



# **Actions to Eliminate Substance Impaired Driving: Adjudication and Sanctioning**

Ward Vanlaar, Ph.D.  
Vice President Research  
Traffic Injury Research Foundation  
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# Times are changing

- > From punitive to long-term risk reduction:
  - » Justice system has focused heavily on traditional punitive approaches to DWI offenders.
  - » Punishment alone has not delivered desired results; evidence-based approaches needed to better protect the public in the longer term.
- > Emphasis on knowledge translation (KT) needed:
  - » The creation of new knowledge often does not on its own lead to widespread implementation and impacts on safety.
  - » A process of exchange is needed to ensure that knowledge translation occurs in a timely fashion and that the benefits are accrued.



# A unique example of KT



**AB InBev**

- > TIRF conducted a 3-year review of the criminal DWI system under funding from Anheuser Busch Companies.
- > The goal was to identify priority problems and practical solutions to improve the efficiency and effectiveness of the criminal DWI system.
- > Unique project approach involving several thousand front-line professionals to gauge their experiences, opinions and perspectives.
- > Led to the formation of the Working Group on DWI System Improvements.



# Members of the Working Group

- > Addiction Research Institute, University of Austin, Texas
- > American Judges Association
- > American Probation and Parole Association
- > California District Attorneys Association
- > Highway Safety Committee, IACP
- > Institute of Police Technology and Management
- > Minnesota Department of Corrections
- > National Association of Prosecutor Coordinators
- > National Association of State Judicial Educators
- > National Center for DWI Courts, NADCP
- > National Center for State Courts
- > National Judicial College
- > National Traffic Law Center
- > New York State Police and Washington State Patrol
- > Virginia Department of Criminal Justice Services



# Other participants



**NTSB**



# Alcohol ignition interlocks

- > Breath testing device that is connected to the starter or on-board computer of a vehicle.
- > Prevents starting vehicle if alcohol breath test result is greater than a pre-set limit (typically 0.02%).





# Effectiveness

- > Up to 75% of suspended, revoked or otherwise unlicensed drivers continue to drive (McCartt et al. 2003; Griffin and DeLaZerda 2000);
- > Many strong evaluations of interlocks (some 30 years of research).
- > While installed, interlocks reduce recidivism between 35-90%; average reduction of 64% (Cochrane review by Willis et al. 2005; CDC review 2011).
- > Overall crash rates are similar to general driving population; alcohol-related crashes are lower than suspended drivers (CDC review 2011; caution: limited research regarding effect on crashes).



# Continuous alcohol monitoring

- > Ankle bracelet that continuously monitors and measures alcohol consumption through vaporous perspiration;
- > Is used with offenders who use alcohol, including drunk drivers, but it does not physically prevent a driver from driving after drinking.







# Effectiveness

- > Approximately 22 peer-reviewed studies and variety of experimental studies have established that consumed alcohol can be validly measured in perspiration (Robertson et al. 2006).
- > Method of transdermal alcohol testing is designed as a screening device to estimate alcohol consumption.
- > Effectiveness and success rates of transdermal alcohol bracelets are promising; some devices evaluated (Bock 2003; McKelvie 2005; Flango and Cheesman 2009; Sakai et al. 2006).
- > Literature is sparse as this is a relatively new technology.



# Implementation challenges

- > Limited guidance has resulted in varied delivery, inconsistent application, low participation rates.
- > “Voluntary” laws enable offenders to “opt out”.
- > Limited education, training of justice professionals.
- > Misperceptions about cost/affordability of device.
- > Strict eligibility criteria that exclude offenders.
- > Long hard license suspension periods.
- > Poor communication across agencies that impedes the monitoring, tracking of offenders within or across jurisdictions.

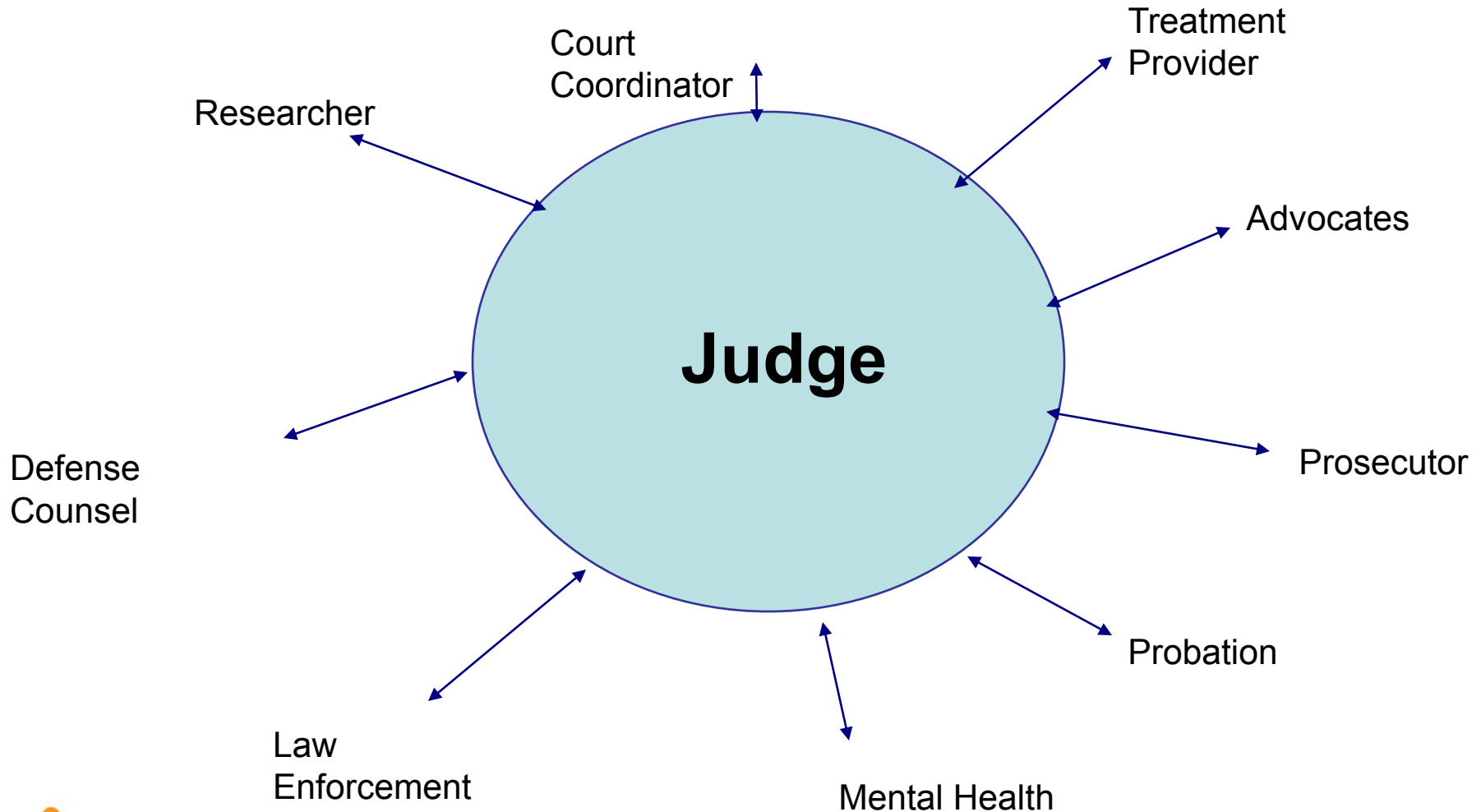


# What is a DWI court?

- > Unlike a traditional court, a DWI court has a separate court docket of high-risk, convicted drunk drivers who are less likely to be deterred by traditional penalties and interventions.
- > Courts aim to reduce drunk driving by treating the underlying drinking problem using:
  - » close supervision;
  - » appropriate sanctions and reinforcements; and,
  - » long-term treatment.
- > Use a team-based approach to develop a program based on offender risks and needs, accountability and supervision.



# DWI Court: a coordinated effort





# Effectiveness

- > MI study of 3 DWI courts found offenders were 19 times less likely to be arrested for another DWI (Fuller et al. 2008).
- > GA study of 3 courts showed an 80% retention rate and recidivism rate of 9%, compared to recidivism rate of 24% in traditional courts (Fell et al. 2011).
- > Lower recidivism rates for graduates in GA, AZ, CA and elsewhere (Marlowe et al. 2009; NHTSA 2004; Jones et al. 1998; Hiller and Saum 2009).
- > Close monitoring and individualized penalties for DWI offenders can reduce recidivism (NHTSA 2010).
- > Some conflicting findings; explanations for this (no separate docket for DWI and drug offenders).



# Barriers

- > Reluctance among judges.
- > Lack of agency buy-in.
- > Offender transportation.
- > Inadequate resources.
- > Misperception that a coercive approach to treatment is not effective.





# Community supervision

- > Agencies supervise individuals in the community as an alternative to incarceration.
- > Goal: protect public and promote rehabilitation.
- > Manage offenders at several stages including pre-trial, pre-sentence release, post-sentence release and following release from a correctional facility.
- > Level of supervision is individualized; based on jurisdictional laws and level of risk.
- > Supervision conditions include assessment, abstinence, random testing, EM and/or alcohol monitoring, alcohol education/treatment.



# Effectiveness

- > Research shows incarceration is not more effective than community supervision to prevent re-offending (Vyas 1995).
- > Treatment programs have been shown to be more effective when delivered in a community setting (Gendreau and Andrews 1990).
  - » Shielded from the negative effects of incarceration;
  - » Opportunity to gain and/or maintain employment, receive treatment and support, and maintain ties with family, friends.
- > Few studies have specifically examined the effectiveness of community supervision in reducing recidivism among DWI offenders.





# Barriers

- > Lack of funding for effective supervision levels.
- > Large caseloads with not enough officers/staff burnout.
- > Lack of funding for/availability of treatment interventions.
- > Emphasis on enforcement at expense of rehabilitation.
- > Failure to match offenders with interventions.
- > Lack authority to impose sanctions.
- > Ineffective partnerships.



# Traffic Safety Resource Prosecutors

- > DWI cases are among most challenging to process, but often handled by least experienced prosecutors.
- > TSRPs have extensive experience and expertise in traffic crimes, particularly DWI.
- > TSRPs form partnerships and serve as liaisons among many agencies, including law enforcement, medical examiners, Governor Highway Safety Offices, NHTSA.
- > They deliver training and education; are a source of support.
- > Answer questions on breath testing, sobriety checkpoints, search and seizures, defense challenges.



# Effectiveness

- > Studies specifically examining the effectiveness of TSRPs are not available.
- > While theoretically possible, it would be quite challenging to evaluate performance of states with, versus states without TSRPs (teasing out the effect of TSRPs would be difficult due to many confounding effects).
- > However, based on the initial research conducted by the Working Group on DWI System Improvements, one can logically assume that a TSRP certainly helps overcome one of the quintessential issues identified, i.e., lack of communication and cooperation among professionals.



## Administrative license suspension

- > More than 25 years of research examined general and specific deterrent effects; overall findings are positive.
- > ALS/ALR laws are not a complete solution to DWI.
- > Significant portion suspended/revoked drivers continue to drive (Griffin and DeLaZerda 2000; McCartt et al. 2002).
- > Analysis of data from 1993-1997 shows 6% of all fatal crashes involved at least one suspended/revoked driver.
- > California study estimated suspended/revoked drivers account for almost 9% of driving population; over-represented in fatal crashes by a factor of 3.7:1 (DeYoung 1997).



## What needs to be done?

- > There is no need to revolutionize the system.
- > Existing system has many strengths.
- > Need more consistent use of proven measures within the existing system.
- > Specifically with respect to adjudication and sanctioning, this can be accomplished by:
  - » enhanced legislation and regulation;
  - » greater use of technology;
  - » improved communication and cooperation;
  - » enhanced training and education; and,
  - » more resources.



# What does NTSB need to do?

## > **With respect to the system:**

- » Support and promote approaches that acknowledge complexity of system and that without communication and coordination offenders benefit from the loopholes (e.g., DWI courts and TSRPs).

## > **With respect to the measures:**

- » Promote adoption of a productive balance between punishment and rehabilitation with the ultimate goal of protecting the public in long-term.
- » Support and promote implementation of proven measures (e.g., technologies).
- » Promote individualized approaches that can provide tailored responses based on risk level and needs.



# Staying informed

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