding citizens and are vulnerable to peer embarrassment. It would probably work better in rural areas where people tend to know each other better. One focus group member noted that public humiliation is less likely to work in a city, where people are more anonymous. *"Anonymity is the enemy of public safety." (Group 3)*

Some, but not all, focus group members favored using special license plates (so-called zebra plates) to embarrass offenders and warn other motorists. A few suggested using "zebra" driver's licenses, so that every time an offender used his or her license for identification, he or she would be reminded of the OWI offense and would announce his or her status as a "drunk driver." Some saw "zebra" driver's licenses as a way to diminish the anonymity of drunk drivers.

One person suggested imposing a tax on alcoholic beverages—a "liquor tax"—because alcohol causes the problem of drunk driving. Others in the discussion opposed that idea, saying that they did not think all drinkers should have to pay for the transgressions of a few drunk drivers.

Some favored more regulations on taverns to stop drunk driving, although one focus group member who had owned a tavern said it is very difficult for taverns to control drunk drivers. He said that he had installed a Breathalyzer in his tavern to help patrons know when they were too drunk to drive, but university students had used it for contests to see who could become the most drunk.

Some people suggested studying the effectiveness of Wisconsin programs and finding out what other states are doing. They said there is no point in "reinventing the wheel" over and over.

APPENDIX
RECRUITING SCREENER

Recruiting Screener

Group # _____ 0401-4120-3
Functional Area _____ 05/04/01 – 4

ALTERNATIVES TO INCARCERATION STUDY
FOCUS GROUP RECRUITING SCREENER - MILWAUKEE

INTERVIEWER: _____ DATE: _____

INTERVIEWER: ASK TO SPEAK TO NAME ON LIST. IF THIS PERSON IS NOT AVAILABLE, ASK WHEN WOULD BE A GOOD TIME TO CALL BACK.

Hello, my name is _____ from The Dieringer Research Group, an independent marketing research company. We are a professional research organization that surveys the attitudes and opinions of professionals on various topics.

We have been contracted by the Wisconsin Department of Transportation to assist in the study and evaluation of various alternatives to incarceration for repeat drunk drivers. This study, a joint effort between the departments of corrections, health and family services, and transportation, is required by the 1999 Wisconsin Act 109, Section 88.

Your name has been provided as an expert candidate for this study from the [**INSERT FUNCTIONAL AREA FROM LIST]**.

1. Does this general functional area best describe your area of responsibility?

_____ Yes **(CHECK THE AREA UNDER #1. BELOW THEN SKIP TO #2.)**

_____ No **(PROCEED TO #1.1.)**

1.1. Which of the following functional areas best describe it? **(READ LIST.)**

#1.	#1.1.	Functional Area	
_____	_____	Law Enforcement	**(CHECK QUOTA)**
_____	_____	Legislative/Court System -Defense	**(CHECK QUOTA)**
_____	_____	Legislative/Court System -Prosecution	**(CHECK QUOTA)**
_____	_____	Government/Public Health	**(CHECK QUOTA)**
_____	_____	Social Services	**(CHECK QUOTA)**
_____	_____	Corrections	**(CHECK QUOTA)**
_____	_____	Education	**(CHECK QUOTA)**
_____	_____	Treatment/Counseling Programs	**(CHECK QUOTA)**
_____	_____	Probation/Parole Agents	**(CHECK QUOTA)**
_____	_____	Correctional Product Vendor	**(CHECK QUOTA)**
_____	_____	Advocate	**(CHECK QUOTA)**
_____	_____	Other_____	

(check quota. if both groups include a person from respondent's functional area, please thank and terminate. if respondent indicates an "other" functional area, please continue interview and then inform your supervisor immediately after the interview if the respondent plans to attend.)

THE DIERINGER RESEARCH GROUP, INC. / MILWAUKEE, WI 53222-5025 / ATLANTA, GA 30350-2800 / www.thedrg.com

Recruiting Screener

2. How long, in years, have you been involved in this area? _____ years

3. We are inviting a small group of people to participate in a research discussion on this topic. The discussion, led by a trained moderator, will consist of 8 to 10 people and will last for approximately an hour and a half. In return for your participation, we are offering $75.00, which can be paid to you or donated to a charity of your choice.

(CHECK QUOTA SHEET AND INSERT APPROPRIATE TIME BELOW. IF BOTH GROUPS ARE OPEN FOR THIS FUNCTIONAL AREA, GIVE THE RESPONDENT A CHOICE OF TIMES. REMEMBER: ONLY ONE PERSON PER FUNCTIONAL AREA PER GROUP.)

The focus group will be held at [***insert time(s)***] on Wednesday, May 23rd at our offices, The Dieringer Research Group, at 3064 North 78th Street in Milwaukee. Would you be willing to participate?

_____ Yes **(INDICATE GROUP NUMBER AND SKIP TO #4.)**

_____ Group 1: Wed., May 23 at 6:00
_____ Group 2: Wed., May 23 at 8:00

_____ No **(PROCEED TO #3.1.)**

3.1. Would you please explain why you are not willing to participate? **(DO NOT READ LIST.)**

_____ Time/Date Conflicts **(PROCEED TO #3.2.)**
_____ Not Interested **(THANK AND TERMINATE)**
_____ All Other **(THANK AND TERMINATE)**

3.2. Is there someone else within your organization who is knowledgeable about alternatives to incarceration for repeat drunk driving which you would like to recommend to participate in your place?

_____ Yes **(PROCEED TO #3.3)**
_____ No **(THANK AND TERMINATE)**

3.3. Please provide their name, title, and phone number.

Name (Mr. - Mrs. - Ms. - Dr.) [circle one] _____

Title _____

Company (if different)_____

Telephone (_____)_____

(DO NOT CALL THIS PERSON. THANK AND END INTERVIEW)

4. We will send you a letter of confirmation and directions to The Dieringer Research Group within the next few days. We will contact you again with a reminder a day or two before the group.

   I'd like to clarify your name and collect your mailing information.

PLEASE CLARIFY SPELLING ON FIRST AND LAST NAME.

Name (Mr. - Mrs. - Ms. - Dr.) [circle one]_____

Title _____

Company _____

Address _____

City _____ State _____ Zip Code _____

Telephone (_____)_____

Fax (_____)_____

E-mail _____

5. As mentioned before, we will pay you $75.00 or we can donate the money to a charity of your choice. Which do you prefer or would you like to decide this later? **(DO NOT READ LIST.)**

   _____ Receive money **(SKIP TO END INTERVIEW)**
   _____ Donate to Charity **(PROCEED TO #5.1.)**
   _____ Decide later **(SKIP TO END INTERVIEW)**

   5.1. We can collect the organization's name now or at the focus group on May 23rd. Which do you prefer?

   _____ Decide later **(SKIP TO END INTERVIEW)**
   _____ Donate to:

   Organization Name: _____

   Address or City (if known): _____

END INTERVIEW:

Thank you for your time and we look forward to meeting you at [***insert time(s)***] on Wednesday, May 23rd.

Rescreened by: _____ Date: _____

APPENDIX
DISCUSSION GUIDELINE

OWI FOCUS GROUP
DISCUSSION GUIDELINE
DOT, DOC, DHFS

I. WELCOME/EXPLANATION OF GROUP PROCESS:

- Explain purpose of group
- Be honest; you won't hurt my feelings
- Explain tape recording, one way mirror, video taping, people watching
- Stress no right or wrong answers; all opinions welcome
- Only one person talks at a time

II. INTRODUCTIONS:

- Introduce yourself
- First name and job description

III. BACKGROUND DISCUSSION:

- Explain Act 109 requirement to study alternatives to incarceration for repeat drunk driving
- We will discuss only the part of OWI that occurs after the drunk driver has been stopped—Not things like:.10 BAC v. .08 BAC
- Concentrate on repeat offenders

- What I want to know is:
  - WHAT THOUGHTS OR IDEAS DO YOU HAVE ON ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNK DRIVING?

IV. THOUGHTS:

- Write down your thoughts on the piece of paper (give them about five minutes)
  - What did you write?

V. WHAT WORKS/WHAT DOESN'T WORK:

- In your opinion, what works?

- What does not work?

- What are the biggest obstacles to your fighting repeat OWI?

- What are the biggest helps to you in fighting repeat OWI?

VI. <u>WHAT HAVE YOU HEARD OR READ ABOUT IN OTHER STATES THAT MIGHT WORK IN WISCONSIN?</u>

- What have you heard or read about in other states that would NOT work in Wisconsin?

VII. <u>IF YOU WERE IN CHARGE OF DEVELOPING THE WISCONSIN PROGRAM FOR DEALING WITH CONVICTED IMPAIRED DRIVERS</u>:

- What would you include in it?

- What would you definitely NOT include?

VIII. <u>WHAT ARE YOUR OPINION OF THE FOLLOWING MEASURES</u>:

5. Personal sanctions on the driver

   - Incarceration
   - Detention facilities
   - Home confinement
   - Intensive Supervision Probation
   - Pretrial Intensive Supervision Program (ISP)
   - Individualized sanctions
   - Work release
   - Public service work
   - Restricted plea bargaining
   - Fines
   - Harsher sanctions for persistent OWI offenders
   - Victim Impact Panels
   - Other Personal Sanctions

6. Treatment and Education of the driver

   - Treatment programs
   - Dedicated OWI treatment facilities
   - Use of Alcoholics Anonymous
   - Diversion into education or treatment programs

7. Sanctions based on the driver's license

   - Administrative license suspension (ALS)
   - Harsher sanctions for offenders who drive after their license has been taken away

8. Sanctions on the vehicle

   - Seizure of the vehicle
   - Disabling the vehicle
   - Vehicle forfeiture
   - Allowing the offender to drive under specified conditions.
   - Use of an ignition interlock device (IID)
   - Seizure of the license plates
   - Use of special license plates on offenders' vehicles

7. Sentencing guidelines

   - Tiered BAC limit, with greater sanctions for higher BAC
   - Lower BAC limit for previous offenders
   - Treat juvenile OWI offenders as adults and retain their OWI records
   - Harsh penalties for refusal to take BAC test

8. Administrative supports to dealing with repeat OWI offenders

   - Effective OWI tracking system to gather data on OWI
   - Judicial OWI seminars
   - Special OWI courts
   - Court monitoring

IX. DO YOU HAVE ANY OTHER THOUGHTS, OPINIONS, OR IDEAS?

INDIVIDUAL INTERVIEWS

WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES

EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

PHASE 2, PART 2: INDIVIDUAL IN-DEPTH TELEPHONE INTERVIEWS

SEPTEMBER 10, 2001

PREPARED BY:

THE DIERINGER RESEARCH GROUP, INC.

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

> "The Departments of Corrections, Health and Family Services and Transportation shall jointly study and evaluate the desirability of using treatment progams and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a 2nd or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug."

At the request of the above mentioned departments, The Dieringer Research Group, Inc. (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study's principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection/Case History Development

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin
Step Two: Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin
Step Three: 72 Wisconsin counties

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Step Two of Phase Two.

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.
- Identify examples of best practices including detailed case study profiles.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
  - Identify the practices currently being used in Wisconsin to reduce repeat drunk driving.
  - Assess the effectiveness of various measures in reducing repeat drunk driving.
  - Learn about the characteristics of drunk drivers in Wisconsin.
  - Obtain insight and advice about reducing drunk driving.

Phase Three:

- Assess and evaluate the effectiveness of the various practices.

Introduction

For this Step Two of Phase Two, The DRG conducted 15 individual, in-depth interviews with experts on drunk driving. All respondents worked in Wisconsin. Interviews were conducted from June 14 through August 1, 2001.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they complemented the four focus groups that had been conducted earlier. In those groups, all of the participants had lived in the Milwaukee or Madison areas. The respondents in this phase of the study were selected to represent the other areas of the state. The state was divided into five regions:

- The Green Bay region
- The Superior region
- The Wausau region
- The Eau Claire region
- The La Crosse region

The job descriptions and geographic regions of the respondents are shown on the following table:

Functional Areas and Locations of Respondents					
Functional Areas	Region of State				
	Green Bay	Super-ior	Wausau	Eau Claire	La Crosse
Law Enforcement				X	
Legislative/Court System - Prosecution	X				
Legislative/Court System - Defense			X	X	
Legislative/Court System - Judicial					X
Social Services		X			X
Corrections		X		X	
Education			X		X
Treatment/Counseling Programs		X	X		
Advocate	X				
Correctional Product Vendor	X				
Total Interviewed in Each Region	**3**	**3**	**3**	**3**	**3**

SUMMARY AND CONCLUSIONS

Summary and Conclusions

Background

The 1999 Wisconsin Act 109, Section 88 (1) requires the Wisconsin Departments of Corrections, Health and Family Services, and Transportation to jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or need for incarceration of persons convicted of a second or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug. The study is being conducted in three phases.

In this phase, The Dieringer Research Group, Inc. conducted 15 individual, in-depth interviews with experts on drunk driving. All respondents worked in Wisconsin. All interviews were conducted during June, July, and August, 2001.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they complemented the four focus groups that had been conducted earlier in Milwaukee and Madison. The respondents in this phase of the study were selected to represent the other areas of the state.

Findings

Overall Perspectives of the Study Respondents

The study respondents represented many diverse points of view, but they tended to share a common perspective on the necessity for rehabilitating the repeat drunk driver. Because of this common perspective, they tended to agree on some overarching ideas. The principal areas of agreement are:

- No one measure alone is effective in reducing repeat drunk driving. Any effective policy must include a variety of sanctions and treatment and educational options.

- Ideally, each offender's treatment would be tailored to his or her needs. While this is not often practical, the most effective system will include an assessment to determine each offender's needs and a variety of options to address those needs.

- Both traditional sanctions and treatment and educational strategies, working together, are necessary.

- Traditional sanctions—such as incarceration, fines, and license suspension or revocation—alone will not reduce repeat drunk driving. Sitting in jail, paying money, and losing a driver's license typically are not effective by themselves in convincing repeat drunk drivers to stop drinking and driving.

- Offering treatment and educational approaches alone also will not reduce repeat drunk driving. Some experience with, or threat of, sanctions is necessary to convince the typical repeat drunk driver to participate in treatment and educational programs. For example, reducing jail time is frequently a compelling reason for an offender to participate in treatment for alcoholism.

Summary and Conclusions

- There are clear differences between the typical first-time OWI offender and the multiple repeat offenders. First-time offenders represent a wide variety of society, including social drinkers who just had one too many drinks at a party—what some respondents called "normal people." On the other hand, multiple repeat offenders tend to be alcohol abusers who have often lost their jobs and their families—and have little else left to lose.

- Because of the difference between the two types of offenders, measures that are effective on first-time offenders, such as fines and license suspensions, are seldom effective for multiple repeat offenders. The persistent offenders almost always need treatment to overcome their alcoholism and get their lives back together.

Specific Measures

The study respondents gave their opinions on several specific measures that should be taken to reduce repeat drunk driving. These measures, and the respondents' opinions on them, are listed below. They are listed in roughly their level of effectivenes as evaluated by the respondents. The reader should keep in mind that the study respondents did not consider any of these measures, taken by themselves, to be effective. Each measure is effective only if used in an integrated, coordinated program that is conscientiously implemented.

<u>The Most Effective Measures</u>

The measures listed first were generally considered to be effective by all or most respondents.

- <u>Treatment and Education</u>: There was nearly unanimous agreement that treatment and education are important to stop the repeat drunk driver from re-offending. Without treatment and education, the repeat drunk drivers do not have the information, the skills, or the desire to stop drinking and driving. None of the study respondents were opposed to treatment and education.

  Although there was widespread agreement that treatment and education are necessary, there was not much agreement on the distinction between treatment and education. Overall, three types of treatment and education were mentioned:

  – Information about drinking, alcohol, and alcoholism. (Some respondents called this "treatment," and others called it "education.")
  – Developing abilities concerning personal relationships such as interacting with the family and resisting peer pressure to drink. (Some respondents called this "treatment," and others called it "education.")
  – Academic education to teach job skills or earn a high school degree, GED, or HSED. (All respondents who mentioned this called it "education.")

  Because of the varied use of the words and uncertain distinction between the concepts of "treatment" and "education," this report will usually refer to treatment and education together without trying to disntinguish between the two. The only exception is for academic education, which will always be referred to as "education."

Summary and Conclusions

- Assessment: There was virtually unanimous support for assessments. Assessments are necessary to determine what kinds of treatment and education are most needed for each offender. Since individualized treatment and education are most effective, the assessment is vital. There were some criticisms to the way assessments are implemented today, but there was no opposition to assessments *per se*.

- Intensive Supervision: Many respondents said that multiple repeat OWI offenders need close supervision. Some respondents characterized this level of attention as "hand holding" or "babysitting." Several respondents also noted that the intensive supervision should begin as soon after the offense as possible.

- The Need for Urgency: Some of the study respondents expressed a need for urgency in beginning any treatment or educational programs. They said that it is important to get the offender under supervision as soon as possible; waiting until a conviction, which could take months, is waiting too long. Some respondents said the offender should enter supervision immediately after the first appearance in court; others said supervision should begin before the first court appearance.

Other Important Measures

The next few measures were generally considered to be effective, although sometimes there was disagreement among respondents.

- Electronic Monitoring: Although not all of the respondents agreed, most considered home confinement with electronic monitoring to be effective in dealing with repeat drunk drivers. The offenders could be compelled to participate in treatment while keeping their jobs and staying with their families. Some respondents said that electronic monitoring is most effective if used with an in-home breathalyzer.

- Victim Impact Panels: Although not all of the respondents had experience working with victim impact panels, those who did tended to rate them highly for effectiveness. They said the panels put a "human face" on drunk driving that many offenders had until then viewed as a victimless crime.

- Community Service: Although many of the respondents were not familiar with community service, those who were familiar said that it helps in the fight against repeat drunk driving. They said it improves offenders' self-image and sometimes gives them employable skills.

- Work Release (Huber Program): Although not all of the respondents agreed, most spoke positively about work release. They said it permits the offender to maintain ties to the community while serving the sentence.

- Ignition Interlock Device (IID): Only seven of the 15 respondents spoke about IIDs, but they were in favor. They said the devices limited the offender's ability to drive drunk, while keeping him connected to his family and community. However, one respondent said that only 10%-13% of offenders who are ordered to use IIDs actually do so. Other respondents pointed out that some offenders are able to circumvent the devices.

- Alcoholics Anonymous: Respondents who were familiar with Alcoholics Anonymous praised its success. They said that AA is very successful for offenders who want to participate in its program. They also said they are not allowed to require offenders to attend AA meetings because of AA's religious component.

Traditional Sanctions

The next four measures are the traditional sanctions of incarceration, fines, license suspension/revocation, and penalties for Operating After Revocation (OAR). Although no respondents were in favor of abandoning any of these sanctions, many were skeptical of their effectiveness in dealing with persistent drunk drivers. That is, they said that all these sanctions can be effective for some drivers, particularly first-time and second-time offenders, but imposing more of a sanction does not add much effectiveness.

- Fines: Some respondents said that fines are effective in deterring drunk driving, but more respondents said that extremely large fines are ineffective. They said that for many offenders, fines in the thousands of dollars are no more realistic than fines in the millions of dollars; the offenders cannot pay them. They said that large fines keep many offenders from participating in assessments and therefore from getting treatment. They also said that some offenders, realizing that they will never be able to pay their fines, do not make any attempt to straighten out their lives.

  Some respondents said that fines punish the poor more than other offenders. They said that fines should be on a sliding scale based on the offender's ability to pay.

- Incarceration: Respondents also favored the use of incarceration for repeat drunk drivers. The reason that respondents gave most often for using incarceration is as an incentive for participating in treatment or educational programs. According to the respondents, incarceration should be used as a carrot (reduced jail time for participation) or a stick (jail time for not participating, or not completing, a program).

  Some respondents said that jail is an excellent deterrent. Other respondents said that long-term incarceration does not change a drunk driver. One respondent said long jail or prison terms just make criminals out of people. Another said that offenders struggling with alcohol had learned their lesson within six months.

  Some respondents did say that "warehousing" offenders for long periods of time did keep them off the roads. They viewed this as a last resort; for some persistent drunk drivers, that is all that can be done.

- Driver's License Suspension/Revocation: While none of the study respondents opposed using license suspension and revocation in the fight against drunk driving, most were dismissive about the effectiveness of license suspension and revocation in affecting repeat drunk drivers. Most of them said that the offenders just drove without licenses.

- Penalties for Operating a Vehicle after Revocation (OAR): A few respondents said that there should be harsh penalties for OAR, but most of those who addressed OAR said that the penalties are already harsh enough.

Summary and Conclusions

The Least Effective Measures

The following four measures were generally unpopular with the study respondents:

- Vehicle Seizure: Although some respondents said that vehicle seizure is effective in fighting repeat drunk driving, more said that it is not effective. They said that drunk drivers tend to drive very cheap vehicles (often worth less than $100). However, one respondent said that in poor rural areas where few families have more than one vehicle, confiscating that one can keep drunk drivers off the roads.

- Disabling the Vehicle: Although most respondents did not have experience with vehicle disabling and did not offer an opinion, most of those who did were opposed to it. They said that the vehicles are not worth much anyway, so the offenders are not particularly worried about losing the use of them.

- Zebra Plates: None of the respondents had personal experience with special license plates for repeat drunk drivers (the plates are often called "zebra plates" because they typically have stripes on them). Most respondents did not like the idea. They said that it punished other family members and was too much like branding someone with a "scarlet letter."

- Public Humiliation: Generally, the respondents felt that public humiliation techniques, such as printing offenders' names in the local newspaper, might be effective for first-time offenders but would not be effective for repeat offenders.

Implementation Issues

The following three implementation issues came up during the interviews, although there were no specific questions about them. The first one concerns a problem in the system of accounting for drunk drivers. The next two are impending problems with drunk driving that many respondents said are inevitable with the new "get tougher" laws.

- Holes in the System: There are some holes in the system of accounting for drunk drivers. According to one prosecuting attorney, the courts are not informed if a convicted offender does not go to an assessment. As a result, they do not know if offenders have participated in treatment or educational programs or have had their driver's licenses reinstated. In addition, one respondent said that only 10%-13% of convicted offenders who are ordered to install an Ignition Interlock Device (IID) actually do so. In sum, the ability of the state to monitor convicted offenders is limited, and the ability of offenders to avoid treatment, education, and punishment is enhanced.

- Lack of Jail Space: Several respondents noted that incarceration is an extremely expensive way to deal with drunk driving. The respondents did not say that there is inadequate space today, but they said that with increasingly strict OWI laws, the state and local jurisdictions will be forced to build new facilities if they are to incarcerate all the offenders who are sentenced to jail or prison.

Summary and Conclusions

- Changing Definitions: Some respondents commented on changes in the drunk driving laws, especially how "repeat offenders" are defined. Whereas previously, OWI convictions were "forgotten" after several years, now they continue to compile for a driver's life from 1989. Some respondents said that there will be an increase in "repeat" drunk drivers as time progresses and 1989 recedes into history. Because of the changing definition of "repeat" drunk driver, the OWI statistics will appear to be getting worse, and jails and prisons will become more crowded with OWI offenders.

MAIN FINDINGS

Main Findings

Overall Perspectives of the Study Respondents

Introduction

Although the study respondents had varied perspectives and emphasized different aspects of the struggle against repeat drunk driving, they did tend to agree on some basic fundamentals of reducing drunk driving. Agreement on fundamentals was due to a common goal in the fight against drunk driving. According to almost all of the study respondents, the most important goal in the fight against repeat drunk driving is to rehabilitate and reform repeat OWI offenders. That is, the goal is change the repeat drunk driver into a legal driver, or a non-driver.

All the respondents favored punishing the repeat offenders—but from the point of view of encouraging or compelling them to rehabilitate themselves, not from the point of view of revenge or punishment for punishment's sake. Those respondents who advocated long-term incarceration for incorrigible repeat offenders did so only as a last resort to protect the public. One member of the Criminal Justice Council summed up the overall attitude of the respondents when he said that a drunk driving program *"cannot be solidly focused on revenge or punishment of the driver."*

The main things on which the participants in this study agreed are:

- No one measure alone is effective in reducing repeat drunk driving. Measures are effective when used in a coherent, integrated program that is conscientiously implemented.
- Each offender's treatment should be individualized as much as possible.
- Traditional sanctions, such as incarceration, fines, and license suspension, should be used in conjunction with treatment and education programs.
- There are clear and consistent differences between the typical first-time OWI offender and the multiple repeat offender. The average first-time offender usually has a job and a family—and a lot to lose—and is embarrassed to be stopped for drunk driving. The average multiple repeat offender (especially one with five or more OWI arrests) is less likely to have a job or a family and is not particularly embarrassed to be stopped for drunk driving.

  Because of the differences between these two types of offenders, measures that are effective for first-time offenders tend to not be effective for persistent offenders. Specifically, fines, license suspensions, and threats of incarceration that tend to be very effective with first-time offenders tend to be ineffective for multiple repeat offenders.

Integrated Programs Conscientiously Implemented

One consistent theme of the interviews was that for any strategy to be successful, it must integrate treatment and educational programs with the traditional sanctions of incarceration, fines, and license suspension/revocation.

Main Findings

The respondents emphasized that the core of any effort to reduce repeat drunk driving is treatment for alcohol abuse. Alcohol abuse is the foundation of repeat drunk driving; without addressing it, repeat drunk driving will not be reduced. Without treatment, the offenders will simply continue to drive drunk. There is nothing inherent in the exercise of sitting in jail, paying fines, or losing a driver's license that convinces a person who drives after drinking to stop doing so. As a jail administrator said, *"Incarceration alone is not the answer. If it worked, why would we have people with fifth, sixth, seventh, and eighth offenses?"* Many study respondents echoed this viewpoint. To paraphrase them: *"If punishment worked, we wouldn't have as much drunk driving as we do."*

In addition to treatment, many offenders need education. Many are not aware of the effects of alcohol on their bodies, their lives, and their wallets. Many are not aware of strategies to resist the need to drink and peer pressure to drink. Many are not aware of the toll of alcoholism on their families.

The treatment and education programs must be conscientiously implemented, which usually involves close supervision. Several respondents pointed out the need to monitor the offenders closely—checking on them frequently. Some of the respondents referred to it as "babysitting" or "handholding."

But treatment and education by themselves will not be successful in reducing repeat drunk driving. Most alcoholic repeat drunk drivers are resistant to enter treatment and education programs and stay in them until completion. These resistant offenders need encouragement to enter and stay with the programs. This "encouragement" typically takes the form of the threat of punishment or the possibility of reduction in punishment. For example, offenders may reduce their jail time or their fines by participating in, and completing, programs on alcoholism. As one study respondent said, *"We can turn a punishment into an incentive."*

One AODA Coordinator summed up his idea of a strategy that works:

> *"What works is a combination of treatment, sanctions, close monitoring, and incentives. You can reduce your jail time by one-half by longer monitoring."*

A judicial official explained what works in much the same way:

> *"What works is a combination of treatment, supervision, testing, and regular follow-up in the community. But these things work best in conjunction with jail or the threat of jail. The offender may get electronic monitoring if he follows orders, or he may get his incarceration stayed. Jail alone is usually not effective."*

A human services professional said that if she could design her ideal program for dealing with repeat drunk driving, she would include:

> *"Early and harsh intervention, with all offenders [including first-time offenders] receiving a comprehensive assessment and a follow-up plan and a strong education component about alcohol and family relations. The offenders—not the taxpayers—would pay for it."*

An anti-drunk driving advocate said:

> *"Punishment alone doesn't change anything. There has to be treatment and education. Rehabilitation often does not have an impact without education. You can't do one without the other. The combination of methods is what counts."*

Individualized Treatment: The Importance of an Assessment

What works for one person may not work for another. The government should have a variety of options that it can use on each person as appropriate. As several respondents indicated, there is no generic offender.

One of the most important steps in guaranteeing appropriate handling of an OWI offender is the initial assessment. The results of the assessment give the authorities information on how to proceed. One main reason to have a large number of sanctions, treatment strategies, and educational programs available is having the ability to choose the most effective options and apply them to each offender. One AODA assessor said:

> *"Unless they go in for the assessment and get treatment and education, there is no hope for changing, for making better choices."*

Another important reason to conduct an assessment is to determine how the offenders view themselves and their responsibility for having driven a vehicle while intoxicated. A treatment counselor said:

> *"The initial assessment is important. A goal is to see if they take ownership for their OWI and dependence [on alcohol] and get a history of their habit. [It is also to] see if they think they have a problem. Some offenders, even after four OWIs think they have just had bad luck or the police are out to get them. Some are defiant at first but eventually take responsibility for their actions."*

A court official said that the assessment should be used to uncover several issues in addition to alcoholism, including:

- Psychological issues
- Social issues
- Economic issues

A public defender said that what works is *"immediate diversion to an assessment—immediately after the initial appearance in court."* He said the immediacy of the assessment and consequent treatment makes the treatment more effective than it would be if it occurred after a conviction several months later.

An educator from a technical college said an assessment is necessary to determine what education an offender needs, although he was skeptical about the value of education for a multiple repeat offender.

> *"The assessment obviously has to take place. Certain individuals need it more than others. The [third and subsequent offender] is beyond benefiting long term by education. They are in need of more than what we have to give them."*

One AODA counselor said that the assessment is so important that offenders should not be eligible for lighter sanctions if they do not appear for their assessments:

> *"If they don't come in for their assessment, electronic monitoring and Huber should not be offered."*

A different public defender said that some offenders do not receive assessments because they cannot afford them. He suggested instituting a fee schedule based on the offender's ability to pay.

> *"I would include it, but it costs $175. There is no free assessment for the indigent. There should be a sliding fee based on the ability to pay."*

Traditional Sanctions Support Treatment and Education

Although virtually all of the study respondents emphasized the need for treatment and education of the repeat drunk driver, they favored supporting that treatment and education with the traditional sanctions of incarceration, fines, and license suspension and revocation.

The most important reason for using sanctions with treatment and education is to give the offenders incentives to participate in the treatment and education. Some of the respondents in the study said:

> *"Traditional sanctions work most effectively if they can be used persuasively to keep people in counseling or establishing the terms of counseling….Incarceration has to be kept in the mix as what will happen if they don't complete their counseling or do what they are supposed to do."*

> *"They [incarceration and treatment] should go hand in hand, so if one doesn't follow through with the minimum requirements, the jail time should be restored."*

> *"Everything that is done needs to be in conjunction with jail time."*

> *"Some incarceration time, some treatment time. More treatment time, less jail time. But do not reduce the jail time to zero."*

> *"Give them a choice. Go to jail, take away the drugs, and give them a chance to go into treatment and education. They are more susceptible to change—even if they are just trying to get out of jail. They learn something; it gives them other options."*

In addition to traditional sanctions supporting treatment, treatment can also support the traditional sanctions. Many repeat drunk drivers simply do not care about sanctions, so punishment and the threat of punishment are not effective with them. After they have sobered up, however, and see the consequences of the sanctions, they can appreciate their severity and take appropriate actions. One AODA assessor said:

> *"For repeat drunk drivers, consequences are not a concern until they sober up."*

Main Findings

Differences Between First-Time Offenders and Multiple Repeat Offenders

Several study respondents said that there are important differences between the driver who has one, or even two, OWI arrests. They said that, compared to the multiple offender, the first-time offender tends to:

- Have more
  - Have a job
  - Have enough money to pay a fine
  - Have a family
  - Have a good vehicle
- Be affected by other sanctions
  - Be embarrassed about being stopped for drunk driving
  - Be more threatened by the prospect of jail

The study respondents pointed out how sanctions that might deter an ordinary person with one OWI, or no OWIs, might not be effective for a multiple offender. For example, one respondent said that public humiliation would be effective for first-time offenders, but as a person rolled up more offenses, humiliation would be less and less effective. He said, *"Repeat drunk drivers don't have a stake in the community—no job and no family."* As a result, they are less concerned about what the community might think.

Other study respondents also voiced this opinion.

> *"More jail time is a deterrent for somebody with something to lose. The consequences are not much of a problem once they start drinking. It wouldn't matter if the sentence was 30 or 180 days. It would not be a deterrent."*
>
> *"First time offenders are more responsible. There are some responsible third and fourth offenders. Not fifth time offenders. By that time they have had consequences that should deter them from drinking. We don't know what to do with those people."*

Specific Measures

The study respondents gave their opinions on several specific measures that have been used or suggested to reduce repeat drunk driving. These measures, and the respondents' opinions on them, are listed below. They are listed in roughly their level of effectiveness as evaluated by the respondents. The reader should keep in mind that the study respondents did not say that any of these measures, taken by themselves, would be effective. Each measure is effective only if used in an integrated, coordinated program that is conscientiously implemented.

Main Findings

The Most Effective Measures

The first few measures listed here were generally considered to be effective by all or almost all respondents.

Treatment and Education

There was nearly unanimous agreement that treatment is important to stop the repeat drunk driver from re-offending. Without treatment, the repeat drunk drivers do not have the information, the skills, or the desire to stop drinking and driving. A public defender spoke for most of the study respondents when he said, *"I absolutely recommend alcohol treatment."*

There was also widespread agreement about the importance of education, but respondents used the word "education" in three different ways:

- Education about drinking, alcohol, and alcoholism.
- Education about personal relationships such as interacting with the family and resisting peer pressure to drink
- Academic education to teach job skills or earn a high school degree or GED

The first two uses of the term "education" are identical to others' use of the term "treatment." In addition, some respondents even understood academic education to be a variety of treatment. In this report, we will not attempt to sort out the precise meanings of the terms. Except for academic education, we will discuss treatment and education together.[3]

An anti-drunk driving adocate said that the first type of education (treatment) is essential. She said that some offenders have been drinking since before they were 21 years old and do not understand the effects of alcohol on their lives. She said:

> *"Education is vital. Rehabitation often does not have an impact without education. You can't do one without the other. They [the offenders] have to learn:*
> - *What alcohol does to your body—physiologically, developmentally, and behaviorally*
> - *What it does to others*
> - *Drunk driving is wrong."*

An AODA counselor said that his education (treatment) programs teach offenders about alcohol with a somewhat different focus:

- The OWI laws
- Their own use of alcohol
- Costs of the alcohol
- Costs of the OWI fines

[3] Discussing treatment and education together does not imply that they are the same—only that the distinction between them is not consistent among respondents. Most respondents could explain the difference between treatment and education, but they would apply the terms differently. For example, some respondents said that when an offender learns about his own alcohol addiction, he is involved in treatment, while others said he is involved in education. Rather than impose a consistent distinction between treatment and education, which did not exist among the respondents, the two measures are discussed together.

He said that many offenders are surprised to learn how much they have paid for their alcohol and how much they owe in fines. In addition, there is another program in his county that approaches education in a "cognitive intervention group." In these groups offenders look at:

- Their thinking patterns
- Their beliefs and values
- How their behavior conflicts with their beliefs
- Life management
- Self esteem
- How they can change

A court official said that treatment in her county included:

- Treatment for substance abuse
- Help in restructuring the offenders' thinking—changing their criminal behavior
- Education, including:
  - Employment skills
  - Education to help them earn their GED (General Equivalency Diploma) or HSED (High School Equivalency Diploma)
- Giving them help in handling their financial problems

A member of the Criminal Justice Council said that counseling that works best includes:

- Counseling about the offender's living circumstances
- Whom the offender lives with
- Whom the offender hangs out with
- Whom the offender works with
- Counseling about the context of the offender's life
- Motivations for drinking
- Psychological and physiological reasons for drinking
- Peer pressure and drinking

A public defender said that education is crucial so the offender can learn:

- Why he drinks
- The disease of alcoholism
- The effects of environmental factors, such as depression from not having a job

The public defender also thought that academic education would also help solve the problem of repeat drunk driving. He said, *"The more education you have, the less likely you are to be a repeat drunk driver."* He said that for most repeat drunk drivers, *"the economic gravy train went by and missed them"* so if they had an education and the subsequent good job, they would be less likely to drive drunk.

One AODA coordinator said his county has a Multiple Offender Program. He said the program works through the local technical school. The counselor is a credentialed mental health professional. A "significant other" has to attend one or two sessions. The course consists of five all-day Saturday sessions, for 36 total hours, and a three month follow-up. It includes education about:

- Alcohol, drugs, and driving
- The effects of alcohol on the family

Although the respondent said he is impressed with the program, he said it has been in operation less than a year and has not been evaluated.

Another respondent said his county has a program funded by the state Department of Transportation, the Intoxicated Driver Intervention. He said he thinks the program is successful, although he said it had not been in operation long enough to evaluate its effectiveness.

Although there was agreement on the need for treatment and education, there were differences of opinion concerning the effectiveness of inpatient treatment. A public defender said that a 28 day inpatient treatment was effective in his county, but that Medicaid had been reduced to ten days, so the offenders who cannot pay for the entire program receive only ten days' treatment.

However, some respondents doubted the value of inpatient treatment. They said that it is easy for an offender to stay dry while locked up. The real test is whether he can stay dry when he is back in his community with the same environment where he was drinking and driving. A court official summed up the beliefs of several respondents: *"Outpatient treatment in the community is more effective."*

Assessment

There was virtually unanimous support for assessments. Since individualized treatment is most effective, each offender's needs must be known. There were some criticisms about the way assessments are implemented today, but there was no oppostion to assessments *per se*. The necessity for assessment has already been discussed in this report.

One respondent said the assessment should be improved. He said that now a third person, whom the offender knows, just repeats what the offender says. According to this respondent, the offender and the "collateral person" should be interviewed separately.

One prosecutor said that the court is not informed if an offender fails to go to a required assessment, the district attorney is not informed. As a result, the DA is not informed if the offender fails to get treatment or education. He said,

> *"The real problem is that if they don't get the treatment, the court doesn't find out until the offender is stopped for drunk driving or OAR."*

A study respondent who represented an advocacy group favored using assessments but pointed out that some offenders accustomed to the procedure could "work" the system.

> *"They need assessments, but repeat offenders know how to work the system to get around those assessments. But assessments need to be part of the puzzle."*

One respondent said that one reason some offenders do not get assessments is the cost:

> *"Paying for assessments can be expensive. Many can't afford them, so they don't get treatment and they drive without their licenses. Some still haven't done an assessment on the fourth offense. Driving OAR is common because they can't afford the assessments. There should be a lower price that is consistent across the state."*

Intensive Supervision

Many respondents said that multiple repeat OWI offenders need close supervision. Some respondents characterized this level of attention as "hand holding" or "babysitting." Several respondents also noted that the intensive supervision should begin as soon after the offense as possible.

One jail administrator said his county has a successful program that involves close supervision. The authorities try to get the offender into a program 12 – 24 hours after arrest. They require the offender to attend regular meetings or sessions, visit with the offender at least once per week and contact him by telephone more frequently. Any offenders who are "just going through the motions" of treatment are thrown out of the program.

A court official said that programs in her county include supervision with a case manager, frequent and random drug and alcohol testing, and may include electronic monitoring. There is a follow-up 18 months after the program ends. The threat of jail is used as an incentive for offenders to participate in the program.

The Need for Urgency

Some of the study respondents expressed a need for urgency in beginning any treatment or educational programs. They said that it is important to get the offender under supervision as soon as possible; waiting until a conviction, which could take months, is waiting too long. Some respondents said the offender should enter supervision immediately after the first appearance in court; others said supervision should begin before the first court appearance.

A treatment and counseling official answered the question, "What works to reduce repeat drunk driving?" by saying, *"Early intervention."* He said that the offender should *"do a broadbrush assessment"* as early as the initial hearing. The offender should also set up a monitoring program and a support group to meet at least once per week. A public defender answered the same question by saying,

> *"Immediate diversion to an assessment—immediately after the initial appearance in court."*

He went on to say that an immediate assessment can help the offenders get their lives back together long before a conviction that could take months.

Other Important Measures

The following measures were generally considered to be effective in reducing repeat drunk driving, but there was not the overwhelming level of agreement as there was for the measures listed previously.

Electronic Monitoring (EMS)

Although not all of the respondents agreed, most considered home confinement with electronic monitoring to be effective in dealing with repeat drunk drivers. The offenders have their freedom restricted and can be compelled to participate in treatment while keeping their jobs and staying with their families. Some respondents said that electronic monitoring is most effective if used with an in-home breathalyzer that relays the results of the BAC test over telephone lines.

A treatment counselor listed the advantages of using EMS with a breathalyzer. He said that electronic monitoring is better than jail because:

- The offenders can keep their jobs.
- The offenders can participate in groups.
  - "There is more incentive to do groups on the bracelet—or go back to jail."
- The offenders can get treatment.
  - "There is little motivation to get treatment in jail."

A court official listed some advantages of electronic monitoring with a breathalyzer. According to her, electronic monitoring:

- Helps the offender with self control
- Helps keep the offender on track
- Is a reminder to not drink

But she said that EMS without treatment is not more effective than jail. Another respondent, a public defender, agreed with her about the necessity of treatment. He said that *"electronic monitoring is a good idea if coupled with treatment."*

One jail administrator said that electronic monitoring in conjunction with a breathalyzer was very successful in his county. He said the in-home breathalyzer made it unnecessary for the offender to go to the jail to have his BAC measured. According to this administrator, the EMS program:

> *"…has been really successful. It covers our liability to keep the community safe and ensures compliance."*

However, two respondents expressed misgivings about electronic monitoring:

> *"From the victim's standpoint, they [the offenders] are allowed too much freedom and not enough responsibility for their actions."*
>
> *"They [the offenders] don't learn a lesson at all. It is not a deterrent."*

Victim Impact Panels

Although not all of the respondents had experience working with Victim Impact Panels, those who did tended to rate them highly for effectiveness. They said the panels put a "human face" on drunk driving, whereas before the Victim Impact Panel experience, many offenders had viewed drunk driving as a victimless crime.

A respondent from an anti-drunk driving advocacy group was clearly in favor of Victim Impact Panels. She said, *"We have seen significant reductions in recidivism through victim impact panels."* A district attorney agreed: *"They are effective in reducing recidivism."*

A counselor said that he holds Victim Impact Panels every three months, using volunteers supplied by Mothers Against Drunk Driving (MADD). He said it is not difficult to keep them going, but he does not hold them more frequently because they are traumatic for the panelists. He said the panels change offenders' attitudes:

> *"Victim Impact Panels change attitudes. Before, the offenders considered themselves the victims, harassed by the police with jail and fines. They thought, 'Poor me.' But after the victim impact panels, their attitudes changed. Victim Impact Panels are critical for multiple drunk driving."*

Some respondents, often with less experience with Victim Impact Panels, favored using them but were less enthusiastic:

> *"They have a mild influence. I'm in favor of them."*

> *"I think there's a variable response to that. At some base level it can't but have an effect. I don't see how it could be bad."*

Community Service

Although many of the respondents were not familiar with community service, those who were said that it helps in the fight against repeat drunk driving. They said it improves offenders' self-images and sometimes gives them employable skills.

Some respondents pointed out that the effectiveness of community service depends on the type of service and the spirit in which it is given. For example, a respondent from an anti-drunk driving advocacy group said that community service is most effective when tied to drunk driving, such as speaking to teenagers about driving drunk. She suggested using offenders to work in hospital wards, caring for the victims of drunk driving.

Some respondents said that community service needs to be closely supervised so that the workers really do show up for work and do meaningful work.

A member of the Criminal Justice Council said that community service:

> *"…can be good or bad. It can, if used with counseling, be good for an offender who doesn't work regularly. It could teach work habits and skills and a regular schedule."*

A district attorney said that community service is more of a way to give something back to the community than a deterrent. He favored converting fines—but not jail time—into community service.

One respondent was skeptical that there would be adequate follow-up to make sure the community service is meaningful. He said community service is more *"a slap on the hand."* However, he did favor community service *"if they [the offenders] really are providing service."*

Work Release (Huber Program)

Although not all of the respondents agreed, most spoke positively about work release. They said it permits the offender to maintain ties to the community while serving the sentence.

A police officer favored work release because it gives the offenders responsibility and, *"A job to help them pay off some debts. It helps them keep going."*

Some respondents stressed the fact that the offender can still provide for his family while serving time in jail. Two respondents said:

> *"Without Huber, you punish the offenders' families."*
>
> *"You can't keep them in jail if they have a job and family. You're putting his family on welfare."*

The second respondent said that if the offender is not employed, the authorities should keep him in jail and provide treatment.

Ignition Interlock Device (IID)

Only seven of the 15 respondents spoke about IIDs, but they were in favor. They said the devices limited the offender's ability to drive drunk while keeping him connected to his family and community. One respondent said:

> *"It is effective. I would like to see that across the board for all counties for the third offense and above."*

Although there were no criticisms of IIDs in principle, there were some reservations about their use in actual practice. Some of the reservations were:

- The offender could have access to other vehicles without the IID.
- The vehicle could be re-wired to avoid the IID. (One correctional product vendor said it is extremely difficult to wire a vehicle around the IID, but a respondent in a rural county said that most adults know how to re-wire a car or know somebody who does.)
- Most convicted offenders who are ordered to get an IID simply do not do so. One respondent said that in almost all the Wisconsin counties (except Dane and Walworth Counties), there is no follow-up to see if the IIDs are really installed, so only about 10%-13% of the convicted offenders actually use them.

A respondent said that a major limitation of IIDs—and an important reason that many offenders do not use them—is their expense. He said that it is less expensive to get caught driving with a suspended license and pay the fine than to pay for the IID and get a valid license.

Alcoholics Anonymous

Respondents who were familiar with Alcoholics Anonymous praised its success. They said that AA is very successful for offenders who want to participate in its program. They also said they are not allowed to require offenders to attend AA meetings because of AA's religious component.

One AODA counselor said that although he cannot require the use of Alcoholics Anonymous,

> *"…we use it all the time. It's extremely effective for the people who embrace it."*

Another respondent said that Alcoholics Anonymous *"is one of the few programs that works."*

Some respondents noted that Alcoholics Anonymous is effective only for those offenders who participate actively in the program; it does not work for those who just go through the motions. A court official said:

> *"Alcoholics Anonymous is extraordinarily supportive [but] it has to be internalized to be effective. It won't work if you make them go and they are resentful."*

Traditional Sanctions

The next four measures are the traditional sanctions of fines, incarceration, license suspension/revocation, and penalties for Operating After Revocation (OAR). Although no respondents were in favor of abandoning any of these sanctions, many were skeptical of their effectiveness in dealing with persistent drunk drivers. That is, they said that all these sanctions can be effective for some drivers, particularly first-time and second-time offenders, but that, by themselves, they are not effective for persistent OWI offenders. They also said that imposing more of a sanction does not necessarily add effectiveness.

Fines

Some respondents said that fines are effective in deterring drunk driving. One person said:

> *"We need fines. Money is high on the list of consequences for people."*

But more respondents said that extremely large fines are ineffective. They said that for many offenders, fines in the thousands of dollars are no more realistic than fines in the millions of dollars; the offenders cannot pay them. They said that large fines keep many offenders from participating in assessments and therefore from getting treatment. They also said that some offenders, realizing that they will never be able to pay their fines, do not make any attempt to straighten out their lives.

Some of the comments on the subject of high fines were:

> *"[High fines] are ineffectual. They are already so astronomical. These folks [offenders] are usually at the bottom of the economic ladder anyway. Higher fines won't do any good."*
>
> *"With the fines, it seems like an unobtainable number. They still owe from their priors. Plus they have to pay for their assessments."*
>
> *"Fines become irrelevant when they get very high."*
>
> *"Fines are effective for the short term. Six months or a year down the road, they've forgotten what they paid."*
>
> *"It becomes incredibly difficult to pay the fines, so they get more OARs. Intoxicated people can't pay the fines. Fines won't change behavior. They are not effective."*
>
> *"Tripling and quadrupling fines are not effective. People can't pay them. Fines are not a deterrent. The state becomes like a collection agency, but the state seldom collects."*
>
> *"Extremely high fines are not useful. A $5,000 fine might as well be a $5 million fine. High fines keep them from getting their license and reinforces the cycle of depression and hopelessness—one more reason to drink. Smaller fines would have more of an effect than larger fines."*

One public defender, who deals with indigent clients, said:

> *"With fines you might as well be talking about the Academy Awards. Fines are not a part of their reality. They can't pay them. A fine does nothing to deter my people."*

Some respondents said that fines punish the poor more than other offenders. They said that fines should be on a sliding scale based on the offender's ability to pay. One respondent said:

> *"Fines have to be relative to a person's income if they are going to be effective."*

One respondent, a public defender, said:

> *"Skew it away from the monetary penalties. It impacts on rich and poor differently. It is better when it impacts on the rich and poor the same."*

But one respondent favored having offenders, even poor ones, pay the fines. She said that the public does not want to pay for the offenders' alcoholism; the public would rather pay for more deserving programs.

> *"There needs to be fines. All taxpayers should not have to pay for treatment of an offender who pays nothing. The offenders should pay the fines and should accept responsibility for their actions. If they are too poor and can't pay it, they can pay it later. Maybe they could use community service to work it off. I don't like the sliding fee scale. Poor people wouldn't contribute. They would get off. Taxpayers would rather pay for services for children than for alcoholics."*

Some respondents said that fines are effective for the middle class first-time and second-time offenders because they will probably pay them. They will also pay for steeply increased automobile insurance premiums.

Some respondents also noted that the threat of fines can be effective in keeping the offender going to supervision or counseling.

Some respondents pointed out that there is resistence among officials to reducing fines and other OWI charges, such as paying for assessments, because the system depends on money from fines and charges.

Incarceration

Although there was overwhelming agreement that incarceration alone does not change a repeat drunk driver, all the respondents favored the use of incarceration for repeat drunk drivers, but mostly as a carrot or a stick to encourage offenders to participate in, and stay with, treatment and educational programs. The "carrot" would be the opportunity to avoid or minimize incarceration by completing a treatment or education program, and the "stick" would involve getting sent back to incarceration by not completing a treatment or education program.

One respondent said that jail time is a deterrent for rational drivers with something to lose, but is not for offenders with drinking problems; he said incarceration and treatment should be used together to compel the offender to stay with treatment:

> *"[More jail time] is a deterrent for somebody with something to lose. The consequences are not much of a problem once they start drinking. It wouldn't matter if the sentence was 30 days or 180 days. It would not be a deterrent…. [Jail and treatment] should go hand in hand. If one doesn't follow through with the minimum requirements, the jail time should be restored."*

Other respondents also said that jail should be a threat for those offenders who do not enter and stay with their treatment and education programs:

> *"There should be a threat of incarceration if you fail."*

Other than using incarceration as a device to encourage treatment and education programs, there was much disagreement among the respondents about the value of incarceration. One respondent said that long-term incarceration tends to turn offenders into criminals. Even if treatment is offered during the incarceration, if there is no possibility of reduction in time served, the offender will be unlikely to actively participate in it and benefit from it.

> *"Long-term incarceration tends to make criminals out of people. They say, 'I'll do my time.' We create tough hardened people. Even with treatment, if there is no incentive, they are not invested in the treatment and it probably isn't effective."*

Other respondents minimized the effectiveness of jail in reaching the drunk drivers, such as:

> *"All we are teaching these people is that they can survive jail. It's an inconvenience, but it's not the end of the world. It's survivable."*

A respondent who was opposed to long-term incarceration because it treats alcoholics as criminals said:

> *"Most of our clients are good working citizens who have a drinking problem. They are not criminals. I don't look on an alcoholic as a criminal."*

Generally, respondents dismissed the effectiveness of long-term incarceration except as a method to get the drivers off the streets. One answered the question, "What does not work to reduce repeat drunk driving?" by saying:

> *"Long-term incarceration. For example, five years on a fifth offense. The families of repeat drunk drivers suffer. We've gotten tougher on these offenses, but we have not seen a reduction in drunk driving."*

However, some of the respondents said that jail is an excellent deterrent. One answered the question, "What works to reduce repeat drunk driving?" by saying:

> *"Fear of jail. Fear of being taken away from drinking."*

A representative from an anti-drunk driving advocacy group had a more positive view of incarceration because she favored criminalizing the first offense and sending first-time offenders to jail. She said even if there were no jail time involved, the first offense should be criminalized.

> *"Everything that is done needs to be in conjunction with jail time. First-time offenders should go to jail. The first offense needs to be criminalized. Even if there is no jail time, the first offense needs to be recorded as a criminal offense."*

Several respondents favored long-term incarceration for persistent drunk drivers when every other measure has failed. Eventually, "warehousing" is the last option.

Main Findings

Driver's License Suspension/Revocation

While all of the study respondents favored using license suspension and revocation in the fight against drunk driving, almost all were dismissive of the effectiveness of license suspension and revocation in affecting repeat drunk drivers. Most of them said that the offenders just drove without licenses.

Generally, the study respondents said that license suspensions tend to be successful for the first-time offenders but do not work for repeat offenders. Many of them do not have licenses anyway because they were suspended or revoked for previous offenses, so suspension or revocation is a moot issue.

One public defender said, *"We give suspensions with our fingers crossed."* He said that many people can get occupational licenses, and many just drive without licenses. Other comments on license suspension and revocation were:

> *"Taking the license away has little value. The license is the carrot, but it isn't effective for most people."*
>
> *"Drunk drivers probably won't care if they drive without a license. They drove drunk, which is illegal."*
>
> *"[Suspension] is not working. Just look at the number of OARs we have. It's astronomical."*
>
> *"The effect [of lengthy suspensions] is to increase the likelihood that they will get picked up for driving after revocation."*
>
> *"Suspension creates a lot more work for law enforcement. The drunk drivers are still out there. They're just driving without a license."*

One respondent said that license suspension and revocation could be effective, but *"there is no teeth in it here."* She said:

> *"It should be like hunting and fishing licenses. Take the car. Doing time is not necessarily bad for some people."*

Although some respondents said that Administrative License Suspension (ALS) could be effective for first-time offenders, there was no enthusiasm for ALS. In addition to the feeling that suspensions are not effective anyway, there was a constitutional problem that the offender is being punished before conviction. One respondent said:

> *"I have a tough time with that one [ALS]. The offender is being penalized before the case is over."*

A respondent said that the widespread use of license suspension creates criminals.

> *"The state of Wisconsin is turning people into criminals. Wisconsin is a rural state without much mass transportation. By suspending the licenses of so many drunk drivers, it is forcing them to drive without licenses. They need to drive in order to go to work."*

Penalties for Operating a Vehicle After Revocation (OAR)

A few respondents said that there should be harsh penalties for OAR, but most of those who addressed the issue said that the penalties are already harsh enough.

An educator in a technical college favored harsh OAR penalties because he was not convinced that offenders had no other way to get to work:

> *"I am not convinced that this [the offender driving] is the only way to get to work."*

An AODA coordinator said "fairly strong punishment" ("*stiff jail time*") is needed for OAR, but he questioned whether it would work:

> *"We need some fairly strong punishment, and widely publicize it. [But] maybe that wouldn't work. People who OAR continue doing it. For those who do it anyway, I don't know anything that works."*

He said that treatment and education should be available in jail. Even if the offenders did not get their licenses back, they would have the opportunity to *"beat the substance problem."*

One treatment and counseling official said that OAR penalties had been reduced and *"the OAR laws are in line now."* He did not want to see harsher fines. He praised judges and prosecutors who are willing to work with offenders to restore their licenses by reducing charges. He said that people need their licenses in rural counties where public transportation in not available.

A public defender said that the OAR punishment is already high enough. He said that harsh penalties are counterproductive because they make the offenders feel hopeless. A correctional product vendor said that the current law is strict enough but the sanctions of fines and incarceration are not working.

> *"We should help them get their license back. If you make it so they have no hope for the future, they will always be a drunk driver. In the long run, it will increase the tendency to drink and drive…. Give them hope, and you won't see them again."*

> *"The current law is strict enough. Money and jail time are not getting to people."*

The Least Effective Measures

The following four measures were generally unpopular with the study respondents.

Vehicle Seizure

A few respondents said that vehicle seizure could be effective in fighting repeat drunk driving. One educator acknowledged that there would be legal problems if the drunk driver did not own the vehicle, but he said:

> *"I would like to see more of that. It has great merit."*

But more respondents said that it is not effective. They said that drunk drivers tend to drive very cheap vehicles (often worth less than $100). However, one respondent said that in poor rural areas where few families have more than one vehicle, confiscating that one can keep drunk drivers off the roads.

A public defender said vehicle seizure *"is virtually meaningless as a sanction. The cars are worth $50."* A captain in a sheriff's department said that seizure might be effective if the vehicle were expensive but that judges are reluctant to confiscate expensive vehicles or vehicles with liens on them. But:

> *"Most of the time you end up with a $50 piece of junk. They just get another one."*

A district attorney said:

> *"It's a humonguous waste of time. Seizure is a lot of work for absolutely nothing. It is totally ineffective as a deterrent."*

He also said that the offender can simply buy another vehicle. In addition, the vehicle cannot be seized until after a conviction, which could be months later. By that time, *"the vehicle is nowhere to be found."*

A member of the Criminal Justice Council said that seizing the vehicle would be unfair for other people in the offender's household who are dependent on the vehicle.

Disabling the Vehicle

Although most respondents did not have experience with vehicle immobilization and did not offer an opinion, most of those who did were opposed to it. Their criticisms echoed those for vehicle seizure. They said that the vehicles are not worth much anyway, so the offenders are not particularly worried about losing them. In addition, one respondent said that offenders sell their vehicles before they can be immobilized.

One educator in a technical college said disabling the vehicle:

> *"Has merit, but the problem is that law enforcement needs to check to see if the vehicle is immobilized, and they don't have the time."*

Zebra Plates

None of the respondents had personal experience with special license plates for repeat drunk drivers (the plates are often called "zebra plates" because they typically have stripes on them). One respondent thought they might be useful for offenders with three or more OWIs by convincing them to drive carefully. He said:

> *"It sounds like the scarlet letter. You would think the police are more likely stop somebody with special plates, so the driver would not drink and would drive carefully."*

Most respondents did not like the idea. They said that it punished other family members and was too much like branding someone with a "scarlet letter." Some of the comments were:

> *"I'm not a big fan of that. That doesn't deter anybody."*
>
> *"[Zebra plates] discriminate against the family members who are not responsible."*
>
> *"Public shame is rarely effective…. It makes other people feel good, but it does nothing for the community, and it doesn't do anything to change the person's behavior."*
>
> *"[Zebra plates] affect a person's ability to get ahead. I don't believe in giving people a scarlet letter. You might as well brand them."*

Public Humiliation

All of the respondents with opinions said that public humiliation tactics, such as printing offenders' names in newspapers, could be effective for first-time offenders but would not be effective for repeat offenders. A public defender said that with more and more offenses, public humiliation is less and less effective. He said that repeat drunk drivers do not have stakes in their communities and usually do not have jobs or families.

Implementation Issues

The following three implementation issues came up during the interviews although there were no specific questions about them. The first one concerns a problem in the system of accounting for drunk drivers. The next two are impending problems with drunk driving that many respondents said are inevitable with the new "get tougher" laws.

Holes in the System

Because of incomplete feedback loops, there are some holes in the system of accounting for drunk drivers. According to one prosecuting attorney, the courts are not informed if a convicted offender does not go to an assessment. As a result, they do not know if offenders have participated in treatment or educational programs or have had their driver's licenses reinstated. He said that the district attorney is informed if the offender fails to show up for jail or fails to pay a fine but is not informed if the offender does not show up for an AODA assessment. He said:

> *"The real problem is [that if] they don't get the treatment, the court doesn't find out until [the offender] is stopped for drunk driving or an OAR."*

In addition, one respondent said that only 10%-13% of convicted offenders who are ordered to install an Ignition Interlock Device (IID) actually do so. He said that except for Dane and Walworth Counties, there is no follow-up to see if the offenders ordered to use IIDs have actually had them installed. He also said this is a well-known fact.

In sum, the ability of the state to monitor convicted offenders is limited, and the ability of offenders to avoid treatment, education, and punishment is enhanced.

Lack of Jail Space

A few respondents noted that incarceration is an extremely expensive way to deal with drunk driving. They also said that drunk drivers are taking up space that could be used by other types of criminals. One police captain said:

> *"About one-third of the Huber prisoners are drunk drivers. They are taking up bed space that could be used for more serious criminals."*

Most of the respondents did not say that there is inadequate space today, but they said that with increasingly strict OWI laws, the state and local jurisdictions will be forced to build new facilities if they are to incarcerate all the offenders who are sentenced to jail or prison.

Changing Definitions

Some respondents commented on changes in the law, especially how the term "repeat offender" is defined. Whereas previously, OWI convictions were "forgotten" after several years, now they continue to compile for a driver's life from 1989. Some respondents said that there will be an increase in "repeat" drunk drivers as time progresses and 1989 recedes into history. In a few years Wisconsin's OWI statistics will appear to be getting worse. In addition, there will be a need for additional jails and prisons.

One police officer said that there will be more multiple OWI offenders in the future simply because of the way that numbers of offenses are counted.

> *"There are two types of second offenders: somebody on a path to self destruction and somebody who is a second-time offender because of a different way of counting. A person may get another OWI nine years after the last one and would have been a first-time offender in the past, but now is a second-time offender. There will be more 'three plus' offenders because of the way the number is counted."*

A public defender said *"the crisis is yet to come"* and will be particularly important in terms of jail space. He suggested an example of a person who has one OWI conviction and then 12 years later has another and 12 after that has a third. In the past, that person would have been a "first-time offender" three times, but today, he would be a third-time offender.

The public defender said that as time progresses and January 1, 1989 recedes into the past more and more drivers will be guilty of third and subsequent offenses—which will increase the need for jail space. He said that this is a "collateral consequence" of tougher drunk driving laws.

APPENDIX
INTERVIEW DISCUSSION GUIDE

Appendix – Interview Discussion Guide

OWI IN-DEPTH INTERVIEWS
DOT, DOC, DHFS

Hello, my name is Russell Brooker. I'm calling from The Dieringer Research Group. A few days ago, you made an appointment with Jay Waite, from our office, to participate in a survey about alternatives to incarceration for repeat drunk drivers. This is the interview.

[IF NECESSARY] We have been contracted by the Wisconsin Department of Transportation to assist in the study and evaluation of various anti-drunk driving measures, such as incarceration, education, or treatment. This study, a joint effort between the departments of corrections, health and family services, and transportation, is required by the 1999 Wisconsin Act 109, Section 88.

Your name has been provided as an expert candidate for this study.

BACKGROUND EXPLANATION:

- Explain Act 109 requirement to study alternatives to incarceration for repeat drunk driving
- For this interview, I am interested only in the part of OWI that occurs after the drunk driver has been stopped—Not things like:.10 BAC v. .08 BAC
- Concentrate on repeat offenders
- **When I say "alternatives to incarceration," I mean any measures that could be taken instead of or in addition to incarceration.**

- What I want to know is:
  - WHAT THOUGHTS OR IDEAS DO YOU HAVE ON ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNK DRIVING?

WHAT WORKS/WHAT DOESN'T WORK:

1. In your opinion, what works best in fighting repeat drunk driving?

2. In your opinion, what does not work so well?

3. In your opinion, what should the role of incarceration and other measure be? That is, should other measures be used instead of or in addition to incarceration?

4. In your opinion, how is a first-time OWI offender different from a second-time offender from a third-time offender, and so on?

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ASK QUESTIONS 5 - 8 ONLY FOR THE ITEMS RESPONDENT DID NOT ALREADY NAME.

WHAT ARE YOUR OPINION OF THE FOLLOWING MEASURES:

9. Personal sanctions on the driver

- Detention facilities
- Home confinement
- Intensive Supervision Probation
- Pretrial Intensive Supervision Program (ISP)
- Individualized sanctions
- Work release
- Incarceration
- Public service work
- Restricted plea bargaining
- Fines
- Harsher sanctions for persistent OWI offenders
- Victim Impact Panels
- Other Personal Sanctions

10. Treatment and Education of the driver

- Treatment programs
- Education programs
- Dedicated OWI treatment facilities
- Diversion into education or treatment programs
- Use of Alcoholics Anonymous

11. Sanctions based on the driver's license

- Administrative license suspension (ALS)
- Harsher sanctions for offenders who drive after their license has been taken away

12. Sanctions on the vehicle

- Seizure of the vehicle
- Disabling the vehicle
- Vehicle forfeiture
- Use of an ignition interlock device (IID)
- Seizure of the license plates
- Use of special license plates on offenders' vehicles

Appendix – Interview Discussion Guide

IF YOU WERE IN CHARGE OF DEVELOPING THE WISCONSIN PROGRAM FOR DEALING WITH CONVICTED IMPAIRED DRIVERS:

9. What would you include in it?

10. What would you definitely NOT include?

DO YOU HAVE ANY OTHER THOUGHTS, OPINIONS, OR IDEAS?

TELEPHONE SURVEY

WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES

EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

PHASE 2, PART 3: QUANTITATIVE TELEPHONE SURVEY

SEPTEMBER 21, 2001

PREPARED BY:

THE DIERINGER RESEARCH GROUP, INC.

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

> "The Departments of Corrections, Health and Family Services and Transportation shall jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a second or subsequent violation of operating a motor vehicle while under the influence on an intoxicant, controlled substance or other drug."

At the request of the above mentioned departments, The Dieringer Research Group (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study's principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection/Case History Development

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin
Step Two: Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin
Step Three: Statewide Quantitative Survey of Wisconsin

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Phase Two, Step Three, the quantitative survey.

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.
- Identify examples of best practices including detailed case study profiles.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
  - Identify the practices currently being used in Wisconsin to reduce repeat drunk driving.
  - Assess the effectiveness of various measures in reducing repeat drunk driving.
  - Learn about the characteristics of drunk drivers in Wisconsin.
  - Obtain insight and advice about reducing drunk driving.

Phase Three:

- Assess and evaluate the effectiveness of the various practices.

Introduction

For this Step Three of Phase Two, The Dieringer Research Group, Inc. conducted 250 quantitative telephone interviews with people knowledgeable about repeat drunk driving (240 interviews are analyzed in the main part of this report). All respondents worked in Wisconsin. Interviews were conducted during August, 2001.

The questions for this survey were developed using the results of previous phases of this project—the literature review, the four focus groups, and the 15 in-depth telephone interviews. The most important measures designed to reduce repeat drunk driving were included in the questionnaire for this study.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they complemented the four focus groups and 15 in-depth interviews that had been conducted earlier. In the focus group discussions, all of the participants had lived in the Milwaukee or Madison areas. Respondents in the 15 in-depth interviews had lived in other areas of the state. The respondents in this phase of the study were selected to represent all areas of the state in as many counties as possible. Respondents from virtually all Wisconsin counties were interviewed for this part of the study.

The study respondents were classified into ten functional areas. These functional areas were grouped into four categories. The four categories of respondents are:

- Law enforcement
- Corrections and Probation and Parole
- Court system (prosecution, defense, court employees)
- Treatment, education, government, public health, and social services

The sampling design of this study involved obtaining a sample of each of the four types of respondents. We obtained enough interviews (at least 50) for each of the four categories of respondents so that analysis would be meaningful for each one.

This design is different from one that would attempt to obtain a random sample of all the people who deal with repeat drunk driving, with the number of interviews of each type of professional being proportionate to their number of all professionals in the state who deal with repeat drunk driving. For example, with this alternative sampling design, if law enforcement personnel made up 60% of the professionals in Wisconsin who deal with repeat drunk driving, they would make up 60% of the sample.

We chose the design of four separate categories for two reasons:

1. We do not know what percent of people who deal with repeat drunk driving are in each employment category—principally because it is impossible to precisely define how much contact with repeat drunk drivers would qualify a person for inclusion in this study. For example, every police officer who patrols the state's streets and highways deals with repeat drunk driving. Should we count all of them?

2. If we did use a sample in which the various professionals were interviewed according to their proportion in the entire set of people who deal with repeat drunk driving, we would probably end up with greatly varying sample sizes that would render statistical comparison meaningless. For example, we would conceivably end up with 150 interviews of police officers and 15 interviews of professionals in education and treatment. While we would learn a great deal about the opinions of police officers, we would not learn anything about the opinions of people in education and treatment—and would not be able to compare the two groups.

With the four categories, we did obtain enough interviews with people in the four groups for meaningful analysis and useful comparisons.

Because of the sampling design, this study should be viewed as four separate surveys that were conducted simultaneously and used the same questionnaire. The "Total" results for all four categories of respondents will be used in this report to organize the presentation of the findings, but the "Total" data will not be shown.

The functional areas and job categories of the respondents are shown on the following table:

Functional Areas of Survey Respondents	
Job Type / Functional Area	**Number in Survey**
Law Enforcement	**50**
Corrections and Probation and Parole	**60**
Corrections*	25
Probation and Parole	35
Court System	**61**
Legislative/Court System – Defense	20
Legislative/Court System – Prosecution	22
Legislative/Court System – Judicial	19
Government, Public Health, Treatment, Education, Social Services	**69**
Government/Public Health/Social Services	35
Treatment/Counseling/Education	34
*24 of the 25 Corrections respondents are employees of county jails	

Introduction

In addition to their occupations, respondents were classified according to the type of their county (urban, middle, rural), gender, and years of experience in the current functional area. (Because of the sampling design that attempted to gather data from all areas of the state, the rural counties are over-represented in this study.) The number of respondents in each of these demographic characteristics is:

Demographic Characteristics of Survey Respondents	
Demographic Characteristic	**Number in Survey**
Type of County	
Urban (200,000+ population: Milwaukee, Dane, Waukesha, Brown)	41
Middle (100,000 – 200,000 population: Racine, Outagamie, Rock, Winnebago, Kenosha, Marathon, Washington, Sheboygan, La Crosse)	57
Rural (All other counties)	155
Gender	
Male	169
Female	81
Years of Experience in Functional Area	
10 or less	88
11 – 20	82
21 or more	80
Note: Because the data in this table are not limited to the four employment categories, answers of all 250 survey respondents are shown. The number of respondents in the three types of counties is greater than 250 because some respondents worked in multiple counties.	

SUMMARY AND CONCLUSIONS

Summary and Conclusions

Background

The 1999 Wisconsin Act 109, Section 88 (1) requires the Wisconsin Departments of Corrections, Health and Family Services, and Transportation to jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or need for incarceration of persons convicted of a second or subsequent violation of operating a motor vehicle while under the influence of an intoxicant, controlled substance or other drug. The study is being conducted in three phases.

In this phase, The Dieringer Research Group, Inc. conducted 250 quantitative telephone interviews with experts on drunk driving. Ten of the respondents did not classify themselves into one of the four job categories and are not included in the main analyses of this report. Therefore, for most of this report, the answers of 240 respondents are analyzed. All respondents worked in Wisconsin. All interviews were conducted during August, 2001.

Respondents were selected to represent a variety of different kinds of people with different perspectives. The respondents were also selected so that they represented all areas of the state, in as many counties as possible

Findings

Respondents were divided into four categories based on their occupations and were analyzed individually. The four categories are:

- Law Enforcement
- Corrections and Probation and Parole
- Court System (prosecution, defense, and court employees)
- Treatment, Education, Government, Public Health, and Social Services

Respondents were asked to evaluate various measures and ideas about the best ways to reduce repeat drunk driving in two ways. First, they were asked to rate the effectiveness of 26 measures, using a "1 to 5" scale. Second, they were asked to agree or disagree with 21 statements about repeat drunk driving.

Similarities Among the Four Types of Respondents

Using both types of questions, the main lessons of the survey point to the importance of three measures:

- Treatment
- Supervision
- Jail

<u>Treatment</u>

Over 80% of each of the four categories of respondents agreed that "The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again." In fact, of three possible "main goals" that were included in the questionnaire (rehabilitation, getting the drunk drivers off the roads, and punishment), more respondents in each of the four categories agreed with rehabilitation than with either of the other two goals.

Summary and Conclusions

All four types of respondents rated the effectiveness of drug and alcohol treatment as first or second of the 26 measures included in the questionnaire: Court System and Treatment/Education respondents gave it the highest ratings, while Law Enforcement and Corrections/Probation and Parole respondents gave the second highest ratings.

In addition, about half of each type of respondent gave high effectiveness ratings to education on alcoholism and alcohol abuse.

At least 80% of each of the four categories of respondents agreed with the following two statements:

- "Repeat drunk drivers will probably keep driving drunk unless they have some treatment."
- "All offenders with two or more drunk driving arrests should be required to go through treatment."

One possible component of treatment is attendance at a Victim Impact Panel. At least 78% of each of the four types of respondents agreed with the statement:

- "All repeat drunk drivers should be required to attend a Victim Impact Panel if one is available."

<u>Supervision</u>

All four types of respondents rated the effectiveness of "intensive supervision begun as soon as possible after the arrest" as first or second of the 26 measures included in the questionnaire: Law Enforcement and Corrections/Probation and Parole respondents gave the highest ratings, while Court System and Treatment/Education respondents gave it the second highest ratings.

In addition, about half of each type of respondent gave high effectiveness ratings to probation after conviction.

<u>Jail</u>

Neither short-term nor long-term jail sentences were rated highly by many respondents as effective measures to reduce repeat drunk driving. However, the importance of jail as part of the mix in fighting drunk driving was shown by the agreement levels of the respondents to two statements about jail. At least 78% of each of the four types of respondents agreed with the following two statements:

- "Jail time should always be an option for sentencing repeat drunk drivers."
- "All second-time offenders should be subject to at least one day of jail."

Summary and Conclusions

Differences Between the Four Types of Respondents

Although all four types of respondents were similar in demonstrating confidence in measures related to treatment, supervision, and jail, there were some differences between the respondents. Following are the four types of respondents and some other measures they rated highly or statements with which they were particularly likely to agree[4].

Law Enforcement Respondents

Law Enforcement respondents were especially likely to agree with the following statements:

- "The main goal of dealing with drunk drivers should be to get them off the roads."
- "Wisconsin needs to get tougher on repeat drunk driving."

Corrections and Probation and Parole Respondents

Correction and Probation and Parole respondents gave high effectiveness ratings to:

- Ignition Interlock Device
- Long-term jail or prison sentence
- Immobilizing or disabling the drunk driver's vehicle

They were likely to agree with the following statement:

- "The main goal of dealing with drunk drivers should be to get them off the roads."

Court System Respondents

Court System respondents were especially likely to agree with the following statement:

- "Judges should have more discretion in sentencing drunk drivers."

Treatment/Education Respondents

Treatment/Education respondents gave high effectiveness ratings to:

- Victim Impact Panels
- Ignition Interlock Device

They were likely to agree with the following statement:

- "Society, as a whole, is not aware enough of the penalties and punishments for repeat drunk driving."

[4] For ease of reading, an arbitrary cutoff of 55% rating a measure as effective or 75% agreement with a statement is used in this section of the Executive Summary. See the main body of the report for more detail.

MAIN FINDINGS

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving

All survey respondents were asked to evaluate the effectiveness of 26 measures that have been used or suggested to reduce repeat drunk driving. They evaluated each measure on a "1 to 5" scale in which "5" meant "very effective" and "1" meant "not at all effective."

In order to eliminate any bias due to the order of the measures, the specific measures appeared during the interviews in random order—that is, the order was different for each respondent.

The following tables show the percentage of respondents for each of the four groupings of respondents who rated each measure as "5," the highest rating, or "4," the second highest rating. In this analysis, the 26 measures will be broken into five categories:

Level 1: The four measures that received the highest percentages of "4" or "5" ratings from the respondents

Level 2: The seven measures that received the second highest percentages of "4" or "5" ratings from the respondents

Level 3: The eight measures that received the third highest percentages of "4" or "5" ratings from the respondents

Level 4: The five measures that received the fourth highest percentages of "4" or "5" ratings from the respondents

Level 5: The two measures that received the fewest "4" or "5" ratings from the respondents

In the tables, some percents are **bolded** to indicate that they are statistically significantly higher (at the 95% level of confidence) than one or more other percents.

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: Level 1

The measures that received the most high effectiveness ratings dealt with drug and alcohol treatment, intensive supervision, probation, and education on alcoholism or alcohol abuse.

Over half of each type of respondent rated two measures as effective, with over three-fourths of the respondents from Court Systems and Treatment/Education giving high ratings. The two measures are:

- Treatment, such as drug or alcohol treatment
- Intensive supervision begun as soon as possible after the arrest

Over three-fourths (77%) of both Court System and Treatment/Education respondents gave high ratings to drug and alcohol treatment. Over 60% of each of the four types of respondents gave high ratings to intensive supervision begun as soon as possible after the drunk driver's arrest.

Approximately half of each group gave high ratings to probation after conviction and education on alcoholism or alcohol abuse.

Effectiveness of Measures: Level 1
Received the Highest Percentages of "4" and "5" Ratings

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"

Measure	**Type of Respondent**			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Treatment, such as drug or alcohol treatment	54%	58%	**77%**	**77%**
Intensive supervision begun as soon as possible after the arrest	62%	63%	66%	75%
Probation after conviction	48%	45%	61%	52%
Education on alcoholism or alcohol abuse	46%	47%	51%	52%

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: Level 2

Significantly more (58%) Corrections/Probation and Parole and Treatment/Education respondents gave high ratings to Ignition Interlock Devices. Fewer respondents from Law Enforcement (44%) gave high ratings to this measure, and only 30% of Court System respondents did so.

More than six of ten (62%) of Treatment/Education respondents gave high ratings to Victim Impact Panels, but less than half of the other three groups did so.

More than half (57%) of Correction/Probation and Parole respondents gave high ratings to long-term jail or prison sentences, but less than half of the other respondents did so.

On this table and the following two tables, Court System respondents tended to give fewer high ratings than the other three groups of respondents.

Effectiveness of Measures: Level 2
Received the Second Highest Percentages of "4" and "5" Ratings

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"

Measure	Type of Respondent			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Ignition Interlock Device	44%	**58%**	30%	**58%**
Victim Impact Panels	30%	43%	36%	**62%**
Education to develop employable skills or get a GED	42%	53%	38%	46%
Long-term jail or prison sentences	48%	**57%**	43%	38%
Incarceration facilities dedicated to housing repeat drunk drivers	40%	52%	36%	46%
Education on family dynamics and resisting peer pressure	44%	**47%**	28%	**51%**
Absolute sobriety (zero alcohol limit) after second conviction	**50%**	40%	28%	**48%**

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: Level 3

While each of the following measures received high ratings from about one-third to one-half of each group of respondents, there were two notable exceptions. Over half of the Corrections/Probation and Parole respondents gave high ratings to immobilizing the drunk driver's vehicle (55%) and seizing or confiscating the drunk driver's vehicle (52%).

Court System respondents tended to give fewer high ratings, with only 8% giving high ratings to a measure that would punish a person who lent a vehicle to a convicted repeat drunk driver without a valid driver's license.

Effectiveness of Measures: Level 3
Received the Third Highest Percentages of "4" and "5" Ratings

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"

Measure	**Type of Respondent**			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Work release under the Huber program	28%	38%	43%	42%
Immobilizing or disabling the drunk driver's vehicle	**42%**	**55%**	13%	**44%**
Seizing or confiscating the drunk driver's vehicle	**44%**	**52%**	12%	**42%**
Jail time on the first conviction	38%	32%	33%	43%
Lower alcohol limit after the first conviction	**46%**	35%	21%	36%
Electronic monitoring, or EMS	32%	32%	20%	**45%**
Short-term jail sentences	30%	22%	31%	35%
Fine or license suspension for someone who loans their vehicle to a convicted repeat drunk driver who doesn't have a valid driver's license	**36%**	**37%**	8%	**36%**

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: Level 4

Approximately one-fourth to one-third of each type of respondent gave high ratings to each of the following measures. The largest exception was that 40% of Law Enforcement respondents gave high ratings to special license plates, sometimes called Zebra plates.

Very few Court System respondents gave high ratings to longer waiting times for occupational licenses after the second and subsequent convictions (5%) and higher fines for repeat convictions (2%).

Effectiveness of Measures: Level 4
Received the Fourth Highest Percentages of "4" and "5" Ratings

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"

Measure	Type of Respondent			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Suspending or revoking the driver's license	**32%**	28%	15%	**30%**
Community service	26%	28%	23%	28%
Longer waiting times for occupational licenses after second or subsequent conviction	**26%**	**37%**	5%	**38%**
Higher fines for repeat convictions	**34%**	**35%**	2%	**29%**
Special license plates, sometimes called Zebra plates	**40%**	**28%**	10%	20%

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: Level 5

The last two measures received only a few high ratings. However, over one-third (36%) of Treatment/Education respondents gave high ratings to administrative license suspensions. Very few respondents of any type gave high ratings to public humiliation.

Effectiveness of Measures: Level 5
Received the Fewest "4" and "5" Ratings

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"

Measure	Type of Respondent			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Administrative license suspension	**20%**	**15%**	3%	**36%**
Public humiliation, such as printing the drunk driver's name in the newspaper	22%	18%	12%	16%

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: By Respondent Type

In the preceding pages, we explored the opinions of the four types of respondents, with the presentation organized by the overall results. In the following table, we will examine the same data organized by type of respondent. We will see the highly rated measures for each type of respondent—i.e. all measures that received high ratings from at least 50% of each type of respondent.

The first table shows the most highest-rated measures for Law Enforcement and Corrections/Probation and Patrol respondents. We see that both groups of respondents gave the most high ratings to:

- "Intensive supervision begun as soon as possible after the arrest"
- "Treatment, such as drug or alcohol treatment"

Respondents from Corrections/Probation and Parole tended to give high ratings to more measures, with Ignition Interlock Devices receiving as many high ratings as drug and alcohol treatment.

Most Effective Measures

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"
Law Enforcement and Corrections/ Probation and Parole

Law Enforcement	**Percent**
Intensive supervision begun as soon as possible after the arrest	62%
Treatment, such as drug or alcohol treatment	54%
Absolute sobriety (zero alcohol limit) after second conviction	50%
Corrections/Probation and Parole	
Intensive supervision begun as soon as possible after the arrest	63%
Treatment, such as drug or alcohol treatment	58%
Ignition Interlock Device	58%
Long-term jail or prison sentences	57%
Immobilizing or disabling the drunk driver's vehicle	55%
Education to develop employable skills or get a GED	53%
Incarceration facilities dedicated to housing repeat drunk drivers	52%
Seizing or confiscating the offenders' vehicle	52%

Source: Data Table 57

Main Findings

Effectiveness of Measures in Reducing Repeat Drunk Driving: By Respondent Type

Both the Court System and Treatment/Education respondents gave the most high ratings to the same two measures that the Law Enforcement and Corrections/Probation and Patrol respondents did, although in reversed order. Those two measures were:

- "Treatment, such as drug or alcohol treatment"
- "Intensive supervision begun as soon as possible after the arrest"

In addition, 61% of the Court System respondents gave high ratings to probation after conviction and 62% of the Treatment/Education respondents gave high ratings to Victim Impact Panels.

Effectiveness of Measures

Percent "4" or "5" on a "1 to 5" Scale in Which
"5" Means "Very Effective"
The Court System and Treatment/Education

Court System	**Percent**
Treatment, such as drug or alcohol treatment	77%
Intensive supervision begun as soon as possible after the arrest	66%
Probation after conviction	61%
Education or alcoholism or alcohol abuse	51%
Treatment/Education, etc.	
Treatment, such as drug or alcohol treatment	77%
Intensive supervision begun as soon as possible after the arrest	75%
Victim Impact Panels	62%
Ignition Interlock Device	58%
Probation after conviction	52%
Education on alcoholism or alcohol abuse	52%
Education of family dynamics and resisting peer pressure	51%

Source: Data Table 57

Main Findings

Agreement with Statements About Repeat Drunk Driving

In addition to evaluating the effectiveness of 26 measures designed to reduce drunk driving, respondents were asked to agree or disagree with 21 statements about drunk driving. Some of these statements concerned specific measures designed to reduce repeat drunk driving, and some were more general in nature.

The following tables show the percentage of respondents who agreed with each statement. The display of the data will be similar to the display of the data about effectiveness of the various measures. That is, the tables will be organized according to the levels of overall agreement with the statements. The 21 measures will be broken into three categories:

Level 1: The six statements to which the largest percentage of respondents agreed

Level 2: The nine statements to which the second-largest percentage of respondents agreed

Level 3: The six statements to which the fewest respondents agreed

In the tables, some percents are **bolded** to indicate that they are statistically significantly higher (at the 95% level of confidence) than one or more other percents.

Main Findings

Agreement with Statements About Repeat Drunk Driving: Level 1

There were extremely high levels of agreement with six statements—at least 78% of the respondents in each group agreed with each one. The statement that had the highest levels of agreement was, "The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again."

Two of the other statements concerned the importance of treatment, and two concerned the importance of jail. The last said that offenders should be required to attend a Victim Impact Panel if one is available.

Agreement with Statements: Level 1
Largest Percentage of Respondents Agreed

Percent Agree

Statement	**Type of Respondent**			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again.	88%	85%	92%	91%
Repeat drunk drivers will probably keep driving drunk unless they have some treatment.	92%	83%	87%	91%
All offenders with two or more drunk driving arrests should be required to go through treatment.	**94%**	88%	89%	83%
Jail time should always be an option for sentencing repeat drunk drivers.	78%	85%	**95%**	86%
All second-time offenders should be subject to at least one day of jail.	78%	87%	84%	**93%**
All repeat drunken drivers should be required to attend a Victim Impact Panel if one is available.	84%	78%	79%	90%

Source: Data Table 79

Agreement with Statements About Repeat Drunk Driving: Level 2

There were varied levels of agreement with these nine statements among the four respondent categories—from 92% to 21% depending on the statement. In this second tier of statements, the two with the highest levels of agreement were: 92% of Law Enforcement respondents agreed that "The main goal of dealing with drunk drivers should be to get them off the roads," and 83% of Treatment/Education respondents agreed that "Society, as a whole, is not aware enough of the penalties and punishments for repeat drunk driving."

The statement with the greatest variation in agreement levels was "Wisconsin needs to get tougher on repeat drunk driving." Over three-fourths (78%) of Law Enforcement respondents agreed with this statement, compared to only 21% of Court System respondents.

Agreement with Statements: Level 2
Second Largest Percentage of Respondents Agreed

Percent Agree

Statement	Type of Respondent			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
The main goal of dealing with drunk drivers should be to get them off the roads.	**92%**	**77%**	59%	65%
Society, as a whole, is not aware enough of the penalties and punishments for repeat drunk driving.	56%	68%	66%	**83%**
Judges should have more discretion in sentencing drunk drivers.	54%	58%	**75%**	52%
Wisconsin needs to get tougher on repeat drunk driving.	**78%**	**73%**	21%	**67%**
Society, as a whole, does not take the issue of drunk driving seriously enough..	**68%**	**55%**	36%	**74%**
Probation should be required for second-time offenders.	60%	42%	49%	58%
All first-time offenders should be subject to at least one day of jail.	44%	**67%**	38%	**55%**
Judges often do not have enough information to effectively sentence repeat drunk drivers.	36%	43%	**57%**	**65%**
Alcoholics Anonymous is effective for the repeat drunk drivers who participate in its program.	50%*	40%*	49%*	**59%***

Source: Data Table 79

*Lack of familiarity with Alcoholics Anonymous appears to have affected the agreement level for the AA statement. Overall, very few respondents disagreed that Alcoholics Anonymous is effective, but a large percent (24%) said they neither agreed nor disagreed, and 13% said they did not know or did not have opinions.

Agreement with Statements About Repeat Drunk Driving: Level 3

There were low levels of agreement with six statements—for almost all of these statements, fewer than 50% of each type of respondent agreed. However, there were two exceptions: 56% of Law Enforcement agreed that "Long-term jail or prison sentences are effective in reducing repeat drunk driving," and 59% of Court System respondents agreed that "OWI fines should be on a sliding scale, based on the offender's ability to pay."

The statement with the lowest level of agreement was "Imposing large fines of several thousand dollars is an effective way to reduce repeat drunk driving." Only 2% of Court System respondents agreed with this statement.

Agreement with Statements: Level 3
Fewest Respondents Agreed

Percent Agree

Statement	Type of Respondent			
	Law	**Corr/Pro**	**Courts**	**Treat/Ed**
Sample Size =	*50*	*60*	*61*	*69*
Long-term jail or prison sentences are effective in reducing repeat drunk driving.	**56%**	**43%**	**43%**	22%
OWI fines should be on a sliding scale, based on the offender's ability to pay.	26%	32%	**59%**	30%
Repeat drunken driving is usually a symptom of other mental health problems.	28%	30%	39%	36%
Wisconsin should get rid of occupational driver's licenses for convicted repeat drunk drivers.	**42%**	**42%**	15%	23%
The main goal of dealing with drunk drivers should be to punish the offender.	30%	33%	20%	19%
Imposing large fines of several thousand dollars is an effective way to reduce repeat drunk driving.	**28%**	**13%**	2%	**22%**

Source: Data Table 79

Main Findings

Agreement with Statements About Repeat Drunk Driving: By Respondent Type

In the preceding pages, we explored the agreement levels of the four types of respondents, with the presentation organized by the overall results. In the following table, we will examine the same data organized by type of respondent. We will see the statements that received agreement from at least 75% of each type of respondent. The first table shows the statements with the highest levels of agreement by Law Enforcement and Corrections/Probation and Patrol respondents.

The one statement that has the highest levels of agreement from both sets of respondents is "All offenders with two or more drunk driving arrests should be required to go through treatment."

Agreement with Statements About Repeat Drunk Driving	
Law Enforcement	**Percent**
All offenders with two or more drunk driving arrests should be required to go through treatment	94%
Repeat drunk drivers will probably keep driving drunk unless they have some treatment	92%
The main goal of dealing with drunk drivers should be to get them off the roads	92%
The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again	88%
All repeat drunk drivers should be required to attend a Victim Impact Panel if one is available	84%
Jail time should always be an option for sentencing repeat drunk drivers	78%
All second-time offenders should be subject to at least one day in jail	78%
Wisconsin needs to get tougher on repeat drunk driving	78%
Corrections/Probation and Parole	
All offenders with two or more drunk driving arrests should be required to go through treatment	88%
All second-time offenders should be subject to at least one day in jail	87%
The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again	85%
Jail time should always be an option for sentencing repeat drunk drivers	85%
Repeat drunk drivers will probably keep driving drunk unless they have some treatment	83%
All repeat drunk drivers should be required to attend a Victim Impact Panel if one is available	78%
The main goal of dealing with drunk drivers should be to get them off the roads	77%
Source: Data Table 79	

Agreement with Statements About Repeat Drunk Driving: By Respondent Type

Both the Court System and Treatment/Education respondents had the highest agreement levels to the statements about the necessity of jail time; 95% of the Court System respondents agreed that "Jail time should always be an option for sentencing repeat drunk drivers." In addition, 93% of Treatment/Education respondents agreed that "All second-time offenders should be subject to at least one day in jail."

The other statements with high levels of agreement tended to stress treatment and Victim Impact Panels.

Agreement with Statements About Repeat Drunk Driving	
Court System	**Percent**
Jail time should always be an option for sentencing repeat drunk drivers	95%
The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again	92%
All offenders with two or more drunk driving arrests should be required to go through treatment	89%
Repeat drunk drivers will probably keep driving drunk unless they have some treatment	87%
All second-time offenders should be subject to at least one day in jail	84%
All repeat drunk drivers should be required to attend a Victim Impact Panel if one is available	79%
Judges should have more discretion in sentencing drunk drivers	75%
Treatment/Education, etc.	
All second-time offenders should be subject to at least one day in jail	93%
The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again	91%
Repeat drunk drivers will probably keep driving drunk unless they have some treatment	91%
All repeat drunk drivers should be required to attend a Victim Impact Panel if one is available	90%
Jail time should always be an option for sentencing repeat drunk drivers	86%
All offenders with two or more drunk driving arrests should be required to go through treatment	83%
Society, as a whole, is not aware enough of the penalties and punishments for repeat drunk driving	83%
Source: Data Table 79	

Main Findings

The Main Goal of Dealing with Drunk Drivers: By Respondent Type

The following table shows how each type of respondent—and members of each functional area within each type—answered the questions about "the main goal" of dealing with drunk drivers. It shows the percentages of respondents who agreed with each of the three statements. (The reader should keep in mind that a respondent was not asked to rank the three goals; a respondent could agree or disagree with any, all, or none of the goals.)

The table shows that for each of the four main respondent types—and for almost all of the sub-groups—the largest percentage of respondents agreed with the goal of rehabilitation of the drunk drivers and the lowest percentage agreed with the goal of punishment. The only exception was an identical percentage of Prosecution respondents agreed on the rehabilitation and the "get the offenders off the roads" goal.

The Main Goal of Dealing With Drunk Drivers Should be to…

Respondent Type Respondent Functional Area	*Sample Size =*	**Main Goal**		
		Reha-bilitate Drivers	**Get Offenders Off Roads**	**Punish Offenders**
Law Enforcement	***50***	**88%**	**92%**	**30%**
Corrections and Probation &Parole	***60***	**85%**	**77%**	**33%**
Corrections	*25*	80%	92%	48%
Probation & Parole	*35*	89%	66%	23%
Court System	***61***	**92%**	**59%**	**20%**
Defense	*20*	100%	35%	5%
Prosecution	*22*	82%	82%	36%
Judicial (Judge/Staff)	*19*	95%	58%	16%
Government/Soc Ser/Education/Treatment	***69***	**91%**	**65%**	**19%**
Government/Public Health/Social Services	*35*	91%	63%	14%
Treatment/Counseling/Education	*34*	91%	68%	24%

Source: Data Table 79

The Main Goal of Dealing with Drunk Drivers: By Demographic Group

The following table shows the percent of each demographic group who agreed with each goal. Regardless of county type, gender, and years of experience, most respondents said the mail goal of deal with drunk drivers should be rehabilitation. The data show that for each demographic group, the largest percentage agreed with the goal of rehabilitation, the second-largest group agreed with the goal of getting the offenders off the roads, and the smallest percentage agreed with the goal of punishment.

The Main Goal of Dealing With Drunk Drivers Should be to…

Respondent Demographic Group	*Sample Size =*	Main Goal		
		Reha-bilitate Drivers	**Get Offenders Off Roads**	**Punish Offenders**
TOTAL SAMPLE	***250***	**89%**	**72%**	**24%**
Type of County				
Urban	*41*	88%	71%	24%
Middle	*57*	90%	63%	18%
Rural	*155*	89%	76%	27%
Gender				
Male	*169*	88%	75%	24%
Female	*81*	90%	68%	25%
Years of Experience				
10 or less	*88*	89%	67%	28%
11 – 20	*82*	89%	70%	20%
21 or more	*80*	89%	81%	25%

Note: Because the data in this table are not limited to the four employment categories, answers of all 250 survey respondents are shown. The number of respondents in the three types of counties is greater than 250 because some respondents worked in multiple counties.

Source: Data Table 79

APPENDIX
SURVEY QUESTIONNAIRE

Appendix – Survey Questionnaire

DISPOSITION_____CODE _____4136_
010041361
08/08/01 – 7

ALTERNATIVES TO INCARCERATION
REPEAT DRUNK DRIVING

SURVEY QUESTIONNAIRE

First Call: Date_____ Time _____ Interviewer _____

1st Callback _____ _____ _____

2nd Callback _____ _____ _____

3rd Callback _____ _____ _____

Name _____ Title _____

Company _____

Address _____

City _____ State _____

Telephone A/C _____ Number _____

_____

INTERVIEWER: **ASK TO SPEAK TO NAME ON LIST. IF THIS PERSON IS NOT AVAILABLE, ASK WHEN WOULD BE A GOOD TIME TO CALL BACK.**

INTRODUCTION

Hello, my name is _____ from The Dieringer Research Group, an independent marketing research company. We are a professional research organization that surveys the attitudes and opinions of professionals on various topics.

We have been contracted by the Wisconsin Department of Transportation to assist in the study and evaluation of various alternatives to incarceration for repeat drunk drivers. This study, a joint effort between the Departments of Corrections, Health and Family Services, and Transportation, is required by the 1999 Wisconsin Act 109, Section 88.

Your name has been provided as a candidate for this study from the **[INSERT FUNCTIONAL AREA FROM LIST]** functional area.

Appendix – Survey Questionnaire

1. Does this general functional area best describe your area of responsibility?

_____ Yes **(SKIP TO #2.)**

_____ No **(PROCEED TO #1.1.)**

1.1. Which of the following functional areas best describe it? **(READ LIST.)**

	Functional Area	
_____	Law Enforcement	**(CHECK QUOTA)**
_____	Court System -Defense	**(CHECK QUOTA)**
_____	Court System -Prosecution	**(CHECK QUOTA)**
_____	Court System -Judicial (Judge/Staff)	**(CHECK QUOTA)**
_____	Government/Public Health	**(CHECK QUOTA)**
_____	Social Services	**(CHECK QUOTA)**
_____	Corrections	**(CHECK QUOTA)**
_____	Education	**(CHECK QUOTA)**
_____	Treatment/Counseling Programs	**(CHECK QUOTA)**
_____	Probation/Parole Agents	**(CHECK QUOTA)**
_____	Other (Specify)_____	
_____	Don't know / Refused	**(THANK AND TERMINATE)**

2. Are you knowledgeable about repeat drunk driving?

_____ Yes **(PROCEED TO #3.)**

_____ No **(ASK TO SPEAK TO SOMEONE WHO IS.)**

_____ Don't Know/Refused **(ASK TO SPEAK TO SOMEONE WHO IS.)**

3. How many years have you been involved in the **[INSERT FUNCTIONAL AREA]** functional area?

_____ years
Less than one year..... 98
Don't know..... 99

4. Do you work in Wisconsin?

_____ Yes **(PROCEED TO #5.)**

_____ No **(THANK AND TERMINATE.)**

_____ Don't Know **(THANK AND TERMINATE.)**

5. In which county do you work?

Adams	1	Iron	26	Price	51
Ashland	2	Jackson	27	Racine	52
Barron	3	Jefferson	28	Richland	53
Bayfield	4	Juneau	29	Rock	54
Brown	5	Kenosha	30	Rusk	55
Buffalo	6	Kewaunee	31	St. Croix	56
Burnett	7	La Crosse	32	Sauk	57
Calumet	8	Lafayette	33	Sawyer	58
Chippewa	9	Langlade	34	Shawano	59
Clark	10	Lincoln	35	Sheboygan	60
Columbia	11	Manitowoc	36	Taylor	61
Crawford	12	Marathon	37	Trempealeau	62
Dane	13	Marinette	38	Vernon	63
Dodge	14	Marquette	39	Vilas	64
Door	15	Menominee	40	Walworth	65
Douglas	16	Milwaukee	41	Washburn	66
Dunn	17	Monroe	42	Washington	67
Eau Claire	18	Oconto	43	Waukesha	68
Florence	19	Oneida	44	Waupaca	69
Fond du Lac	20	Outagamie	45	Waushara	70
Forest	21	Ozaukee	46	Winnebago	71
Grant	22	Pepin	47	Wood	72
Green	23	Pierce	48		
Green Lake	24	Polk	49	Other, Specify_____	
Iowa	25	Portage	50	DK/Refused	99

QUESTIONS:

6. First I would like to name some measures that are currently in use or that have been suggested as ways to reduce repeat drunk driving. For each one I name, please tell me how effective you think it is in reducing repeat drunk driving. Please use a scale of 1 to 5 scale in which "5" means you think it is very effective in reducing repeat drunk driving, and "1" means you do not think it is effective at all. You may use any number from 1 to 5.

   As you rate these measures, keep in mind that no ONE measure is very effective all by itself. So answer how effective each measure is AS PART OF A COMBINED EFFORT to fight repeat drunk driving.. **(READ LIST. RANDOMIZE ORDER.)**

	Very Effective				Not at all Effective	DK
Short-term jail sentences	5	4	3	2	1	6
Long-term jail or prison sentences	5	4	3	2	1	6
Treatment, such as drug or alcohol treatment	5	4	3	2	1	6
Education on alcoholism or alcohol abuse	5	4	3	2	1	6
Education on family dynamics and resisting peer pressure	5	4	3	2	1	6
Education to develop employable skills or get a GED	5	4	3	2	1	6
Electronic monitoring, or EMS	5	4	3	2	1	6
Suspending or revoking the driver's license	5	4	3	2	1	6
Victim Impact Panels	5	4	3	2	1	6
Seizing or confiscating the drunk driver's vehicle	5	4	3	2	1	6
Ignition Interlock Device	5	4	3	2	1	6
Community service	5	4	3	2	1	6
Work release under the Huber program	5	4	3	2	1	6
Immobilizing or disabling the drunk driver's vehicle	5	4	3	2	1	6
Administrative license suspension	5	4	3	2	1	6
Public humiliation, such as printing the drunk driver's name in the newspaper	5	4	3	2	1	6
Special license plates, sometimes called Zebra plates	5	4	3	2	1	6
Probation after conviction	5	4	3	2	1	6
Intensive supervision begun as soon as possible after the arrest	5	4	3	2	1	6
Incarceration facilities dedicated to housing repeat drunk drivers	5	4	3	2	1	6
Jail time on the first conviction	5	4	3	2	1	6
Lower alcohol limit after the first conviction	5	4	3	2	1	6
Absolute sobriety (zero alcohol limit) after second conviction	5	4	3	2	1	6
Higher fines for repeat convictions	5	4	3	2	1	6
Fine or license suspension for someone who loans their vehicle to a convicted repeat drunk driver who doesn't have a valid driver's license	5	4	3	2	1	6
Longer waiting times for occupational licenses after second or subsequent conviction	5	4	3	2	1	6

Appendix – Survey Questionnaire

Agree/Disagree Statements:

7. Now I would like to read several statements. For each one, please tell me if you agree, disagree, or neither agree nor disagree with it. If you don't know or don't have an opinion, that is okay too. Just let me know. **(RANDOMIZE THE ORDER OF STATEMENTS.)**:

   Agree with it.....3
   Neither agree nor disagree 2
   Disagree 1
   Don't know/No opinion.....4

1. All first-time offenders should be subject to at least one day of jail.
2. All second-time offenders should be subject to at least one day of jail.
3. All offenders with two or more drunk driving arrests should be required to go through treatment.
4. Wisconsin should get rid of occupational driver's licenses for convicted repeat drunk drivers.
5. Wisconsin needs to get tougher on repeat drunk driving.
6. Imposing large fines of several thousand dollars is an effective way to reduce repeat drunk driving.
7. Probation should be required for second-time offenders.
8. Judges should have more discretion in sentencing drunk drivers.
9. Jail time should always be an option for sentencing repeat drunk drivers.
10. The main goal of dealing with drunk drivers should be to rehabilitate the drivers so they do not drive drunk again.
11. The main goal of dealing with drunk drivers should be to get them off the roads.
12. Repeat drunk drivers will probably keep driving drunk unless they have some treatment.
13. Repeat drunken driving is usually a symptom of other mental health problems.
14. OWI fines should be on a sliding scale, based on the offender's ability to pay.
15. All repeat drunken drivers should be required to attend a Victim Impact Panel if one is available.
16. Long-term jail or prison sentences are effective in reducing repeat drunk driving.
17. Alcoholics Anonymous is effective for the repeat drunk drivers who participate in its program.
18. Judges often do not have enough information to effectively sentence repeat drunk drivers.
19. Society, as a whole, is not aware enough of the penalties and punishments for repeat drunk driving.
20. Society, as a whole, does not take the issue of drunk driving seriously enough.
21. The main goal of dealing with drunk drivers should be to punish the offender.

8. **RECORD GENDER. DO NOT ASK.**

   Male 1
   Female.....2

9. For verification purposes, may I have your full name?

_____

10. May I have your title?

_____

11. May I have your organization?

_____

CLOSING:

Those are all the questions I have for you today. Thank you for your help on this project.

FINAL ANALYSIS

WISCONSIN DEPARTMENT OF TRANSPORTATION
WISCONSIN DEPARTMENT OF CORRECTIONS
WISCONSIN DEPARTMENT OF HEALTH AND FAMILY SERVICES

EVALUATION OF ALTERNATIVES TO INCARCERATION FOR REPEAT DRUNKEN DRIVING

PHASE 3: ANALYSIS/INTERPRETATION OF STUDY FINDINGS

SEPTEMBER 24, 2001

PREPARED BY:

THE DIERINGER RESEARCH GROUP, INC.

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INTRODUCTION

Introduction

Study Background

This research project is being conducted as a result of the 1999 Wisconsin Act 109, Section 88 (1) that requires that:

> "The Departments of Corrections, Health and Family Services and Transportation shall jointly study and evaluate the desirability of using treatment programs and other alternatives to incarceration as a way to reduce the length of incarceration or the need for incarceration of a person convicted of a second or subsequent violation of operating a motor vehicle while under the influence on an intoxicant, controlled substance or other drug."

At the request of the above mentioned departments, The Dieringer Research Group (The DRG), acting as an independent research consultant, has been contracted to conduct the research study. Russell G. Brooker, Ph.D. is the study's principal researcher and author. Laura M. Cleary is the Project Manager. Richard W. Yob is the Account Manager. The DRG recommended the Study of Evaluation of Alternatives to Incarceration for Impaired Driving to be conducted in three phases, as outlined below.

Phase One: Secondary Data Collection/Case History Development

Phase Two: Primary Data Collection

Step One: Milwaukee and Madison, Wisconsin
Step Two: Green Bay, Superior, Wausau, Eau Claire, and La Crosse, Wisconsin
Step Three: Statewide Quantitative Survey of Wisconsin

Phase Three: Analysis/Interpretation of Study Findings

This document presents the findings of Phase Three, the analysis and interpretation of study findings..

Study Research Objectives

Phase One:

- Review available research literature, public policy and program issues of practices of alternatives to incarceration for repeat impaired driving offenders nationwide.
- Identify examples of best practices including detailed case study profiles.

Phase Two:

- Identify the practices currently being utilized in Wisconsin as alternatives to incarceration for repeat impaired driving offenders in these categories:
  - Identify the practices currently being used in Wisconsin to reduce repeat drunk driving.
  - Assess the effectiveness of various measures in reducing repeat drunk driving.
  - Learn about the characteristics of drunk drivers in Wisconsin.
  - Obtain insight and advice about reducing drunk driving.

Phase Three:

- Assess and evaluate the effectiveness of the various measures designed to reduce repeat drunk driving

MAIN FINDINGS

Main Findings

This part of the research project summarizes all of the research from the study, including:

- Phase 1 of the study
  - The secondary research
    - Literature review of research studies and articles from around the United States and several foreign countries

- Phase 2 of the study
  - The primary research (Conducted entirely within Wisconsin)
    - Step 1: Four focus groups in Milwaukee and Madison (41 participants)
    - Step 2: Individual in-depth telephone interviews (15 respondents)
    - Step 3: Quantitative telephone survey (250 respondents)

One clear theme in the research is that there is no *alternative* to incarceration in reducing repeat drunk driving. There are many measures that can be effectively used in conjunction with incarceration or the threat of incarceration, but nothing can *replace* incarceration in the effort to reduce repeat drunk driving. Incarceration, or at least its threat, must always be present in any drunk driving program.

Another theme in the entire research project is the consistency of findings. The three primary research studies conducted in Wisconsin yielded very similar results. In addition, the results in the Wisconsin phase of the study tended to be consistent with the findings of the international literature review. However, there were some areas in which Phase 1 and Phase 2 results differed.

In this report, we will first identify the most important similarities in the findings of all four parts of the research project. Second, we will examine the most important differences between the secondary research in Phase 1 and the primary research in Phase 2. Finally, we will look at a series of specific measures one at a time and summarize the findings of the studies for those measures. Sometimes we will see similarities between the secondary and primary research findings, and sometimes we will see differences.

The Most Important Similarities of the Findings of the Literature Review (Phase 1) and the Primary Research (Phase 2)

The principal focus of practically all of the sources was rehabilitation of the drunk drivers. This focus was often framed as reducing recidivism or rehabilitating the drivers. There was little emphasis on keeping the offenders in jail so they are unable to drive or in punishing the offenders for the sake of retribution.

With that common focus, all four steps in the research had these conclusions in common:

- **Treatment** of the offender is the keystone to reducing repeat drunk driving. Offenders will not stop drinking and driving without some intervention aimed at breaking their relationship with alcohol.

- **Education** is also important. There was no consistent differentiation of treatment and education. What some sources called "treatment" others called "education." In addition, many sources referred generically to "treatment and education."

Main Findings

- **Swift action** is more important than severe penalties. It is more effective to intervene in the offender's life as soon as possible with treatment or education than to inflict harsh sanctions months later after an OWI conviction.

- An effective to reduce repeat drunk driving should have a **variety of measures available** — including treatment, education, and sanctions. No one measure works for all offenders, so the authorities should have an arsenal from which to choose.

- The authorities should use a **combination of measures for each offender**. No one measure, by itself, works well. The measures work to reduce repeat drunk driving when they are used in the proper combinations.

- There must be **sanctions** included with the treatment and education. Sanctions mean mainly jail or the threat of jail, but they also include fines, license suspension or revocation, and other measures. Sanctions are necessary because most repeat drunk drivers do not feel they need to change their lifestyles or simply do not want to change them. Sanctions, particularly jail, can be used effectively as a carrot or stick to compel them to participate in treatment and education. As a carrot, jail time can be reduced if an offender completes a treatment or education program. As a stick, an offender can be sent to jail for failure to complete a program.

- An **assessment** is vital to identify the particular needs of each offender. Without an assessment, the authorities cannot determine what measures will be effective for each offender.

- **Treatment should be individualized** as much as possible. Whatever works with one particular offender should be used with that offender. Just as there is no generic offender, there should not be generic treatment.

- **Close supervision or probation** is important in ensuring that the offenders participate in and complete treatment and education programs.

- **Jail terms** without treatment or education, even long jail or prison sentences, **are not effective by themselves** in reducing repeat drunk drivers. They do keep the offenders off the roads for the length of the jail terms, but they do not remove the offenders' desire to drink and drive.

- **Jail and prison space tends to be limited**. While locking up OWI offenders for long periods of time would remove them from the roads, the financial cost of incarceration would not be popular with taxpayers.

Main Findings

Differences Between the Secondary Research in Phase 1 and the Primary Research in Phase 2

There were very few important differences between the three parts of the primary research in Phase 2. However, there were some significant differences between the findings of the secondary research of Phase 1 and the primary research of Phase 2.

First, the results of Phase 1 and Phase 2 differed greatly on the effectiveness of sanctions based on driver's license suspension and revocation. The secondary sources in Phase 1 tended to emphasize the effectiveness of taking drunk drivers' licenses away from them. They especially favored Administrative License Suspension (ALS) in which the police officer at the scene of the OWI arrest takes the offender's driver's license and gives the offender a receipt that gives him a specific amount of time to deal with not having a license, such as obtaining an occupational license. These sources also favor especially harsh punishment of OWI offenders who get caught driving without a valid license.

However, the respondents in Phase 2 tended to dismiss the effectiveness of license-based sanctions. Many of them said suspending or revoking offenders' licenses is ineffective "because they drive anyway." Some pointed out that repeat drunk drivers have already shown their disregard for the law by driving drunk and are unlikely to respect a license suspension or revocation. Others pointed out that it is impossible to take the driver's license from many repeat drunk drivers because they have already lost their licenses from previous OWI infractions.

The Phase 2 respondents were divided on the effectiveness of harsh penalties for driving after losing the license. Some said that the state should inflict harsh punishment on OAR violators, but some said that the penalties are already severe enough and that treatment, not punishment, should be used.

Second, the secondary sources in Phase 1 tended to place more emphasis on fines than did the respondents in Phase 2. The secondary sources did not place the great emphasis on fines that they did on license suspension and revocation, but they tended to portray fines as more effective than the Wisconsin respondents did. Many Wisconsin respondents said that fines become so large for repeat drunk drivers that they cease to have much meaning. One respondent indicated that some repeat offenders are no more likely to pay extremely large fines than they are to win Academy Awards.

Third, the secondary sources and the Wisconsin respondents tended to place different emphases on the persistent drunk drivers. The secondary sources tended to emphasize that persistent drunk drivers are irrational and are not affected by normal sanctions and should be incapacitated from driving, either by locking them up or seizing or disabling their vehicles. The Wisconsin respondents agreed that persistent drunk drivers are not rational and are not affected by normal sanctions. But these respondents more often said that the authorities should make them rational through treatment and education so that they will learn to not drink and drive.

Main Findings

An important question is: Why the difference between Phase 1 sources and Phase 2 respondents? One reason is that the secondary sources in Phase 1 tended to involve quantitative studies, while the Wisconsin respondents were asked to comment from their knowledge and awareness of repeat drunk driving, not from any research studies they have seen. For example, an article in Phase 1 might find that by implementing a program of Administrative License Suspension (ALS) in one jurisdiction led to an 11% reduction in recidivism, while a similar jurisdiction that did not implement an ALS program saw a 3% rise in recidivism. The respondents in Phase 2 did not conduct such studies and would not be expected to see a percentage change of 14% (in this example) without doing so. That is, the effectiveness of ALS might be present in Wisconsin, but it would be extremely difficult to see it without conducting a study specifically for that purpose.

But another explanation seems more useful in explaining the differences between the Phase 1 and Phase 2 results. The Phase 1 studies concentrated on recidivism of all OWI offenders, while the Wisconsin respondents in Phase 2 were instructed to concentrate only on *repeat* OWI offenders. Such a difference in attention would cause very different evaluations of the effectiveness of many different OWI measures. This difference is caused mainly by the differences between first-time offenders and repeat drunk drivers.

The Phase 1 sources acknowledged differences between first-time offenders and repeat offenders, but most of the studies concentrated on recidivism without differentiating sharply between the two types of offenders. Consequently, the first-time offenders and the repeat offenders were mixed in studies. For example, if a new measure were introduced into one jurisdiction and recidivism dropped 15% while it rose 10% in a similar jurisdiction without that measure, the conclusion was made that the new measure led to lower recidivism. There was typically no attempt to show that recidivism was reduced X% among first-time offenders, Y% among second-time offenders, Z% among third-time offenders, and so on. Since the majority of offenders are first-time offenders (about 65% in Wisconsin), if a measure were effective with first-time offenders, it will probably be judged to be effective. A measure that was judged to significantly reduce recidivism, then, could be effective on first-time offenders and even second-time offenders—but could be completely ineffective on fourth-time or fifth-time offenders.

A researcher could conclude that a measure, such as a driver's license suspension, is effective in reducing recidivism even if it is ineffective in reducing recidivism among repeat drunk drivers. In other words, the apparent effectiveness of a measure may be due to its impact on the majority of drivers (the first-time offenders) which would overshadow its ineffectiveness with repeat drunk drivers.

Such a measure, of course, really is effective if it is effective for most drunk drivers. But the respondents in this study were not asked to comment on the effectiveness of measures for most drivers. They were asked to concentrate on repeat drunk drivers, and they did this. In their comments, it was clear that the respondents tended to divide the drunk driving population into two (or more) groups:

- The first-time offenders
- The repeat offenders

Main Findings

The respondents described the first-time offenders as "normal people" who probably had one drink too many. They are usually law-abiding upright citizens who got stopped. They represent all kinds of people and all strata of society, from very poor people to very wealthy people. They are usually humiliated at being arrested for drunk driving.

Many types of sanctions tend to work on the first-time offenders, including:

- Fines work because most of the first-time offenders have enough money to pay them—and do pay them, as well as the increased insurance premiums
- Jail or the threat of jail works because they are afraid of jail, and if they are incarcerated even for a short time, it is a very traumatic experience
- License suspension or revocation works because they feel very insecure driving without valid driver's licenses.
- Harsh penalties for operating after license suspension or revocation (OAR) work because they feel they cannot afford to lose their licenses for long terms and are very reluctant to drive without them.
- Public humiliation works because they have good reputations in the community.

But for the typical repeat drunk drivers, who may have three, four, or more OWI arrests, these sanctions tend to not be effective:

- Fines do not work because the repeat offenders usually do not have enough money to pay them. If they have been fined for many OWI offenses, the total of the fines is too large to realistically consider paying.
- Jail does not work because they are accustomed to jail. They know they can survive jail.
- License suspension or revocation does not work because they usually do not have licenses. Even if they do, they are willing to drive without them.
- Harsh penalties for operating after license suspension or revocation (OAR) do not work because they do not expect to ever regain valid licenses and see occasional arrests as the cost of driving.
- Public humiliation does not work because they no longer have good reputations to uphold.

The Phase 2 respondents repeatedly said that one cannot attack the problem of repeat drunk driving without attacking the offenders' need for alcohol. Unless the state is willing to shoulder the significant financial cost of locking away thousand of repeat drunk drivers, it needs to address the problem with a combination of treatment, education, supervision, and sanctions.

Main Findings

Evaluations of Specific Measures

In the research, several specific measures were examined. In this part of this report, we review these measures.

- Incarceration

  Both the secondary and primary research emphasized the need for incarceration to give the offenders reasons to participate in treatment and educational programs. Both noted that incarceration alone does not change repeat drunk drivers' subsequent behavior. Both also noted that incarcerating offenders is very expensive and that locking up massive numbers of OWI offenders would not be popular with taxpayers.

- Fines

  The secondary sources tended to portray fines as more effective than did the Wisconsin respondents in the primary research. However, the secondary sources did not show that larger fines are more effective than smaller ones. One advantage of fines in the secondary literature is that they place the costs of fighting drunk driving on the shoulders of the offenders.

  Wisconsin respondents tended to have poor opinions of fines. Some said that large fines become irrelevant to repeat offenders. Some even said that large fines sometimes kept repeat offenders from seeking treatment by making them feel hopeless.

  There were other differences between secondary sources and Wisconsin respondents in the primary research that are covered in the previous section.

- Driver's License Suspension or Revocation

  There were major differences in the perceived effectiveness of license suspension or revocation between the secondary sources and the Wisconsin respondents. The secondary sources tended to place great emphasis on suspension and revocation, especially on administrative license suspension or revocation (ALS or ALR).

  The Wisconsin respondents in Phase 2 of the study tended to dismiss license suspension and revocation as irrelevant to the struggle to reduce repeat drunk driving. Many respondents said of the repeat offenders, "They drive anyway." The difference between the secondary sources and the primary respondents is discussed in more detail in the next section of this report.

- Penalties for Operating a Vehicle After Suspension or Revocation (OAR)

  Again, there were major differences between the secondary sources and the Wisconsin respondents. The secondary sources emphasized the need for harsh OAR penalties because they emphasized the effectiveness of license suspension and revocation. The Wisconsin respondents tended to be divided; some felt that penalties for OAR should be harsh, while others thought the penalties were already harsh enough. The differences between the secondary sources and Wisconsin respondents in the primary were discussed in more detail in the previous section.

Main Findings

- Home Confinement, or Electronic Monitoring

  There was general, though not unanimous, approval for home confinement or electronic monitoring if it is used with a breathalyzer. Home confinement controls the movement and drinking of offenders, at a lower cost than jail, while allowing them to maintain their ties to their families and communities.

- Work Release (Huber Program)

  There was also general approval for work release. The offenders are controlled and are available for treatment, but they are able to maintain some ties to the community and can provide incomes for their families.

- Community Service

  The evidence for community service was mixed. No secondary sources showed evidence that it reduces recidivism, but some anecdotal evidence indicated that it may. In Wisconsin, many respondents did not have experience in using it, but some said that it is effective in reducing repeat drunk driving, while others said it requires too much supervision to be worthwhile.

- Victim Impact Panels

  The secondary research was mixed about the effectiveness of Victim Impact Panels, but most Wisconsin respondents said they are effective, especially for first and second-time offenders.

- Alcoholics Anonymous

  The secondary research on the use of Alcoholics Anonymous was ambiguous, but most Wisconsin respondents with experience using AA said it was effective for those offenders who want to use it.

- Seizing or Disabling the Vehicle

  Both the secondary research and the primary research were mixed in terms of the effectiveness of seizing and disabling the offenders' vehicles. The secondary sources noted some successes for seizing vehicles but also pointed out some limitations. The focus group participants and individual interview respondents tended to dislike vehicle seizure or immobilization. However, the telephone survey respondents, except for the Court System respondents, tended to rate seizure and immobilization as reasonably effective.

- Ignition Interlock Device (IID)

  Ignition Interlock Devices (IIDs) were given high ratings by both secondary sources and Wisconsin respondents. Those respondents with experience using IIDs said they are effective in preventing offenders from driving drunk while maintaining their jobs and family and community ties. However, IIDs do not tend to change offenders' behavior in the long run, and some respondents said that many offenders who are sentenced to use IIDs do not do so and some circumvent them.

- Special License Plates (Zebra Plates)

  There was no evidence uncovered concerning the effectiveness of Zebra plates. The Wisconsin respondents, except for some Law Enforcement respondents in the telephone survey, had overwhelmingly negative feelings concerning them.

- Public Humiliation

  There was no secondary evidence about the effectiveness of public humiliation of OWI offenders. Wisconsin respondents felt that attempts to humiliate drunk drivers, such as printing their names in newspapers, might be effective for first-time offenders but would not affect repeat offenders.

Main Findings

Conclusion

The original purpose of this research project was to explore alternatives to incarceration in dealing with repeat drunk driving. The research has shown there is not really an *alternative* to incarceration. Instead, the research has found that there are many complements to incarceration in reducing repeat drunk driving. Incarceration, or the threat of incarceration, must be a part of any effort to reduce repeat drunk driving.

The research has found that there is no generic OWI offender, and there should not be a generic solution. But the research points to some clear lessons and guidelines.

- Measures that are effective for first-time and second-time offenders generally are not effective for multiple repeat offenders. Specifically, while harsh sanctions alone may be effective for "normal" drivers involved in their first OWI offenses, they are seldom effective for drivers with several OWI offenses.

- The key to understanding and dealing with repeat drunk driving is alcohol. Any effort to reduce repeat drunk driving must concentrate on alcohol use and alcoholism.

- The effort to reduce repeat drunk driving must be centered on treatment and education. Repeat drunk drivers seldom see the need to stop driving drunk, and unless the state is prepared to house thousands of offenders in jails and prisons for long periods of time, those offenders must have their perspectives changed.

- Measures are more effective if they are undertaken quickly instead of waiting for convictions months after the arrests.

- An initial assessment needs to be conducted as soon as possible to determine the most appropriate measures. Treatment and education should be individualized as much as possible for each offender.

- The repeat drunk drivers must be supervised and monitored closely. They will not participate in, or complete, treatment or education programs without intensive supervision.

- Sanctions, especially jail, must be used to compel the offenders into program participation and completion.