



THE USE OF INTERLOCKS IN PRE-TRIAL SITUATIONS

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ASSOCIATION OF IGNITION INTERLOCK
PROGRAM ADMINISTRATORS

OVERVIEW

- Current climate of alcohol-impaired driving in the U.S.
- How pre-trial services fit within the larger DWI system
- Pre-trial processes
- Case Studies



COVID-19 PANDEMIC AND IMPAIRED DRIVING

- The COVID pandemic and current social issues certainly have impacted policing, public health workers, traffic safety professionals, and all road users.
- It is apparent that new strategies to mitigate the rising number of crashes and to reduce risky driving behaviors are imperative to reverse this growing trend.
- Road use, traffic patterns and VMTs are starting to rebound closer to pre-coronavirus levels, risky driving behaviors including impaired driving are perpetuated.

COVID-19 PANDEMIC: 2020 VS. 2019

Miles Driven 11% ↓

Crashes 22% ↓

Crash Fatalities 6.8% ↑

41,144 passenger vehicle
drivers involved in fatal crash



CRASH FATALITIES 2020 VS 2019:



Speeding Fatalities 18% ↑

Alcohol Impaired Driving
Fatalities 14% ↑



Unbelted Fatalities 14% ↑



ALCOHOL-IMPAIRED DRIVING FATALITIES (2020)

- Fatality in a crash involving a driver or motorcycle rider (operator) with a blood alcohol concentration (BAC) of .08 grams per deciliter (g/dL) or greater.
- Estimates of alcohol-impaired driving are generated using BAC values reported to FARS and BAC values imputed when they are not reported.
- Alcohol-impaired involvement:
 - 8,643 (21%) alcohol-impaired+
 - 3,494 (8.5%) only alcohol-impaired
- The monthly percentage changes for alcohol-impaired-driving fatalities were higher than the monthly percentage changes for total traffic fatalities.

2021

- NHTSA projects that in 2021 an estimated **42,915** people died in motor vehicle traffic crashes
- 10.5% increase from the 38,824 fatalities in 2020.
- This projection is the highest number of fatalities since 2005.
- Largest annual % increase in the FARS history.



PRE-TRIAL SERVICES WITHIN THE DWI SYSTEM

- Arrest – typically booked into county jail.
- Judge within 24-48 hrs.
- ID probable cause to maintain charges/released.
- Law requires least restrictive
- conditions to secure appearance.
- Standard release or bail schedule.
 - Low-level-citation release or PTA.
 - Bail set.
 - Influenced by severity of offense.
 - Past criminal history.
 - Likelihood of appearing in court.

PRETRIAL PROCESS OVERVIEW

- Purpose to increase public safety and ensure court appearances while protecting individual rights.
- Pretrial practices: bail and bond decisions; pretrial detention in jail; pretrial diversion; varying conditions of pretrial release; and other local pretrial services.
- Services may include risk assessments to inform those pretrial services needed to achieve the correct balance between preserving public safety and providing the proper services available to offenders.
- Often include **supervision and monitoring** through use of technology.

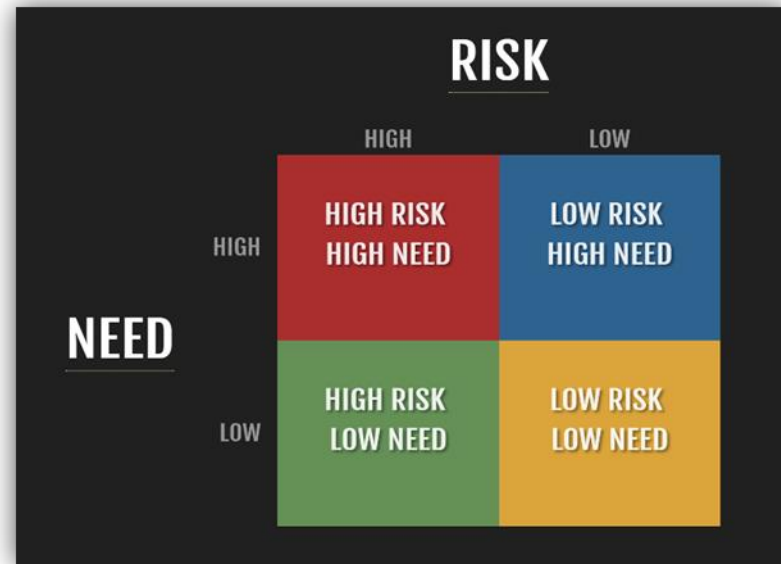
RISK ASSESSMENT TOOLS

- > Validated risk assessment tools provide info to inform conditions.
- > Provide the court with an objective, research-based measurement of defendants' potential for failure to comply with pretrial conditions.
- > Few tools have been validated specifically among DUI offenders.
- > DUI offenders are a unique population.
- > This population can pose significant threat to public safety, high rates of substance use and mental health disorders.



RISK AND NEEDS ASSESSMENTS

- > Important to identify the risk DWI offenders pose to the community & appropriate need factors related to offending behaviors.
- > Utilizing appropriate variables to DWI offenders is critical in changing behavior.
- > Risk and need assessment are actuarial-based tools used to classify offenders into levels of risk (e.g., low, medium, and high) and to identify and target interventions to address offender needs.
- > Examples :
 - > (DUI-RANT)
 - > Impaired Driving Assessment (IDA), and
 - > Computerized Assessment and Referral System (CARS).



TECHNOLOGY TO SUPERVISE DUI OFFENDERS

- > Offender monitoring critical regarding accountability of DUI offenders.
- > Technology – aids in monitoring and supervising the impaired driving population.
- > When used as intended, can effectively monitor offenders, facilitate behavior change, and reduce recidivism rates among this population.
- > Devices currently used in various DUI programs across the country: Ignition interlock devices (IID); Transdermal/continuous alcohol monitoring; Home/remote monitoring devices; Hand-held devices (PBT), Oral fluid testing devices.

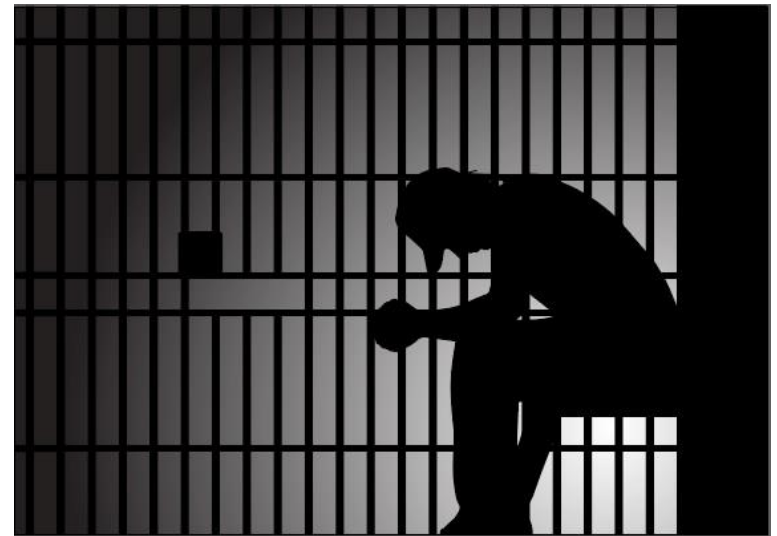
PRETRIAL AND OTHER PROGRAMS

- > Pretrial Detention
- > DUI Diversion
- > Pretrial Release
- > 24/7 Programs
- > DWI Courts



PRETRIAL DETENTION

- > In most jurisdictions, DUI offenders must appear before a bond court judge to determine the conditions of their release prior to the disposition of their criminal case.
- > Based on public safety considerations and the likelihood appearance for subsequent court hearings.
- > Laws in 18 states and DC require a hearing to determine.
- > Usually ordered if presents an unmanageable risk to public safety, unlikely to appear in court, or unable to pay their monetary bail requirement.



PRETRIAL DETENTION

- > Out of 100 who have bail bond hearing, 34 are detained pretrial due to inability to pay cash bail (PJI, 2018).
 - > Overcrowding and increased financial demand on jurisdiction.
 - > CJ reform movement to do away with cash bail systems – disproportionately affects minorities.
- > Some jurisdictions implemented strategies to reduce pretrial detention & provide services for those with detected substance abuse issues.
- > Treatment usually determined by screening or risk assessment.

DUI DIVERSION PROGRAMS

- > Fresh start – expunge charges from the offender’s record after successful completion of the program.
- > Alternative to prosecution to divert certain offenders from traditional processing into supervision and services (probation services).
- > Unsuccessful participants are returned to prosecution and face traditional DUI adjudication.
- > Diversion programs often require IIDs to complete the program.



DUI DIVERSION PROGRAMS

- > Most lack uniformity across the states.
- > Some states, no record of any charges, dismissal, or completion of the diversion program.
- > Important to implement stringent tracking-available only once.



PRETRIAL RELEASE

- > Alleviate jail crowding/cost where bail and/or bond conditions are usually set including use of IID (TX).
- > If the offender meets conditions, they are released on a PTA.
- > Traditional programs are often viewed as a serious public safety hazard.
- > For this reason, some jurisdictions implemented monitoring programs requiring certain offenders to participate in monitoring or supervision and sometimes treatment.

PRETRIAL RELEASE – MONITORING PROGRAMS

- > Monitoring programs incorporate screening/risk assessments to determine appropriate pretrial measures for offenders.
- > For those programs that require or recommend treatment, once the charge has been adjudicated and if treatment is required, often this treatment is acknowledged and continued throughout the post-adjudication process.
- > Monitoring usually by probation use of various devices including an IID, transdermal monitoring devices, home devices, and oversight by a monitoring agency.

DWI COURTS

- > Non-adversarial, collaborative team approach.
- > Court monitoring, intensive supervision, frequent alcohol and drug testing.
- > Goal is to change behavior through long-term treatment to recovery.
- > DWI courts that follow best practices are structured in phases.
- > DWI courts reduce recidivism among repeat offenders, especially when maintaining fidelity to the DWI court model.



PRETRIAL PROGRAM CHALLENGES & BARRIERS

- > Many jurisdictions struggle with requiring offenders to participate in services while still maintaining the presumption of innocence for the offender.
- > Often, these programs have associated costs that the offender may not be able to afford.
- > Usually volunteer-based, therefore those who do not choose the option to participate in these programs are often released without supervision and may continue to pose a threat to their community.
- > Often programs do not use a risk assessment or an assessment that is validated for the alcohol-impaired driving offender which results in improper sanctioning and referral to treatment.

CASE STUDIES



OREGON (DUII) DIVERSION PROGRAM

- > Eligible offenders (1st offenders) participate in an alcohol and drug evaluation and education and rehabilitation program in lieu of being convicted of DUII.
- > Recent changes:
 - > an established min # of months established for IID requirement;
 - > IID – compliance-based removal; and
 - > IID circumvention restart codes allowed on a 1 – time basis, previously more than one restart circumvention codes were allowed.

OREGON (DUI) DIVERSION PROGRAM

- > Incentives:
 - > Court costs are considerably lower for diversion offenders than convicted offenders.
 - > The filing fee for participation in the DUI Diversion Program is less than a fine for conviction.
 - > There is no license suspension period, required jail time, or required community service work for participation in the DUI Diversion Program.
- > The offender is given 30 days to file a diversion petition. If the offender files a petition the court either approves or denies the petition (must plead guilty or no contest).

OREGON (DUII) DIVERSION PROGRAM

- > An assessment is conducted ADES/ADSS-refers the participant to education and/or treatment as appropriate.
- > Interlock vendors report installations, removals, and tampers to ADSS.
- > The court receives monthly progress reports from the ADSS.
- > Violations result in termination of the diversion agreement, does not receive a trial and is convicted of DUII.
- > Upon completion of treatment a DUII treatment completion certificate is issued.
- > Once all program requirements are completed, the DUII conviction is dismissed.
- > Arrest record is maintained on the driver record.

OR DUI DIVERSION CHALLENGES

- > The legalization of marijuana in Oregon created further complications regarding legal limits, identifying impairment, and increased access to an intoxicating substance (ODOT, 2016).
- > Data issues: the program does not have the ability to track interlock compliance statewide-no centralized data repository.
- > Court discretion to require or waive an interlock requirement if the offense does not involve alcohol.
- > The Governor's Advisory Committee on DUII recommended the interlock requirement should be based on the ADES evaluation and not solely on whether the initial stop and arrest involved alcohol.



**OR
DIVERSION:
KEY
COMPONENTS
TO SUCCESS**

- > Regulated statewide, uniform statewide, including treatment.
- > Must enter a “guilty”/“no contest” plea prior to entry into the program.
- > Evaluation determines appropriate level of education/treatment
- > The DUI arrest is “dismissed with prejudice”, record of the diversion on the offender’s permanent record.
- > The DMV doesn’t purge records.
- > Accurate ID of priors.
- > Ignition interlock required.
- > Minimum length of term for interlocks, compliance-based removal.
- > Interlock “restart codes” 1 time-“lockout” situation.
- > Monitored by probation including regular random chemical tests.
- > At least one year with the possibility to extend based on need.

SOUTH ST LOUIS COUNTY (SSLC) DWI COURT

- > Fundamental shift: sanction focused to adjusting treatment to better serve participants.
- > Follows the evidence-based “10 Guiding Principles of DWI Courts”.
- > Includes pre-plea, post-plea/pre-conviction, and post-conviction participants, early intervention treatment services both pretrial and post-trial.
- > Repeat DWI offenders-currently expanded to gross misdemeanors & felony DWI offenders.
- > Includes offenders many DWI Court exclude, often have significant mental health issues and several co-occurring disorders in addition to their substance abuse issues.
- > 5 Phases, graduation-the 6th Phase, includes continuing care post-graduation until their probation completion.

SOUTH ST LOUIS COUNTY (SSLC) DWI COURT

- > Offenders are retained in jail prior to 1st appearance.
- > Screened for eligibility at arraignment or a probation violation by probation using DUI-RANT & referred to the DWI Court team.
- > Treatment director utilizes clinical in-house assessment including parameters to define mental health, substance abuse, and other factors affecting treatment.
- > Intensive supervision – primary component of the program utilizing technology including ignition interlocks.
- > Probation conducts randomized field visits.
- > Assistance in obtaining ancillary services as needed including housing, employment skills training, GED classes, childcare, transportation and other needs.
- > Mitigate behaviors through corrective action at the first sign of non-compliance throughout the program.

SSLC DWI COURT: CHALLENGES

- > Access to treatment, however, the team always determines an alternative plan.
- > Running an individualized court that takes an incredible amount of time can be challenging for team members.
- > Funding is always a challenge; but not a barrier. The primary costs of the court are UA costs that are paid for by the participant (\$100/month) and grant funding.
- > Transportation in rural areas, however bus passes and other transportation solutions are used for these instances.

SSLC DWI COURT: KEY COMPONENTS FOR SUCCESS

- > “Team”- provide informed/cohesive individualized case management plan.
- > Entry into the program from arrest is approximately 1 week.
- > Fidelity to the Drug Court Model
- > Program entry pre-plea
- > Utilizing a validated risk assessment tool specific to alcohol.
- > Use of technology to monitor/supervise participants including IIDs
- > Rapid testing outcomes
- > Community involvement
- > Individualized program
- > Consistent and effective communication
- > Electronic data reporting
- > Sanctions and incentives are immediate.
- > Consistency among team members, program processes and continued best-practices training
- > Evaluation and review of the DWI Court Program.

EL PASO, TX PRETRIAL SERVICES

- > There are approximately 4000 DWIs/year El Paso County. Historically, repeat DUI offenders could bond out without any supervision or monitoring.
- > Judge Robert Anchondo, saw a need for change in El Paso-recent legislation allowed for alcohol monitoring units to be imposed as a mandatory or discretionary bond condition for repeat offenders, provided foundation for a repeat DWI offender pretrial program.
- > Recently validated its own pretrial risk assessment, El Paso Pretrial Risk Assessment Revised (EPPRA-R). Looking to implement CARS.
- > El Paso also implemented a supervision continuum utilizing the risk assessment, called the SMART Praxis.
 - > Guidelines for judges to identify appropriate bond conditions to the offense were also created. These guidelines divided DWI offenses into five presumptive recommendations to be given to the magistrate.

EL PASO PRETRIAL SMART PRAXIS April 2, 2019 V2

(SMART = Supervision Matrix Assessment & Recommendation Tool)

Risk Assessment Level of Risk ↓	OFFENSE LEVEL CATEGORY (See below for DWI Guidelines)				
	1	2	3	4	5
	Including Felony Crimes of Violence	Including Misd. Crimes of Violence, Terroristic Threats, VPO, and Other Sex Crimes	Including Drug Crimes Manufacture & Delivery; POM over 50 pounds & Controlled substance over 4 gms	Including Drug Crimes POM under 50 pounds & controlled substance under 4 grams	Including Other Non-Violent Felony Crimes & Other Misdemeanors (excluding DWI's)
Level 1	Enhanced	Standard	Administrative	Administrative	Administrative
Level 2	Intensive	Standard	Standard	Administrative	Administrative
Level 3	Intensive	Intensive	Standard	Standard	Administrative
Level 4	Intensive	Intensive	Intensive	Intensive	Enhanced

PRETRIAL SUPERVISION LEVELS				
Pretrial Supervision Description	Admin	Standard	Enhanced	Intensive
Risk Assessment	✓	✓	✓	✓
Criminal History & Background Information	✓	✓	✓	✓
Documentation of Residence and Contact Information	✓	✓	✓	✓
Court Reminders before each Pretrial Court Date	✓	✓	✓	✓
Intake advisement within 24 hours of receiving bond	✓	✓	✓	✓
Orientation with Intake Staff	✓	✓	✓	✓
Notification of New Arrest	✓	✓	✓	✓
Check-in the Day Before Court by phone or email	✓	✓	✓	✓
Treatment evaluation by court order or client request		✓	✓	✓
Orientation with Pretrial Staff			✓	✓
Call-in to Pretrial Office minimum of 1x p/month		✓		
Physical Check-in to Pretrial Office minimum of 1x p/month			✓	
Physical Check-in to Pretrial Office minimum of 2x p/month				✓
Client Meetings as Needed Only		✓		
*Minimum of one Client Meeting p/Month			✓	
*Minimum of two Client Meetings p/Month				✓

**Client meetings may count as a check-in*

DWI GUIDELINES (includes arrests in lifetime)

All DWI clients will receive court reminder calls in addition to the following services. Monitoring will be as follows except as otherwise specifically ordered by a Judge.

Non-Aggravated DWIs: First DWI arrest and BAC under 0.15	In-office breathalyzers once per month. No client meetings required until supervision non-compliance. Court will be notified after second positive or missed test.
1st DWI over 0.15	Alcohol monitoring unit at the discretion of the court. Otherwise, In-office breathalyzers twice per week. No client meetings required until supervision non-compliance. Court will be notified after second positive or missed test.
DWI Subsequent or with Child	Mandatory INTERLOCK unit <u>OR</u> if mobile breathalyzer ordered then a minimum of daily random tests. Client meetings once per month. Court will be notified after first positive or missed test.
DWI 3rd or more	Mandatory INTERLOCK unit <u>OR</u> if mobile breathalyzer ordered then a minimum of four daily tests. Officer may increase. Client meetings twice per month. Court will be notified after the first positive or missed test.
DWI Drugs	One urine screen and breathalyzer per month. Client meetings once per month. Court will be notified after second positive or missed test.

ADDITIONAL COURT ORDERED SUPERVISION SERVICES

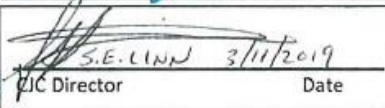
These additional supervision services will only be monitored by the CJC if specifically ordered by the court.

Electronic Monitoring Devices (EHM)	Electronic Monitoring devices are monitored by the CJC Pretrial Services only if there is a specific court order. It is currently the defendant's responsibility to find a specific provider and pay for the services. There are no indigent subsidies, and the court should be aware that these providers may discontinue or not provide the service if the defendant is unable to pay for the services.
Substance Monitoring	<p>If the court desires substance testing, the CJC will only monitor cases as specifically ordered by the court. Defendants without a specific order for substance testing will not be monitored.</p> <p>Pretrial Services may utilize the following methods: Urine Screens, In-Office Breathalyzers, and Electronic Devices (Alcohol Ankle Monitors, In-Home Breathalyzers, Smart Phone technology, etc.).</p> <p>Unless otherwise ordered by the court, the CJC Pretrial Services will decide the method and frequency of the substance monitoring, which will be no less than one time per month, and no more than three times per week. This excludes DWI supervision levels, which are specified in the DWI supervision guidelines.</p>
Defendants Supervised by El Paso County CSCD (Probation)	<p>Any defendants who are also on supervised Probation will not be required to have meetings with pretrial staff, except as needed. Substance testing for adult Probation may count toward required Pretrial testing if it fulfills the requirements of the court order.</p> <p>The CJC will remain responsible for any bond violations of these defendants and communication must be maintained between the CJC and Probation regarding defendant compliance.</p> <p>If a defendant is supervised on Pretrial Diversion by Probation, then the CJC will maintain responsibility to monitor and report on bond condition compliance.</p>

OTHER INFORMATION

Adjustment of Supervision Levels	With the exception of Intensive, if a defendant is compliant for at least two months, Pretrial Services may adjust supervision and substance testing levels down based on performance. Increased supervision levels may only come from a specific court order. Defendants who are re-arrested during the supervision period are excluded from eligibility for supervision reductions.
Treatment Referrals	Pretrial Services may refer defendants for evaluations for treatment based on a court order or voluntary participation. The evaluations may include substance abuse, mental health, domestic violence, etc. Voluntary participation in treatment may help defendants avoid violations of their bond.
Response to Violations	Violation responses will be in accordance with the El Paso Pretrial Response to Violations Guide.

***STATEMENT OF COLLABORATION:** These guidelines were developed collaboratively with input from El Paso Justice Stakeholders, including Judges from both District and County courts, the District Attorney's Office, the Public Defender's Office, the El Paso County Sheriff's Department and the Criminal Justice Coordination Department. This group of stakeholders agrees to the implementation of these guidelines, as well as an objective review and evaluation of these guidelines to ensure that they accomplish the goals that have been established by our stakeholders. These Guidelines may be implemented on April 1, 2019.*

 Admin Judge for COJ Date 3/10/19	 District Court Admin Judge Date 3/11/19	 District Attorney Date 3-12-19
 Public Defender Date 3/11/19	 CJC Director Date 3/11/2019	 El Paso County Sheriff Date 3-11-19

PRETRIAL PROGRAMS CONCLUSION

- > Untapped resource dealing with the impaired driver-misses an opportunity to intervene early in the criminal justice process.
- > Those that incorporate key components for success and evidence-based best practices can change behavior to prevent subsequent impaired driving offenses.
- > Technology including ignition interlocks has evolved to become extremely sophisticated and is a useful tool to aid in monitoring and supervising the impaired driving population and enhancing public safety.
- > Expansion of pre-trial programs through devoting resources to this intercept to get people assessed, supervised and treated as quickly as possible with measured successful interventions could further reduce alcohol-impaired fatalities across the country.

QUESTIONS?

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