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# **An Evaluation of Intensive Supervision Programs for Serious DWI Offenders**

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16. Abstract Intensive Supervision Programs (ISPs) for offenders convicted of driving while intoxicated (DWI) vary considerably around the United States. There are State "systems" that provide standard guidelines to counties and local communities in the State, and there are numerous local county and community programs that appear promising in reducing DWI recidivism. We prepared case studies for two State programs (Nebraska and Wisconsin), four individual area ISPs ("Staggered Sentencing for Multiple DWI Convicted Offenders" in Minnesota; "Serious Offender Program" in Nevada; "DWI Enforcement Program" in New York; and "DUII Intensive Supervision Program" (DISP) in Oregon) and two rural programs ("24/7 Sobriety Project" in South Dakota; and "DUI Supervised Probation Program" in Wyoming). These ISPs revealed certain common features: <ul style="list-style-type: none"> <li>• Screening and assessment of offenders for the extent of their alcohol/substance abuse problem</li> <li>• Close monitoring and supervision of the offenders</li> <li>• Encouragement by officials to complete the program requirements successfully</li> <li>• Jail for noncompliance</li> </ul> <p>The authors evaluated three of the programs. The Minnesota Staggered Sentencing Program appeared to be successful in reducing offender recidivism, even given the small sample size of program offenders (<math>n=200</math>). Compared to a similar matched group of DWI offenders, the staggered sentencing offenders had a significant 30.6% lower recidivism rate (<math>p=.017</math>) up to 4 years post-offense. The program prevented an estimated 15 to 23 re-arrests for DWI due to its effectiveness. The Westchester County program appeared to be effective in the short term (18.1% lower recidivism in 5 years post-offense [<math>p&lt;.001</math>]) but not in the long term (only 5.4% [<math>p=.171</math>] lower recidivism in 15 years post-offense). This program resulted in an estimated 78 fewer re-arrests for DWI in the first 5 years. The Oregon DISP intervention group had 54.1% lower recidivism up to 8 years post index offense than both of the stratified matched-sample comparison groups, adjusting for the demographic covariates (Wald=51.50; <math>p&gt;.001</math>). The program prevented 67 re-arrests for DWI in the first 8 years. The benefit/cost of ISPs appears to be very good for the prevention of re-arrests. Preventing re-arrest for DWI for multiple offenders saves thousands of dollars in sanctions (jail time) and rehabilitation.</p>					
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## List of Acronyms

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<b>Acronym</b>	<b>Meaning</b>
AA.....	Alcoholics Anonymous
ALR.....	administrative license revocation
AODA.....	alcohol and other drugs of abuse
APPA .....	American Probation and Parole Association
ASAM PPC-2R.....	American Society of Addiction Medicine Patient Placement Criteria
ASI .....	Addiction Severity Index
BAC .....	blood alcohol concentration
BOTS .....	Bureau of Transportation Safety
CASI .....	Comprehensive Adolescent Severity Inventory
COMPAS .....	Correctional Offender Management Profiling for Alternative Sanction
DCJS .....	New York State Division of Criminal Justice Services
DMV .....	Department of Motor Vehicles
DOP.....	Department of Probation
DOT .....	Department of Transportation
DRCs.....	Day Reporting Centers
DSM-IV .....	Diagnostic and Statistical Manual of Mental Disorders, fourth edition
DSP .....	DUI Supervised Probation in Wyoming; Driver Safety Plan in Wisconsin
DUI .....	driving under the influence
DUII .....	driving under the influence of intoxicants
DWAI.....	driving while ability impaired
DWI.....	driving while intoxicated or driving while impaired
DWS.....	driving while suspended
g/dL.....	grams per deciliter
GPS .....	Global Positioning Satellite
IDP .....	Intoxicated Driver Program
IPR .....	Injury Prevention Resources
ISP.....	intensive supervision programs
MADD .....	Mothers Against Drunk Driving
NA.....	Narcotics Anonymous
NCJIS.....	Nebraska Criminal Justice Information System
NHIPPS.....	Nevada Health Information Provider Performance System
NHTSA .....	National Highway Traffic Safety Administration
NPMIS .....	Nebraska Probation Management Information System
OASAS .....	Office of Alcohol and Substance Abuse Service
OWI.....	operating while intoxicated
PDA.....	Personal Digital Assistants
PSI/PDIs.....	Presentence Investigation and Predisposition Investigation
REAM.....	remote electronic alcohol monitoring

<b>Acronym</b>	<b>Meaning</b>
SCRAM.....	Secure Continuous Remote Alcohol Monitoring
SOP .....	Serious Offender Program
SRARF.....	Standardized Risk Assessment Reporting Format for Substance Abusing Offenders
SSI.....	Simple Screening Instrument
VIP .....	victim impact panel
WAID.....	Wisconsin Assessment of the Impaired Driver

## Table of Contents

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Acknowledgement .....	ii
List of Acronyms .....	iii
Executive Summary .....	1
Introduction .....	1
Methods .....	7
Case Studies .....	7
Impact Evaluation .....	8
Findings .....	9
Conclusions and Recommendations .....	10
Conclusions .....	10
Recommendations .....	11
Background .....	13
Defining the Problem .....	13
Strategies for Dealing with the DWI Recidivism Problem .....	14
Defining ISPs .....	15
ISP Program Descriptions .....	16
ISP Components .....	16
Individual ISP Types .....	20
Evidence of ISP Effectiveness .....	21
Prior Studies of Probation/Supervision .....	21
Prior Studies of Comprehensive ISPs that Include Probation/Supervision .....	21
Project Summary .....	23
Project Objectives .....	23
Methods Used During This Project .....	23
Information-Gathering Process .....	23
Overview of Eight ISP Case Studies .....	24
Two State-Level Programs .....	24
Four Individual Area ISPs .....	25
Two Rural ISP Programs .....	26
Components and Attributes—by System or Program .....	27
ISP Participants .....	27
Duration .....	27
Assessment and Rehabilitation .....	28
Probation, Supervision and Monitoring .....	28
Licensing and Vehicle Actions .....	28
Evaluation and Analysis Methods .....	33
Staggered Sentencing—Isanti County, Minnesota (plus 3 other counties) .....	33
DWI Offender Program—Westchester County, New York .....	35
DISP—Multnomah County, Oregon .....	37
Evaluation Summary of Results for Three ISPs .....	40
Highlights of the Results of the Three ISP Evaluations .....	40
Impact Evaluations of the Three ISPs .....	40

Outcomes—“Staggered Sentencing for Multiple DWI Convicted Offenders” in Minnesota (primarily Isanti County) .....	40
Repeat DWI Arrests Prevented—“Staggered Sentencing for Multiple DWI Convicted Offenders” in Minnesota (primarily Isanti County) .....	42
Outcomes—“DWI Enforcement Program” in Westchester County, New York.....	43
Repeat DWI Arrests Prevented—“DWI Enforcement Program” in Westchester County, NY.....	45
Outcomes—“DISP” in Multnomah County, Oregon (and counties surrounding Portland) .....	45
Repeat DWI Arrests Prevented—“DISP” in Multnomah County, Oregon (and counties surrounding Portland).....	48
Predictors of Recidivism.....	49
<b>ISP Costs</b> .....	<b>51</b>
Nebraska State System Funding .....	52
Wisconsin Program Funding.....	52
Minnesota 10 <sup>th</sup> District Court Staggered Sentencing Costs and Funding.....	52
Nevada—Clark County “Serious Offender Program” Costs .....	53
New York—Westchester County “DWI Enforcement Program” Costs and Funding .....	53
Oregon—Multnomah County “DUI Intensive Supervision Program” Costs .....	53
South Dakota—“24/7 Sobriety Project” Costs.....	54
Wyoming—“DUI Supervised Probation Program” Costs .....	54
<b>Conclusions and Recommendations</b> .....	<b>55</b>
Conclusions.....	55
Recommendations.....	56
<b>References</b> .....	<b>58</b>

**APPENDICES**

Appendix A Protocol Used for Interviewing ISP Officials.....	63
Appendix B Summaries of Eight ISP Case Studies .....	68

**TABLES**

Table 1. ISP Components and Characteristics .....	4
Table 2. Staggered Sentencing Participants’ County of Residence .....	33
Table 3. DISP Participants County of Residence.....	37
Table 4. Cox Regression Model Parameters for Isanti (Matched Comparison Sample, with 4-Year Exposure Period).....	41
Table 5. Cox Regression Model Parameters for Westchester (with 15-Year Exposure Period).....	44
Table 6. Cox Regression Model Parameters for Oregon with 8-Year Exposure Period.....	48
Table 7. Relative Likelihood of Recidivism .....	49
Table 8. ISP Program Costs and Savings.....	51
Table 9. Annual ISP Funding Source Allocation Schedule .....	52
Table 10. Annual ISP Funding Source Allocation Schedule .....	80
Table 11. Program Issues—The Wisconsin Pretrial Intoxicated Driver Intervention Program.....	80
Table 12. Elements of Program Phases.....	87
Table 13. Elements of Program Phases or Levels.....	106
Table 14. DSP Components .....	107



**FIGURES**

Figure 1. Recidivism Rates for Minnesota ISP versus Comparison Offenders .....42  
Figure 2. Recidivism Rates for Westchester ISP versus Comparison Offenders .....43  
Figure 3. Recidivism Rates for Oregon DISP versus Comparison Offenders .....47

## Executive Summary

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### Introduction

There are many variations of supervision programs for driving-while-intoxicated (DWI<sup>1</sup>) offenders. These programs include case-specific restrictions (e.g., individualized conditions to probation), unsupervised probation, basic supervision probation (e.g., regularly scheduled visits to probation services with varying frequency), and intensive supervision probation (which can involve many program components and close monitoring). Offenders who receive probation from intensive supervision programs (ISPs) have more contact with probation officers, a judge, or other designated authorities compared to standard (nonintensive) probation programs. Further, these offenders participate in various educational, vocational, and therapeutic programs in the community (Harding, 1989; Transportation Research Board, 1995). According to the American Probation and Parole Association (APPA), an “intensive” probation program should consist of a smaller caseload and possibly a specialized caseload for probation officers so they can spend adequate time supervising and monitoring offenders assigned to them, but this is not possible in every community. Not all intensive supervision programs are administered through probation offices. Some are administered through offices of the court, law enforcement agencies that are not probation or parole departments, or private companies. For the purposes of this report, the term “intensive supervision program” will refer to programs for DWI offenders, which include supervision by case monitors with relatively small caseloads, and which generally involve assessment for substance abuse, substance abuse treatment, drug and alcohol testing and various types of offender monitoring. Such programs may or may not be administered by parole or probation departments and may or may not require abstinence.

Research on DWI sanctions strongly suggests that extended contact with sanctioning agencies, such as that imposed by an ISP, is important to reducing DWI recidivism (Jones, Wiliszowski, & Lacey, 1996; Wiliszowski, Murphy, Jones, & Lacey, 1996). Offenders usually assigned to intensive supervised probation are nonviolent, repeat offenders (typically with two or more DWI convictions in the past) who have served some time in jail. During this project, we identified State-level ISP systems and individual site ISPs in urban and rural locations that had unique features or showed promise in reducing DWI recidivism or both.

State-level probation systems are often just that—“systems”—rather than programs. These systems collect data/records and disseminate information to the courts, assessment services, and to the individual ISP programs. In addition, State-level systems can provide direction and oversight to community-level ISPs. Staff from State-level systems may provide guidelines, such as offender assessment requirements and the use of specific assessment instruments, to private

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<sup>1</sup> “DWI” (driving while intoxicated or driving while impaired), “DUI” (driving under the influence), and “OWI” (operating while intoxicated) are general terms that vary from State to State and refer to the action of driving a vehicle while impaired by alcohol when the blood alcohol concentration (BAC) of the driver is .08 grams per deciliter (g/dL) or higher. All of these terms are used in this report.

treatment and community probation organizations. State staff may also set up referral systems and disburse funding. State systems can track and monitor the quality and level of care of provider organizations and can maintain registration databases of approved organizations to serve local communities in recommending or mandating certain services to offenders.

Individual ISPs may be comprised of a few program elements or a multitude of components that vary widely depending upon community needs and resources. Examples of ISP components are:

- Screening and assessment of offenders' substance abuse problems;
- treatment;
- education;
- intensive supervision;
- self-help (e.g., commit to lifestyle changes including sobriety, required attendance by offenders at Alcoholics Anonymous [AA] meetings, required attendance at victim impact panels [VIPs], finding employment);
- submission to random alcohol and other drug testing;
- driver licensing sanctions;
- vehicle actions (e.g., ignition interlocks, special license plates, sale of vehicles);
- submission to home confinement and controlled movement (through electronic monitoring and/or compliance checks); and
- community service.

This report provides information on all of these components. Offenders may face extended probation time and/or jail time as conditions of noncompliance or for an additional repeat DWI offense while on probation for an earlier offense. Noncompliance can also be defined as failure to meet program requirements, such as not making payments for services, drinking when abstinence is required, or missing required meetings.

The organization and capacity of ISPs vary in the composition of program components and in the dictated course of action prescribed to offenders. For example, pretrial programs usually screen and assess offenders before they appear in court, as opposed to courts ordering defendants to an ISP for screening and assessment following adjudication. Diversion programs generally provide offenders with an incentive to dismiss a DWI charge in return for completing a prescribed program. Day Reporting Centers (DRCs) provide offenders structure and support in a community setting. Finally, DWI Courts often provide continued long-term contact with the sentencing judge.

DWI Courts are individual site programs serving various districts, counties, or communities as opposed to a statewide court system and are therefore considered as individual ISPs in this study. Most DWI Courts incorporate various probation components, such as those listed herein, and often provide supervision to offenders by judges or other court officials who closely administer and monitor compliance with court-ordered sanctions coupled with treatment. DWI Court programs can include re-sentencing to jail for offenders who are noncompliant, but also often

include positive reinforcement to offenders for successful performance in the program (National Association of Drug Court Professionals, 1997; National Drug Court Institute, 2002).

Although ISPs appear to have a positive effect on serious DWI offenders, relatively few evaluations of these programs exist. The objectives of this project were to develop and compile eight case studies of ISPs that have unique features, or promising program strategies, or both in reducing DWI recidivism and to conduct impact evaluations for three of these programs.

The eight ISP systems and programs studied were:

- Two State-Level Programs:
  - “Standardized Model for Delivery of Substance Abuse Services” in Nebraska
  - “Pretrial Intoxicated Driver Intervention Program” in Wisconsin
- Four Individual Area ISPs:
  - “Staggered Sentencing for Multiple DWI Convicted Offenders” in the Minnesota 10<sup>th</sup> District Court (primarily Isanti County)
  - “Serious Offender Program” in Clark County, Nevada
  - “DWI Enforcement Program” in Westchester County, New York
  - “DUII Intensive Supervision Program” (DISP) in Multnomah County, Oregon
- Two Rural ISPs:
  - “24/7 Sobriety Project” in South Dakota
  - “DUI Supervised Probation Program” in Fremont County, Wyoming

Appendix B briefly describes the eight ISP case studies and their systems and programs as of 2007.

Evaluations on effectiveness in reducing DWI recidivism were conducted for three programs. These three ISPs and the features that make these programs unique follow:

- “Staggered Sentencing for Multiple DWI Convicted Offenders” in the Minnesota 10<sup>th</sup> District Court (primarily Isanti County)

The Minnesota staggered sentencing program requires offenders to take responsibility for their actions and make lifestyle changes; they must *earn the privilege of staying out of jail and off alcohol-monitoring devices* (which the offender must pay for when use is required). The program provides goals that include structure, support, and direction from the court to encourage offenders to make positive life changes. Offenders must provide proof periodically that they are following the protocol to earn reduced sanctions (i.e., remain out of jail and off alcohol-monitoring devices). This is a DWI Court program where the *judge stays involved* with the DWI offenders over the years (3-6) required for them to complete the program.

- “DWI Enforcement Program” in Westchester County, New York

The Westchester County program has *specialized probation officers* who are dedicated to dealing with all DWI offenders in the county. This is a resource-rich program with *strong political and community support*. Probation officers handle probation, surveillance of offenders, and conduct warrantless searches. *Probation officers have authorization to handle enforcement* for additional offenses (i.e., issue tickets and make arrests).

- “DUII Intensive Supervision Program” in Multnomah County, Oregon

The Multnomah County program is a DWI (DUII in Oregon) court intervention (post-adjudication) where the *judge stays actively involved* throughout the 3 years of the program. In addition to many of the sanctions used in other programs, in this court, *offenders are required to sell all vehicles they own and submit to polygraph tests*.

Table 1 summarizes the components and characteristics of all eight ISPs. The other program features and highlights of the evaluations of these ISPs appear in this report, with more details provided for each case study in Appendix B. Where available, project staff collected program-related cost information, which is also included in this report.

**Table 1. ISP Components and Characteristics**

<b>Program Type/ Program Name/ Location</b>	<b>Program Components</b>	<b>Program Characteristics</b>
<b>STATE LEVEL</b>  “The Nebraska Standardized Model for Delivery of Substance Abuse Services”	<ul style="list-style-type: none"> <li>• Standardized screening throughout Nebraska</li> <li>• Uniform training for registered treatment providers</li> <li>• State-level data systems provide open communication between probation and treatment providers</li> <li>• Sentencing guidelines available for sanctions, evaluations, and treatment for substance abusers</li> <li>• Services (program components) provided vary across Nebraska and depend upon local availability</li> <li>• Standardized definitions that are used statewide for specific assessment/treatment</li> </ul>	<ul style="list-style-type: none"> <li>• Consistency of screening and services throughout Nebraska claim to have been achieved</li> <li>• Level and detail of information is extremely good; an extremely complex system</li> <li>• Availability of data appears to be good. Nebraska is continuing to integrate data systems</li> <li>• Provides statewide oversight of probation/treatment practices for ALL offenders (not just DWI-related offenses)</li> </ul>

Program Type/ Program Name/ Location	Program Components	Program Characteristics
<p><b>STATE LEVEL (Actually State "Managed")</b></p> <p>"The Wisconsin Pretrial Intoxicated Driver Intervention Program"</p>	<p><i>All offenders in the program receive:</i></p> <ul style="list-style-type: none"> <li>• Pretrial program</li> <li>• Screening, assessment, and driver safety plan</li> <li>• Case management</li> </ul> <p><i>Some offenders receive:</i></p> <ul style="list-style-type: none"> <li>• Treatment</li> <li>• VIPs</li> </ul>	<ul style="list-style-type: none"> <li>• Program allows quick intervention with offenders before cases reach court</li> <li>• Allows sites to tailor programs to the needs and resources in that community</li> <li>• Basic requirements specified and monitored by State with significant variation in implementation by individual counties and courts (including # of prior OWI offenses)</li> <li>• Funding largely from Federal, State, and county funds and offender insurance (not directly from the offenders)</li> <li>• Some individual programs have been operational for a long time (10+ years)</li> </ul>
<p><b>INDIVIDUAL, LOCAL</b></p> <p>"Staggered Sentencing for Multiple DWI Convicted Offenders" 10<sup>th</sup> District Court, Cambridge, MN (Isanti County)</p>	<ul style="list-style-type: none"> <li>• Lengthy monitoring and probation (e.g., 3-6 years)</li> <li>• Periodic court appearances mandatory for offenders</li> <li>• Some jail and monitoring time is stayed until program requirements are met, then time is forgiven</li> <li>• Abstinence required</li> <li>• Electronic monitoring</li> </ul>	<ul style="list-style-type: none"> <li>• Burden of proof of lifestyle changes is on the offenders who must earn sentence reductions by proving sobriety and other progress</li> <li>• Uniform guidance provided by the same judge who follows cases for the duration (3-6 years)</li> <li>• Program may be somewhat tailored to the needs of individual offenders</li> <li>• Offenders pay for the program</li> </ul>

Program Type/ Program Name/ Location	Program Components	Program Characteristics
<b>INDIVIDUAL, LOCAL</b>  “Serious Offender Program” Clark County, NV	<ul style="list-style-type: none"> <li>• Pretrial program</li> <li>• Diversion program</li> <li>• Abstinence required</li> <li>• Four program phases that may use house arrest, treatment, VIPs, AA, ignition interlocks and alcohol monitors</li> <li>• Unannounced warrantless searches</li> </ul>	<ul style="list-style-type: none"> <li>• Offenders can move back to an earlier program phase if there have been setbacks</li> <li>• Compliance checks made by house arrest staff</li> <li>• Offenders pay for the program</li> <li>• Close cooperation between program staff, house arrest staff, and the court</li> <li>• Diversion program allowing reduction of a third felony DUI offense to a misdemeanor second offense (although the offense remains on the driver record as a third DUI offense)</li> <li>• Four-phase program</li> <li>• No jail time for that offense if successful completion of the SOP</li> </ul>
<b>INDIVIDUAL, LOCAL</b>  “DWI Enforcement Program” Westchester County, NY	<ul style="list-style-type: none"> <li>• Treatment</li> <li>• Abstinence required</li> <li>• Probation including unannounced drug/alcohol tests, warrantless searches, and surveillance</li> <li>• Ignition Interlocks in some cases</li> <li>• VIPs, AA, and/or NA</li> </ul>	<ul style="list-style-type: none"> <li>• Specialized probation officers can issue tickets, conduct warrantless searches, and make arrests</li> <li>• Four-phase program where offenders return to phase 1 for relapses</li> <li>• Comprehensive, resource-rich program</li> <li>• Operational since 1994—large number of offenders have completed the program</li> <li>• Some costs paid by offenders; also funded by NY and county</li> <li>• Long period between arrest, hearing, presentencing recommendations, and sentencing during which time most offenders are out on bail unsupervised</li> </ul>

Program Type/ Program Name/ Location	Program Components	Program Characteristics
<b>INDIVIDUAL, LOCAL</b>  “DUI Intensive Supervision Probation Program (DISP)” Multnomah County, OR	<ul style="list-style-type: none"> <li>• Sale of all offender-owned vehicles</li> <li>• Electronic monitoring</li> <li>• Short initial jail sentence</li> <li>• Abstinence required</li> <li>• Fines</li> <li>• Treatment usually outpatient/group</li> <li>• Random urine, hair follicle tests/polygraphs</li> </ul>	<ul style="list-style-type: none"> <li>• Honesty required in self-reporting slips in drinking, drug use, and driving</li> <li>• Monthly meetings with monitoring/strict compliance mandated</li> <li>• During years 2-3, compliant offenders are transferred to modified enhanced bench probation supervision</li> </ul>
<b>RURAL, INDIVIDUAL, LOCAL</b>  “24/7 Sobriety Project” South Dakota	<p><i>All Offenders:</i></p> <ul style="list-style-type: none"> <li>• Abstinence required</li> <li>• Twice daily breath tests</li> </ul> <p><i>Some Offenders:</i></p> <ul style="list-style-type: none"> <li>• Urinalysis</li> <li>• Drug Patch testing</li> <li>• SCRAM</li> </ul>	<ul style="list-style-type: none"> <li>• Offender pays</li> <li>• Offender agrees not to enter any establishment serving alcohol</li> <li>• Program is 4 months in duration</li> <li>• Works logistically in rural, less populated areas</li> </ul>
<b>RURAL, INDIVIDUAL, LOCAL</b>  “DUI Supervised Probation Program” Fremont County, WY	<ul style="list-style-type: none"> <li>• Random breath tests</li> <li>• Abstinence required</li> <li>• Treatment</li> <li>• Individualized plan</li> <li>• DUI Education course, AA, VIPs, and ignition interlocks</li> </ul>	<ul style="list-style-type: none"> <li>• Tailored to each offender</li> <li>• Designed for rural communities</li> <li>• Serves Native-American population</li> <li>• Not as intensive as the WY Drug Court, which handles more cases of three or more DUI offenses within 5 years</li> <li>• Inpatient treatment occurs outside of the county</li> <li>• Although some costs paid by offenders, DSP also depends upon grant funding</li> </ul>

## Methods

### *Case Studies*

As identified herein, the case studies contain information collected from eight ISPs with unique program features that focused on repeat DWI offenders and that had intense supervision and potential for success in reducing DWI recidivism. This project does not include diversion programs that remove DWI offenses from the driver’s record upon completion of the program. The Clark County, Nevada, ISP reduced a felony DWI to a misdemeanor DWI if offenders



completed the program. The misdemeanor DWI stayed on the driver record for the purposes of determining if they were a repeat offender in the future.

ISP officials granted permission to collect program information through in-person interviews, e-mail, and telephone conversations. Each ISP reviewed their case study for accuracy and completeness.

### ***Impact Evaluation***

The recidivism data for all offenders were analyzed using survival analyses, namely Cox Regression models that account for varying exposure periods and swiftness to recidivate. The survival analyses contrast the ISP groups against comparison groups within the same State while adjusting for all relevant factors—such as age, sex, and priors—as covariates. The Minnesota State Department of Motor Vehicles provided driver history and offense records for all Minnesota drivers. The staggered sentencing ISP provided data on 200 offenders who completed the program. Comparison groups were selected from offenders with similar characteristics as those ISP participants who had not been through the staggered sentencing program. The comparison group was matched using prior DUI offenses, sex, age, and period of offenses. After selecting on all of these characteristics, there remained a comparison group of 8,759 offenders.

The Westchester County Department of Probation provided records for their program clients to the New York State Division of Criminal Justice Services (DCJS), which maintains the New York State criminal record file. DCJS identified the Westchester clients in its criminal database and provided a de-identified file containing criminal histories for 3,600 clients who had been assigned to the program between 1993 and 2008. DCJS also provided a file containing criminal records for all other New York offenders with alcohol-related offenses since 1993 (i.e., during the comparable period as for the ISP group). This second file was used to create a qualified or restricted sample for comparison with the Westchester program clients (i.e., selecting subjects who were within similar ranges of prior DUIs and criminal history as the ISP group). After selecting subjects based on these characteristics, 173,926 comparison drivers remained.

The Oregon Driver and Motor Vehicle Services Division (DMV) provided driver history and offense records for all Oregon drivers (i.e., DISP subjects and potential comparison drivers) who had a DUI alcohol conviction and/or administrative sanction from 1998 through June 2009. These records allowed a retrospect of approximately 30 years because they included initial offender arrest dates as early as 1971. After extracting records for offenders sentenced to the DISP, a comparison group was selected by delineating offender characteristics similar to the DISP group. This pool of potential comparison drivers included the first alcohol-driving-related offenses that occurred within the DISP offender sentencing periods. This first offense was each comparison driver's baseline or index offense. The number of prior alcohol-related offenses was calculated, and future recidivism incidents computed relative to the exposure beginning at that index offense. Then, two matched comparison groups were constructed by stratified random "quota" sampling so that the comparisons would have prior offenses distributed similar to the DISP group with age and sex breakouts. Two such random samples were created independently in order to have a resampling validation on reliability of the comparison sampling procedure. The first comparison group was comprised of 9,185 drivers, and the second comparison group had 9,142 drivers. Additionally, the county of residence of each driver was included in the model

because of evidence that recidivism rates differed by county, which could reflect a difference in enforcement exposure and/or socioeconomic differences of the drivers.

Note: In some States, convictions for DUI are not pursued as aggressively via the judicial track as the DMV has already applied the usual, and generally more severe, sanction resulting from administrative license revocation (ALR). Although conviction records and ALR sanction records are consolidated to ensure all DUI events have been identified, in some States, this merging of records is not necessary. In Minnesota, the DMV has already consolidated these records into a single file. In New York, the judicial track is aggressive and consistent in producing a 100% rate of conviction for those receiving an ALR. Thus, it is unnecessary to check the redundant administrative sanction records.

## Findings

Common attributes throughout the eight ISP case studies include:

- ISP (or designated treatment) staff screened and assessed offenders to determine the extent of their alcohol and or other drug use problem and then assigned appropriate monitoring and treatment.
- Close monitoring and supervision of the offenders by the ISPs improved the odds of offenders completing all probation requirements.
- ISP staff (or designated professionals) tested offenders for ongoing alcohol and other drug use and monitored the situation frequently.
- ISPs provided offenders with incentives to succeed (e.g., remain out of jail; shorten the period of time on a monitoring device that would also cost the offenders less money).

Results of the three ISP impact evaluations:

- The offenders survival analysis for “***Staggered Sentencing for Multiple DWI Convicted Offenders***” in the Minnesota 10<sup>th</sup> District Court (primarily Isanti County) showed a significant 30.6% ( $p=.017$ ) lower recidivism rate up to 4 years post-offense compared to age and sex matched offenders from elsewhere in the State not receiving the ISP. The staggered sentencing program prevented approximately 15 to 23 DWI re-arrests. This is substantial considering the small sample size of the ISP offenders analyzed ( $n=200$ ).
- Offenders from the Westchester County, New York, “***DWI Enforcement Program***” resulted in a significant 18.1% ( $p<.001$ ) lower recidivism rate over 5 years compared to similarly matched DWI offenders not receiving the program. This resulted in an estimated 78 fewer re-arrests for DWI due to the program within those first few years. However, the long-term analysis (over 15 years) showed evidence of only a 5.4% ( $p=.171$ ) lower recidivism rate for the Westchester offenders compared to a matched group of similar offenders not exposed to the program. It is possible, however, that the apparent 18.1% in recidivism was spurious (i.e., having been artificially produced—for example, via group assignment or sampling—by some significant but unidentified factor unrelated to the intervention itself, but which factor was

differentially present in the experimental group more so than in the comparison group). In addition, recidivism rates for all offenders in New York State are substantially lower than in other States, so the already low recidivism rate for the comparison group leaves relatively less room for improvement and the probability of finding any statistically detectable intervention.

- The “*DUI Intensive Supervision Program*” intervention group in Multnomah County, Oregon, had a *54.1% lower recidivism* rate (per same equivalent exposure, up to 8 years post index offense) than both of the stratified matched-sample comparison groups, adjusting for the demographic covariates ( $p > .001$ ). This resulted in an estimated 67 fewer re-arrests for DWI within 8 years due to the DISP program, which is a substantial reduction for such a small group ( $n=446$ ).

There appears to be substantial potential in alcohol monitoring as a key component to reducing DWI recidivism. The ISPs used the following ways to monitor alcohol use by offenders:

- Frequent contact by probation officers, the judge, or other officials (observation)
- Surprise visits in the home and blood alcohol concentration (BAC) testing (and sometimes drug testing via a urine sample)
- Daily call-in with random testing (sometimes the offender must report for a test; sometimes not)
- Electronic monitoring and home confinement with remote BAC testing
- Use of the alcohol ignition interlock record of the offender
- Regularly scheduled testing (e.g., twice daily like the 24/7 program)

With the advent of new alcohol monitoring devices, many ISPs and DWI Courts may mandate their use. While there appears to be substantial potential in alcohol monitoring as a key component to reducing DWI recidivism, alcohol monitoring and alcohol monitoring devices in general need to be evaluated for effectiveness and feasibility.

The benefit/cost of ISPs appears to be excellent in terms of re-arrests prevented. Each re-arrest for repeat DWI offenders costs thousands of dollars in law enforcement resources, court costs, and sanctions (jail time). An additional, and perhaps even more important benefit/cost, is the public safety savings in potential injuries prevented and lives saved due to the reduction in DWI recidivism of these multiple offenders.

## **Conclusions and Recommendations**

### ***Conclusions***

This study confirms prior research showing that ISPs reduce recidivism of DWI offenders. All three ISPs evaluated indicate significant reductions in medium-term recidivism for ISP offenders up to 4 years (although one of the findings may have been due to an artifact in the comparison offender group, and the effect has disappeared by 15 years). The reductions in recidivism ranged

from 54.1% in Oregon up to 8 years post-offense, to 30.6% in Minnesota up to 4 years post-offense, to 18.1% in New York up to 5 years post-offense. The evidence appears to be strong that ISPs with the following common features can be very effective:

- Screening and assessment of offenders for the extent of their alcohol/substance abuse problem
- Relatively long-term, close monitoring and supervision of the offenders, especially for alcohol and other drug use or abuse
- Encouragement by officials to successfully complete the program requirements
- The threat of jail for noncompliance

ISPs are an alternative to jail, which is very costly. Offenders who remain out of jail are employable and can contribute to society and the well-being of their families. In some ISPs, offenders who remain out of jail are paying some or all of the costs of their participation in the ISP.

Clearly, different approaches to intensive supervision of repeat DWI offenders yield positive results to communities in increased public safety and decreases in the costs of re-arrest. Not all programs or program components work effectively in all communities, nor do some laws permit the use of some sanctions (e.g., the sale of all offender vehicles in Oregon). However, ISPs with these program elements (at a minimum) should be feasible in most communities. Community and public safety officials need to determine which program components are affordable and which may work in their communities. A large number and variety of ISP components may not be as important as the commitment of program staff. Further studies of promising ISPs may help communities assess which programs or components they can implement and what benefits they can expect.

The monitoring of alcohol and other drug use by offenders to maintain abstinence appears to be a key component of these programs and has potential to be very effective in reducing offender recidivism. There are encouraging data emerging from the South Dakota 24/7 program where the key program element is the twice daily testing for alcohol or other drug use (see Appendix B). It remains to be seen, however, whether the recidivism of the 24/7 program offenders is significantly lower than matched offenders not participating in the program.

### ***Recommendations***

- In Minnesota, in particular, examining the records of offenders 4 years post-offense means that many of the offenders were still on the staggered sentencing probation (probation ranges from 3 to 6 years for offenders). It is recommended that statistical analyses be conducted for the “Staggered Sentencing for Multiple DWI Convicted Offenders” in Minnesota after 6 years to determine if the reductions in recidivism hold up over a long time interval.
- It is also recommended that additional analyses of the New York ISP be conducted (e.g., perhaps using similar offenders in other States as a contrast). Further research is also needed to determine if the New York finding was artifactual.

- The promising 24/7 alcohol monitoring program in South Dakota needs a full scientific evaluation for its effect on recidivism. Offenders completing the 24/7 program need to be compared to similar offenders in South Dakota not exposed to the 24/7 program.
- Alcohol ignition interlocks were used in several of the ISPs examined. Research shows that recidivism is reduced an average of 60 to 70% while the interlocks are on the offenders' vehicles. This could be a key component to ISPs. Research should be conducted to separate out offenders using interlock devices to determine if recidivism rates of offenders using the interlock are lower than the rates of offenders not using the interlock.
- Finally, further research is needed to determine what component is more effective in reducing recidivism: mandatory assessment and treatment, frequent alcohol monitoring, mandatory ignition interlocks, or some combination of components.

## Background

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### Defining the Problem

DWI recidivism remains a serious problem on roadways across the Nation. About one-third of drivers arrested for a DWI offense are repeat offenders (Fell, 1995). DWI recidivists carry a higher risk of future DWI arrests, as well as involvement in both alcohol-related and non-alcohol-related crashes (Perrine, Peck, & Fell, 1988; Gould & Gould, 1992), especially fatal crashes (Fell & Klein, 1994, December 2). Repeat DWI offenders are 4.1 times more likely to be an intoxicated driver in a fatal crash than drivers without prior DWI offenses (Fell, 1992). In 2007, there were 12,998 fatalities in crashes involving a driver with a BAC of .08 grams per deciliter (g/dL) or higher—32% of total traffic fatalities for the year (NHTSA, 2007).

As outlined in *A Guide to Sentencing DWI Offenders* (NHTSA, 2006), the key to reducing DWI recidivism is certain, consistent, and coordinated sentencing.

- The certainty of a penalty has greater effect than its severity (Ross, 1992).
- Sentencing for DWI should be consistent from one court to another regardless of jurisdiction, yet balanced with the need for matching offenders to the most appropriate sanctions and treatment (Wells-Parker, Landrum, & Topping, 1990; Jones & Lacey, 1998). More severe sanctions for high-BAC offenders may reduce recidivism as shown in a study that found first offenders with high BAC levels (.20 g/dL or higher) who received enhanced penalties had significantly lower recidivism rates than comparable high-BAC offenders not subjected to the enhanced penalties (McCartt & Northrup, 2004).
- Communication among the courts, evaluators, probation officers, and treatment providers needs to be coordinated to ensure compliance with the sentence (Popkin, Kannenberg, Lacey, & Waller, 1988; Tauber & Huddleston, 1999).

In one study, trained counselors interviewed DWI recidivists about reasons why they continued to drive even after a DWI conviction. The counselors also asked the recidivists what countermeasures had a positive effect on their behavior. Many of these repeat offenders reported a need for a thorough alcohol use assessment, self-commitment to dealing with alcohol problems, a personalized treatment and education plan, and continued contact with caring individuals, which included those in authority (such as judges), to reinforce lifestyle changes (Wiliszowski et al., 1996).

This study addressed ISPs that use different combinations of strategies that appear to be promising in lowering DWI recidivism rates and estimates an approximate number of re-arrests prevented.

## Strategies for Dealing with the DWI Recidivism Problem

NHTSA cites the following six factors as important when dealing with DWI offenders in attempts to facilitate a reduction in recidivism (NHTSA, 2006):

- Evaluate offenders for alcohol-related problems and recidivism risk.
- Select appropriate sanctions and remedies for each offender.
- Include provisions for appropriate alcohol use treatment in the sentencing order for offenders.
- Monitor the offender's compliance with the sanctions and treatment.
- Act swiftly to correct noncompliance.
- Impose vehicle sanctions (e.g., vehicle immobilization, impoundment, and alcohol ignition interlock devices) (Voas, 1999; Voas & DeYoung, 2002).

These factors dovetail with the guidelines that the American Probation and Parole Association (APPA) list that probation services should follow to reinforce compliance of impaired-driving offenders under community supervision (NHTSA, 2007; Dunlap, Mullins, & Stein, 2008). Most impaired-driving offenders are under some form of community supervision at some point during their sanctioning period.

### **Guidelines for the Community Supervision of Impaired-Driving Offenders**

#### *Guideline 1*

Investigate, collect, and report relevant and timely information that will aid in determining appropriate interventions and treatment needs for DWI offenders during the release, sentencing, and/or supervision phases.

#### *Guideline 2*

Develop individualized case or supervision plans that outline supervision strategies and treatment services that will hold DWI offenders accountable and promote behavioral change.

#### *Guideline 3*

Implement a supervision process for DWI offenders that balances supervision strategies aimed at enforcing rules with those designed to assist offenders in changing behavior.

#### *Guideline 4*

Where possible, develop partnerships with programs, agencies, and organizations in the community that can enhance and support the supervision and treatment of DWI offenders.

#### *Guideline 5*

Supervision staff should receive training that will enhance their ability to work effectively with DWI offenders.

#### *Guideline 6*

Assess the effectiveness of supervision practices on DWI offenders through both process and outcome measures.

Source: Dunlap, K., Mullins, T.G., & Stein, M. (2008).

Many ISPs cover most of these strategies and guidelines.

## **Defining ISPs**

According to the APPA, community supervision of DWI offenders should focus on public safety, offender accountability, and behavioral change. To accomplish this, States and communities have devised many variations of DWI offender supervision and probation programs with a variety of components.

Supervision provided through probation may include basic supervision probation (monthly visits), unsupervised probation, and case-specific restrictions (an individualized probation plan). In ISPs, offenders have more contact with probation officers (or the judge or another designated authority) compared to standard (nonintensive) probation programs and offenders participate in various educational and therapeutic programs in the community (Harding, 1989; Transportation Research Board, 1995). According to the APPA, an “intensive” probation program should mean a smaller caseload and possibly a specialized caseload for probation officers, but this is not possible in every community. Not all intensive supervision programs are administered through probation offices. Some are administered through offices of the court, law enforcement agencies which are not probation departments, or private companies. For the purposes of this report, the term “intensive supervision program” will refer to programs for DWI offenders, which include supervision by case monitors with relatively small caseloads, and which generally involve assessment for substance abuse, substance abuse treatment, drug and alcohol testing and various types of offender monitoring. Such programs may or may not be administered by parole or probation departments and may or may not require abstinence.

DWI offenders usually assigned to intensive supervised probation are nonviolent, repeat offenders (typically with two or more DWI convictions in the past) who have served some time in jail. Under ISP conditions, offenders are monitored closely during their participation in various educational, vocational, and therapeutic programs in the community. Identified in this project are State-level ISP systems and individual site ISPs in urban and rural locations that use many standard practices for working with DWI offenders (i.e., those outlined herein by NHTSA and the APPA). These ISPs also have devised unique methods discussed in this report and in the case study summaries in Appendix B.

State-level probation systems are often just that—“systems”—rather than programs. These systems collect data/records and disseminate information to the courts, assessment services, and to the individual ISP programs. In addition, State-level systems can provide direction and oversight to community-level ISPs. State-level systems may provide guidelines to private treatment and/or community probation organizations, such as offender assessment requirements and the use of specific assessment instruments. Also, State systems may disburse funding, set up referral systems, monitor and track the quality and level of care of provider organizations, as well as maintain registration databases of approved organizations to serve local communities in recommending or mandating certain services to offenders.

Individual ISPs may be comprised of a few program elements or a multitude of components that vary widely depending upon community needs and resources. Examples of ISP components are



assessment of offenders' needs, treatment, education, intensive supervision, self-help (e.g., commit to lifestyle changes including sobriety, required attendance by offenders at Alcoholics Anonymous (AA) meetings, required attendance at Victim Impact Panels (VIPs), and finding employment), submission to random alcohol and other drug testing, licensing sanctions, vehicle actions (e.g., ignition interlocks, special license plates, and sale of offender vehicles), submission to home confinement and controlled movement (through electronic monitoring and/or compliance checks), and community service. This report provides information on all of these components. Offenders may face extended probation time and/or jail time as conditions of noncompliance, or for an additional repeat DWI offense committed by the offender while on probation for an earlier offense.

### ***ISP Program Descriptions***

The elements or components of ISPs that are widely used are described hereafter. Certain programs combine elements or implement elements at different points in time depending on the ISP. For example, a pretrial program may conduct an evaluation of alcohol use and/or dependency by the offender and offer recommendations that the offender may follow (possibly under monitoring by pretrial program staff) before the case comes in front of the judge. At other ISP sites (not pretrial), a judge will order such an evaluation and wait for the outcome and recommendations before sentencing the offender, or offender screening and assessment will follow adjudication.

Interchangeable terminology between sites and programs is common, such as "alcohol assessment," "alcohol evaluation," and "alcohol screening." In fact, the Nebraska Probation and Parole Department and the Department of Corrections have gone to great lengths to standardize the terminology, the screening instrument, the risk assessment, and the definitions for levels of treatment provided across the State. Wisconsin also has been working to standardize risk assessment instruments. Officials in both locations standardized these elements because there were communication problems; for example, an ISP in one community (where the offense may have occurred) could define a screening outcome and treatment recommendation significantly different from another community ISP (where the offender resides) that might be *providing* the actual treatment. Therefore, the actual use and definitions of the components described herein vary and are determined by each ISP program or by local or State regulations.

### ***ISP Components***

#### **Assessment and Rehabilitation**

*Assessment and Screening.* Alcohol screening is a way to estimate if a person may have a problem with alcohol. Assessments are generally a more comprehensive examination of the person's level of dependence or addiction to alcohol or other substances. A battery of accepted tests and interviews are available to professionals, such as certified treatment counselors. These professionals are trained to administer the instruments to impaired-driving offenders. Generally, they report outcomes to the court and/or to a court-ordered treatment provider.

*Treatment.* There are many types of outpatient and inpatient treatment and counseling services available to DWI offenders. These may include cognitive behavioral (e.g., how to deal with

situations leading to alcohol use/abuse) or motivational therapies. A combination of treatment, counseling, and education programs is often tailored for DWI offenders. Sometimes, treatment professionals prescribe medication to offenders to prevent drinking.

*Educational Classes/Self-Help* (e.g., AA, DWI Education Course, and Driving Course). These educational and/or self-help programs are designed to inform and support individuals in making lifestyle changes. The court or a treatment provider often orders offenders to attend these programs.

## **Supervision**

*Testing and Searches.* Often offenders must agree to submit to random, unannounced alcohol and drug testing by providing breath or urine samples as a part of probation or treatment conditions. Other times, alcohol and drug testing is routine and even scheduled. Two of the programs under study include unscheduled, warrantless searches of residences for alcohol, drugs, or other prohibited items. The challenges to this strategy are the costs of the resources. Training is also required for monitors to interpret correctly the information they collect as part of these activities (e.g., recognizing when there is a problem and knowing where to search for hidden bottles).

*Home Detention.* This approach to incarceration recognizes an offender's need to drive during the day to go to work, school, or court-ordered treatment but keeps him or her off the road during evening and nighttime hours when most DWI violations occur. Electronic monitoring (see next paragraph), as a condition of supervised probation, enforces home detention, with violations punishable by jail (Jacobs, 1990). Although home detention requires monitoring and incurs some costs, these costs typically are not as great as the costs for jail.

*Electronic Monitoring.* Electronic monitoring is a computerized method of verifying that the offender remains at home except when excused to attend work or treatment (Harding, 1989). Offenders wear a waterproof, shock-resistant transmitter on a band strapped securely on their ankle (Jones & Lacey, 2000). There are benefits of house arrest combined with electronic monitoring. For instance, it allows the offender to be home with his/her family; the curfew keeps the offender off the road during prime DWI hours; it can be adapted to employment hours, AA meetings, etc.; and it is less expensive than jail (Jones et al., 1996). Some challenges of electronic monitoring include the cost (some suggest using an indigent fund or grant money to help certain offenders pay for it; sliding scales of payment have also been used), trouble with the monitoring devices (e.g., wakes the offender too often, does not recognize his/her voice, disturbs others in the home), and a lack of face-to-face observation. At least one company, however, has solved this last problem by providing a digital image of the person being monitored when the probation officer calls the offender on the phone. Other monitoring devices may include Global Positioning Satellite (GPS) technology, which records the offender's location and communicates it to the monitoring agency. These may also generate alerts when the offender is not inside or outside of certain areas at certain times of the day.

*Alcohol Monitoring.* (e.g., Secure Continuous Remote Alcohol Monitoring [SCRAM<sup>®</sup>], remote electronic alcohol monitoring [REAM], patches) Alcohol monitoring uses devices to determine if the offender has consumed alcohol. These include devices, such as the Sobriator<sup>®</sup>, with which the offender self-administers a breath test. These devices may also use a digital camera or voice

print technology to verify that the offender is the person taking the test. The offender is required to take tests on a schedule, at random times, or both. These devices generally transfer breath-test results and voice and image data via telephone lines to the service provider or probation officer who is monitoring the test results. Another technology measures transdermal alcohol, that is, alcohol that exits the body through the skin after alcohol consumption. The offender wears a non-removable ankle bracelet that takes samples continuously throughout the day and sends the data via telephone modem to the monitoring agency once a day (Marques & McKnight, 2007). The SCRAM is relatively costly (\$12/day), but in most programs, this cost is borne by the offender.

*Surveillance.* Probation officers may conduct surveillance of offenders. For example, the Westchester program allows probation officers to conduct surveillance to determine whether offenders are driving while suspended. In Clark County, house arrest officers will sometimes conduct surveillance to determine whether offenders with suspended licenses are driving or to watch for offenders driving non-interlock-equipped vehicles. This requires resources and may be too costly for some ISPs.

*Staggered Sentencing.* Offenders receive a full sentence to jail in segments of time spread over a period of years (i.e., staggered). This sentence (i.e., the sum of the jail segments as initially sentenced) is considered as having been ordered to be *executed*. Offenders must meet requirements to have segments of jail sentences stayed. So, as any segment is forgiven due to the offender complying with conditions, that segment shifts from being *executed* jail time to being *stayed* jail time. This is an important distinction, as it means that *the court does not have to revoke any of the offender's probation (i.e., stayed jail time) when ordering a person to serve the next segment, as that segment of time has already been ordered by the court at the time of initial sentencing to be executed.* Thus, with staggered sentencing, the court does *not sentence the person multiple times*, which would violate constitutional protections; rather it sentences the offender only once, but to multiple segments. Not only is this constitutional, but as a practical matter, this also reportedly makes the role of the probation officer and the judge much easier because a subsequent segment of jail, already ordered to be served beginning on a specific date, must indeed be served unless it is stayed. The court does *not* have to go through a probation revocation hearing, and the probation officer does *not* have to compile extensive documentation of the person's probation violations, as would be necessary for a probation revocation hearing. The prosecution does *not* bear the burden of persuasion by *clear and convincing proof* (burden on the State for probation violation) but rather *the burden of persuasion shifts to the offender.* This strategy requires some of the judge's time and the costs of monitoring the offenders. .

## **Licensing and Vehicle Actions**

*Driver's License Suspension.* Removal of the driver's license, often handled by law enforcement officers at the time of arrest, effectively eliminates or diminishes the individual's right to drive, at least temporarily. The following laws permit the removal of the driver's license: per se laws (i.e., statutes that prohibit drivers from having BAC levels higher than .08 g/dL or .04 g/dL for commercial licenses); implied consent laws (i.e., drivers exercising the privilege to drive implicitly consent to giving a BAC test when a police officer has reasonable grounds to believe that the driver has been drinking); and zero-tolerance laws (do not permit drivers younger than age 21 to operate a vehicle with any detectable alcohol in the body or not greater than .02 g/dL).

Hearings regarding license suspension or revocation are often handled administratively, typically by State motor vehicle departments (DMVs). Government resources are required to administer and track this sanction.

*Special License Plates.* Special license plates or a special sticker on license plates allows family members and others to drive vehicles owned by DWI offenders. The plates/stickers serve to alert law enforcement to make certain that the driver of the vehicle is properly licensed and is not the suspended offender. Government resources are required to administer this sanction.

*Alcohol Ignition Interlocks.* These devices require a low-BAC or alcohol-free breath sample before the vehicle engine will start. A log file captures the BAC readings of an offender and accumulates breath-test results each day that provide a report of the offender's behavioral profile. Offenders must bring their vehicles to a service provider to have the log downloaded periodically (e.g., monthly). The use of interlocks significantly reduces recidivism while installed but some studies have shown re-offense rates climb after their removal (Beck, Rauch, Baker, & Williams, 1999; Roth, Voas, & Marques, 2007). Interlocks allow offenders and their families to drive legally to and from work and school, doctor appointments, and sometimes other activities. Most States have legislation that enables the use of these devices. This program requires resources to monitor the interlock readings. The cost of installing and monitoring interlocks is about \$7 a day and is usually paid for by the offender.

*Vehicle Immobilization or Impoundment.* "Boot" or "club" devices immobilize vehicles on the offender's property. If impounded, vehicles are stored in an impound lot. The period for this sanction is usually several months and/or until the offender reinstates his or her license. The costs include those associated with using an immobilization device (the "boot" or steering wheel lock) and those of storing the vehicle at an impound lot.

*Vehicle Forfeiture.* Some States (Voas et al., 2008) have laws allowing for the permanent confiscation of vehicles registered to the DWI and DWS (driving while suspended) offenders. The vehicles are then sold. A State/county/program agency sometimes handles the sales, and sometimes the offenders themselves are ordered to sell the vehicles and provide proof to the court of the sale. Roughly, half the States (Voas et al., 2008) have provisions allowing vehicles to be confiscated, but the practice is not widely used. Some resources are needed to monitor the sale of the vehicle; however, most of the funds received for the sale of the vehicle are returned to the court.

## **Other Components**

*Fines.* The fines and fees ordered by the courts and ISPs may be set amounts or determined by the offender's ability to pay. Fines are sometimes retribution for the offense. The use of these funds by local jurisdictions and State legislatures varies. A recent study has indicated a possible effect in reducing impaired driving from raising fine amounts in conjunction with other DWI control policies (Wagenaar et al., 2007).

*VIPs.* Mandatory attendance by impaired-driving offenders at meetings with victims and the families and friends of victims is often ordered. Sometimes offenders serve on the panels. The purpose of VIPs is to show offenders the consequences of drinking and driving.

*Community Service.* Sometimes offenders must pay restitution to the community by working a number of hours in the community (e.g., speaking to teens about the dangers of drinking and driving).

*Other.* There are many other sanctioning components used in communities, such as publishing offenders' names in the media and other forms of victim restitution programs, than those we have listed.

*NHTSA's Guide to Sentencing DWI Offenders* (NHTSA, 2006) describes all of the components listed.

### ***Individual ISP Types***

ISPs are all unique in that each program consists of a different combination of elements introduced to offenders at different points in time. The following are examples of the types of ISPs.

*Pretrial Program.* These programs generally screen and assess the offender before his/her appearance in court. Some require enrollment and participation or even completion of a treatment program before final case disposition.

*Diversion Program.* These programs generally allow an offender to complete an education, treatment, and/or community service program in return for dismissal of the DWI charge. This results in no conviction on the driver record of the offender and means that some repeat offenders re-enter the system as first-time offenders. NHTSA does not recommend diversion-type programs, as they generally do not appear to reduce recidivism. However, several States allow diversion programs because of their efficiency in dealing with first offenders.

*Day Reporting Centers (DRCs).* DRCs are highly structured, nonresidential facilities that provide counseling, supervision, employment counseling, education, and community resource referrals to DWI probationers (Jones & Lacey, 2000).

*DWI Courts (An ISP made up of the multiple components already listed).* Modeled after Drug Courts and incorporating some forms of probation, DWI Courts provide close supervision to offenders by judges and other court officials who closely administer and monitor compliance with court-ordered sanctions coupled with treatment. DWI Courts generally involve frequent interaction of the offender with the DWI Court judge, intensive supervision by probation officers, intensive treatment, random alcohol and other drug testing, community service, lifestyle changes, positive reinforcement for successful performance in the program, and remandment to jail for noncompliance (National Association of Drug Court Professionals, 1997; National Drug Court Institute, 2002). Most DWI Courts assign nonviolent offenders who have had two or more previous DWI convictions to the court. Currently, there are multiple sources of funding for Drug/DWI Courts to help defray their costs. The cost and benefits of DWI Courts are unclear, as a published study on this topic could not be found in the literature.

At the end of 2003, there were approximately 70 DWI Courts and 1,100 Drug Courts operating in the United States. NHTSA collaborated with the Department of Justice to promote the increased use of DWI Courts and encourage jurisdictions that use Drug Courts to accept repeat DWI offenders in them (NHTSA, 2003a). According to the National Association of Drug Court

Professionals (www.nadcp.org), by the end of 2009 there were 2,300 Drug Courts and over 500 DWI Courts. There is evidence that some DUI Courts are effective in reducing recidivism (Fuller, Carey, & Kissick, 2007). That study of two Michigan DUI Courts indicated a 68% reduction in recidivism associated with the program.

## **Evidence of ISP Effectiveness**

ISPs have shown promising results in reducing the recidivism of convicted DWI offenders according to the following studies and cited under the Reference section.

### ***Prior Studies of Probation/Supervision***

- Electronic monitoring with home confinement in Los Angeles County, California (Jones et al., 1996) reduced the reconviction rate by nearly one-third.
- In a 7-year study (Lilly, Ball, Curry, & McMullen, 1993), recidivism was less than 3% among a group of DWI offenders who were electronically monitored over approximately 2 to 3 months while on probation.
- One study of offenders in Pennsylvania looked at the differences between those who served their sentences in jail only and those who served their sentences under house arrest with electronic monitoring. Although there were no significant differences between the groups, the offenders who were employed when they were sentenced to electronic monitoring were more successful than those who were unemployed (Courtright, Berg, & Mutchnick, 2000).

### ***Prior Studies of Comprehensive ISPs that Include Probation/Supervision***

- Pretrial Intensive Supervision Probation in Milwaukee, Wisconsin (Jones et al., 1996) was a study that examined the Milwaukee County Pretrial Intoxicated Driver Intervention Project of which ISP was a component. Significantly fewer offenders who received ISP recidivated compared to those who did not receive the program (5.9% versus 12.5%).
- Individualized Sanctioning in Rockdale County, Georgia (Jones & Lacey, 1998) looked at a DWI court program that used traditional and alternative sanctions. The judge conducted the presentence investigation, kept detailed records of all DWI cases, and was consistent in sentencing practices, although rehabilitative sanctions were tailored for the individual offender. Recidivism rates for offenders sentenced in this court were one-half that of offenders in another local program that used minimal sentences after 1 year and after 4 years.
- DRC in Maricopa County, Arizona (Jones & Lacey, 1999)—although the DRC was not significantly more effective in reducing recidivism (compared to traditional probation programs), the program facilitated offenders' reintegration into society and was more cost-effective than jail.
- One report on a DWI Court in New Mexico indicated a reduction in recidivism by more than 50% for offenders completing the DWI Court program compared to similar

offenders not assigned to the DWI Court (Guerin & Pitts, 2002). Those results, however, were preliminary and did not include statistical tests.

- DWI Courts have been shown to make offenders accountable for their actions, change offenders' behavior to end recidivism, stop alcohol abuse, treat the victims of DWI offenders in a fair and just way, and protect the public (Tauber & Huddleston, 1999; Freeman-Wilson & Wilkosz, 2002). Breckenridge, Winfree, Maupin, and Clason (2000) reported that such a program significantly reduced recidivism among alcoholic DWI offenders.

## Project Summary

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### Project Objectives

There has been considerable interest in determining effective strategies for dealing with drivers convicted of impaired driving (e.g., Popkin & Wells-Parker, 1994; TRB, 1995; Robertson & Simpson, 2002). NHTSA has identified the use of effective sanctions for high-risk and repeat DWI offenders as a priority for countermeasure programs to reduce impaired driving in the United States (NHTSA, 2003b).

This project does the following:

- Documents eight ISPs that appear to be promising in dealing with serious, chronic, and/or repeat DWI offenders.
- Conducts impact evaluations for three of the ISPs.
- Identifies factors that help predict recidivism in all groups of offenders studied.
- Compiles costs associated with the ISPs (where available).
- Estimates re-arrests for DWI offenses prevented by three of the ISPs.

### Methods Used During This Project

#### *Information-Gathering Process*

Issues addressed for each ISP studied include:

- How ISP and/or courts select offenders to participate, including the criteria used by the program officials for identifying offenders in their program.
- Assessment tool(s) used by the programs to screen participants.
- A description of the ISP and documenting if it is a pre- or post-trial program, what is expected of each offender, what treatment component is used, and how each component is implemented.
- Frequency of contact between offenders and treatment providers and the nature of that contact.
- The extent to which there is periodic monitoring for alcohol use and how that is conducted.
- Criteria that must be met to progress through the various stages of the ISP and what offenders need to accomplish for final release from the program.



- The length of time it usually takes to reach final release and follow-up activities post-ISP release.
- Behaviors or violations that constitute “failure” in the ISP and what happens to offenders who “fail” (i.e., what the consequences are for that violation and failure).
- Personal or family issues that offenders must resolve or that ISP officials must address to ensure success of the ISP.
- Unique or innovative ISP attributes and how these may have contributed to the success of the program.
- Basic ISP costs and who pays for program components.
- A determination as to whether the ISP conducts effectiveness evaluations.

Appendix A lists interview protocol to address these issues, and to obtain additional information from the programs, court, data-collection and/or probation staff. Summaries of these case studies are included in Appendix B of this report.

ISPs are not static and may change to best address changing environments. The descriptions of the ISPs in this report are based on data collected between December 2006 and December 2007. Therefore, some changes may have taken place in the ISPs since then. The three ISPs that were the subject of the recidivism evaluation most accurately reflect that ISP in 2007.

## Overview of Eight ISP Case Studies

There were a total of eight systems and programs examined during this project: *two State-level systems* in Nebraska and Wisconsin; *four localized ISPs* in Minnesota’s 10<sup>th</sup> District Court; Clark County, Nevada; Westchester County, New York; and Multnomah County, Oregon; and *two rural programs* in South Dakota and Wyoming. These systems and programs are briefly described in the following paragraphs. Appendix B contains additional details for each of these systems and programs.

## Two State-Level Programs

The two State-level programs in Nebraska and Wisconsin have evolved over a long time span to fill needs in those States by providing uniform structure, tools, and information to individual ISPs. These two programs are:

- the Nebraska Standardized Model for Delivery of Substance Abuse Services; and
- the Wisconsin Pretrial Intoxicated Driver Intervention Program.

In Nebraska, the State Office of Probation Administration oversees *standardization of practices* across the State, licenses and oversees treatment providers, and collects and maintains data and records on all offenses (not just DWI-related offenses).

In Wisconsin, the State-level program, housed in the State’s Department of Transportation, Bureau of Transportation Safety (BOTS) *oversees county-level pretrial programs* for OWI (operating while intoxicated) offenders. Not all counties in Wisconsin have a program. The

number of counties has changed from year to year throughout the history of the State program. At the time of this case study, there were 13 counties in the programs. Agencies that run the county programs are approved by the State and are charged with *supervising OWI offenders between arrest and conviction* to ensure they meet program requirements. Program components vary from county to county depending upon local resources. Although there is oversight by the State government (State Department of Transportation [DOT], Bureau of Transportation Safety [BOTS]) there are significant differences among the individual ISPs, such that we could consider this “State-level” program to consist of independent local ISPs.

In both States, many of the decisions regarding the nature of the ISP are made at the local level. There is a reported value in allowing local programs to decide what they can accommodate based on local situations (e.g., geography, political or governmental situations, and the availability of resources in the community). A potential downside to local control is that decisions can be made that are based on factors other than that which is best for the offenders and/or the community. An example would be a judge choosing to assign more offenders to an ISP than the program can accommodate rather than assigning only offenders who could benefit most.

## Four Individual Area ISPs

The four localized ISPs all require offender *abstinence* and *close supervision* of probationers over relatively *long periods of time* (years versus months). All four ISPs maintain *comprehensive records*. All use many traditional sanctioning, assessment, and treatment components, but each program has *unique features* designed to best protect their community. These ISPs are:

- “Staggered Sentencing for Multiple DWI Convicted Offenders” in the Minnesota 10<sup>th</sup> District Court;
- “Serious Offender Program” in Clark County, Nevada;
- “DWI Enforcement Program” in Westchester County, New York; and
- “DISP” in Multnomah County, Oregon.

The Minnesota staggered sentencing program requires offenders to take responsibility; they must *earn the privilege of staying out of jail and of being off alcohol monitoring devices* (which they must pay for when use is required). The program works with offenders to provide goals that include structure, support, and direction from the court to encourage them to make positive life changes. Offenders must provide proof periodically to the court that they are following the protocol to earn reduced sanctions (i.e., remain out of jail and off alcohol monitoring devices). The proof of meeting probation requirements may be in the form of a letter from their probation officer, from AA regarding attendance, or from an employer or counselor regarding responsibility, and all offenders must take the initiative and responsibility to schedule their periodic court hearings. This is a DWI Court program where the *same judge stays involved* by keeping track of DWI offenders and their compliance with court ordered sanctions over the years (3-6) required for offenders to complete the program.

The Clark County, Nevada, program requires *daily to monthly compliance checks* with *searches* of offenders’ homes permitted at any time. House arrest officers conduct searches. Program case managers oversee daily compliance checks. Other agencies (e.g., treatment and interlock

providers) also monitor progress and report to case managers. To enter this pretrial program, offenders must plead guilty to felony DUI. Successful completion of the program reduces the conviction to a misdemeanor DUI offense, although it remains as a DUI offense on the driver license record.

The Westchester County, New York, program has *specialized probation officers* who are dedicated to dealing with all DWI offenders in that county. This is a well-funded program with *strong political and community support*. Probation officers handle probation, surveillance of offenders, warrantless searches, and have the authority to handle enforcement for additional offenses (i.e., issue tickets and make arrests).

The Multnomah County, Oregon, program is a court intervention (post-adjudication) program where the *judge stays actively involved* throughout the 3-year program. In addition to many of the sanctions used in other programs, in this court, *offenders are required to sell all vehicles they own and submit to polygraph tests by the judicial staff*. The Nevada and New York programs are similar in that they include several aspects, such as assessment and treatment, regular drug and alcohol testing, warrantless searches of offender residences, surveillance, required attendance at VIPs and AA, and possible electronic monitoring and ignition interlocks. Most of the functions of the Westchester County program, other than treatment, are handled by a single agency—the Westchester Probation Department. Although ignition interlocks are installed and maintained by interlock provider companies, the downloading of interlock data logs is generally done in the presence of probation officers. In contrast, the Clark County program is run by a relatively small office of case managers under the specialty courts office of the county court system that handles the case management of offenders and stays in close communication with several different agencies (e.g., treatment providers, house arrest officers, interlock companies, and a local victims' rights group that runs the VIPs).

## Two Rural ISP Programs

Rural communities provide a unique challenge for ISPs due to larger areas of coverage, greater distances offenders must travel, and sometimes limited resources, especially in economically challenged areas. As in the local ISPs, these programs also require *abstinence*. Both of these programs have unique features designed for rural communities:

- “24/7 Sobriety Project” in South Dakota
- “DUI Supervised Probation Program” in Wyoming

The current South Dakota program requires monitoring for alcohol consumption and *twice daily testing of all convicted offenders*. As a condition of bond (a suspended imposition of sentence is granted and sometimes the monitoring and/or testing are pretrial), repeat DWI offenders must report to the local sheriff's office twice daily between 7 a.m. and 9 a.m. and between 7 p.m. and 9 p.m. As of January 2009, this program was operating in all counties in South Dakota.

Although the focus of the South Dakota program is the abstinence requirement and testing program, other common elements of intensive supervision (e.g., treatment, VIPs) may be used with offenders in South Dakota. Although these are not strictly a part of the 24/7 testing program described in the case study, we discuss what we know about these other elements in Appendix B.

The Wyoming program was designed as a standalone program, meaning that it can operate in a court, with a treatment provider, in a probation office, or within social services agencies. It serves a large Native-American population. It is an individualized, comprehensive, long-term program. During the first 3 months, an offender must *meet with his/her probation officer each week* and follow an *individualized case plan that the offender must consent to follow (i.e., consent is mandatory or the offender is not eligible to participate in the program)*. Contact may be at a *public location* agreed to by the probation caseworker and the offender, which may mean a shorter travel distance for offenders with limited transportation options.

## **Components and Attributes—by System or Program**

The structures of the ISPs studied under this project vary widely. The programs use a broad range of approaches to address DWI offenders. This section of the report describes individual components and characteristics of the ISPs we studied. ISP components experienced by offenders are not always a function of the ISP. For example, periods of an offender's license suspension may be affected by progress through an ISP, but license suspensions are largely a function of State law and are handled by a State agency. In South Dakota, the 24/7 program only involves the abstinence requirement and twice daily testing. However, offenders in the program also experience many of the other components and attributes of other ISPs. Offenders required to participate in the program are mainly those convicted for DWI, but other offenses (e.g., domestic violence) may also require some offenders to participate in the 24/7 program.

The discussion here is based on information about ISPs as they existed at the time of data collection in 2007. Some ISPs may have changed the way they operate since then.

### ***ISP Participants***

Most of these programs are for multiple offenders. Local ISPs in Nebraska, South Dakota, and Wisconsin may accept first offenders in some cases. In Westchester, *all* DWI offenders supposedly are assigned to the program, though most offenders convicted of a first offense have a prior DWI arrest that has been pled to a lesser charge; therefore, most program participants are actually multiple offenders. Some offenses or criminal histories may prevent offenders from eligibility in ISPs. Examples are prior participation in the program, cases in which the DWI was associated with a crash resulting in death or injury, or a history of sex offenses or violent crimes.

### ***Duration***

Successful completion of these programs takes a few months to several years. Clark, Isanti, Multnomah, and Westchester County programs all last a minimum of 3 years and can extend to 6 years. The remaining programs are shorter than 3 years. The length of participation by offenders may also depend on their compliance with program requirements. Usually, participation in the program is an alternative to incarceration; that is, offenders who choose not to participate in the program are incarcerated. The period of incarceration may be longer or shorter than the duration of the program. In Wisconsin, the program normally lasts for a few months between arrest and trial. Here, an incentive to participate in this program is that judges will consider program participation during sentencing, which can result in a less severe sanction. In Multnomah County, offenders who refuse the program serve 60 days rather than 1 to 3 days in jail.

### ***Assessment and Rehabilitation***

Most programs involve assessment for alcohol and/or drug dependence treatment. Assessment may be conducted by the case management agency, the treatment agency, or both. Assessment tools vary among ISPs but are relatively standardized within ISPs. All of the local and rural programs require abstinence while Nebraska and Wisconsin leave that decision to individual program staff at the local level.

With the exception of South Dakota, the local and rural programs require attendance at AA meetings. The State programs leave this to the discretion of the judges and ISPs at the local level. Most ISPs require offenders to attend VIPs, and the others note that attendance at VIPs was at the discretion of the judge. Only Fremont County, Wyoming appears to require attendance at a DWI education course. Westchester and Fremont Counties sometimes require community service.

### ***Probation, Supervision and Monitoring***

All ISPs require some sort of alcohol and drug testing. Clark, Isanti, Multnomah, and Westchester County programs require random testing. Fremont County typically requires offenders to agree to submit to random testing upon request. The programs in Clark and Westchester Counties are the only ones that provide for law enforcement searches of offenders' residences for alcohol, drugs, and other prohibited substances or for surveillance of offenders to determine whether they are driving in violation of program prohibitions.

Clark County mandates house arrest with all offenders. Westchester County and some of the Wisconsin ISPs use house arrest with some offenders, as necessary. House arrest is not used by programs in South Dakota, or Isanti and Fremont Counties. It is unclear whether any of the ISPs under the Nebraska system use house arrest.

Clark, Multnomah, and Westchester Counties report using home electronic monitoring of offenders, including ankle bracelets and remote breath-testing devices (e.g., Sobriotor®), as part of house arrest. All Isanti County offenders must use the Sobriotor® for at least 30 days during one phase of the program. At the time of the interviews, Fremont, Isanti, Multnomah, and Westchester Counties did not mention using the SCRAM device for remote alcohol monitoring. Nebraska, South Dakota, and Wisconsin and Clark County reported using SCRAM. In general, ISPs using SCRAM reported that they had only recently started using it and expected to be increasing its use in the future. Isanti County has since begun using SCRAM with some offenders.

### ***Licensing and Vehicle Actions***

In South Dakota and Clark County, the program does not include license suspension, in that offenders continue to drive while in the program. In Isanti County, offenders require the permission of a probation officer to drive.

In Westchester County, licenses are suspended by State law. The period of suspension depends on whether the DWI was a misdemeanor or felony case. Misdemeanor cases must complete treatment, and felony cases must demonstrate a year of sobriety before receiving any form of license. Offenders who can demonstrate hardship may receive a conditional license before full

reinstatement. Offenders with conditional licenses must drive interlock-equipped vehicles. In Wisconsin, all offenders are subject to license revocation under State sentencing guidelines. Offenders must complete a Driver Safety Plan before they are eligible for reinstatement. In Fremont County, the driver's license is suspended administratively. Drivers may apply to drive an interlock-equipped vehicle after 45 days. In Nebraska, the license may be suspended at the judge's discretion. In Multnomah County, offenders are subject to a 3-year license suspension; however, they may be eligible for a limited license after 1 year if they remain compliant with the program.

In Clark County, offenders can generally drive and are restricted to using interlock-equipped vehicles. Westchester County offenders who obtain conditional licenses are restricted to interlock-equipped vehicles. Both counties work closely with interlock companies and closely monitor offenders' interlock data. In Westchester, one probation officer handles nearly all of the interlock cases, assists other probation officers (inside and outside Westchester County) with interlock issues, and is normally present at the interlock service provider shops for the uploading of interlock data. In Fremont County and Nebraska, offenders might be permitted by the State to drive interlock-equipped vehicles. The extent to which the ISP staff members interact with interlock providers or monitor interlock data is unclear.

In Clark County, if offenders have access to a non-interlock-equipped vehicle, that vehicle is immobilized with a "club" as an alternative to the interlock or until the vehicle can be equipped with an interlock.

A novel aspect of the Multnomah County ISP is that offenders are required to sell their vehicles.

All eight sites participated in the case study portion of this project, and all contain viable forms of probation that serve their communities well. As mentioned previously, Appendix B of this report contains summaries of the full case studies for each system and program. Table 1 summarizes the key components and characteristics of each of the eight programs and/or systems.

**Table 1. ISP Components and Characteristics**

Program Type/ Program Name/ Location	Program Components	Program Characteristics
<p><b>STATE LEVEL</b></p> <p>“The Nebraska Standardized Model for Delivery of Substance Abuse Services”</p>	<ul style="list-style-type: none"> <li>• Standardized screening throughout Nebraska</li> <li>• Uniform training for registered treatment providers</li> <li>• State-level data systems provide open communication between probation and treatment providers</li> <li>• Sentencing guidelines available for sanctions, evaluations, and treatment for substance abusers</li> <li>• Services (program components) provided vary across Nebraska and depend upon local availability</li> <li>• Standardized definitions that are used statewide for specific assessment/treatment</li> </ul>	<ul style="list-style-type: none"> <li>• Consistency of screening and services throughout Nebraska claim to have been achieved</li> <li>• Level and detail of information is extremely good; an extremely complex system</li> <li>• Availability of data appears to be good. Nebraska is continuing to integrate data systems</li> <li>• Provides statewide oversight of probation/treatment practices for ALL offenders (not just DWI-related offenses)</li> </ul>
<p><b>STATE LEVEL (Actually State “Managed”)</b></p> <p>“The Wisconsin Pretrial Intoxicated Driver Intervention Program”</p>	<p><i>All</i> offenders in the program receive:</p> <ul style="list-style-type: none"> <li>• Pretrial program</li> <li>• Provides screening, assessment, and driver safety plan</li> <li>• Case management</li> </ul> <p><i>Some</i> offenders receive:</p> <ul style="list-style-type: none"> <li>• Treatment</li> <li>• VIPs</li> </ul>	<ul style="list-style-type: none"> <li>• Program allows quick intervention with offenders before cases reach court</li> <li>• Allows sites to tailor programs to the needs and resources in that community</li> <li>• Basic requirements specified and monitored by State with significant variation in implementation by individual counties and courts (including # of prior OWI offenses)</li> <li>• Funding largely from Federal, State, and county funds and offender insurance (not directly from the offenders)</li> <li>• Some individual programs have been operational for a long time (10+ years)</li> </ul>

Program Type/ Program Name/ Location	Program Components	Program Characteristics
<p><b>INDIVIDUAL, LOCAL</b></p> <p>“Staggered Sentencing for Multiple DWI Convicted Offenders” 10<sup>th</sup> District Court, Cambridge, MN (Isanti County)</p>	<ul style="list-style-type: none"> <li>• Lengthy monitoring and probation (e.g., 3-6 years)</li> <li>• Periodic court appearances mandatory for offenders</li> <li>• Some jail and monitoring time is stayed until program requirements are met, then time is forgiven</li> <li>• Abstinence required</li> <li>• Electronic monitoring</li> </ul>	<ul style="list-style-type: none"> <li>• Burden of proof of lifestyle changes is on the offenders who must earn sentence reductions by proving sobriety and other progress</li> <li>• Uniform guidance provided by the same judge who follows cases for the duration (3-6 years)</li> <li>• Program may be somewhat tailored to the needs of individual offenders</li> <li>• Offenders pay for the program</li> </ul>
<p><b>INDIVIDUAL, LOCAL</b></p> <p>“Serious Offender Program” Clark County, NV</p>	<ul style="list-style-type: none"> <li>• Pretrial program</li> <li>• Diversion program</li> <li>• Abstinence required</li> <li>• Four program phases that may use house arrest, treatment, VIPs, AA, ignition interlocks and alcohol monitors</li> <li>• Unannounced warrantless searches</li> </ul>	<ul style="list-style-type: none"> <li>• Offenders can move back to an earlier program phase if there have been setbacks</li> <li>• Compliance checks made by house arrest staff</li> <li>• Offenders pay for the program</li> <li>• Close cooperation between program staff, house arrest staff, and the court</li> <li>• Diversion program allowing reduction of a third felony DUI offense to a misdemeanor second offense (although the offense remains on the driver record as a third DUI offense)</li> <li>• Four-phase program</li> <li>• No jail time for that offense if successful completion of the SOP</li> </ul>



Program Type/ Program Name/ Location	Program Components	Program Characteristics
<b>INDIVIDUAL, LOCAL</b>  “DWI Enforcement Program” Westchester County, NY	<ul style="list-style-type: none"> <li>• Treatment</li> <li>• Abstinence required</li> <li>• Probation including unannounced drug/alcohol tests, warrantless searches, and surveillance</li> <li>• Ignition Interlocks in some cases</li> <li>• VIPs, AA, and/or NA</li> </ul>	<ul style="list-style-type: none"> <li>• Specialized probation officers can issue tickets, conduct warrantless searches, and make arrests</li> <li>• Four-phase program where offenders return to phase 1 for relapses</li> <li>• Comprehensive, resource-rich program</li> <li>• Operational since 1994—large number of offenders have completed the program</li> <li>• Some costs paid by offenders; also funded by NY and county</li> <li>• Long period between arrest, hearing, presentencing recommendations, and sentencing during which time most offenders are out on bail unsupervised</li> </ul>
<b>INDIVIDUAL, LOCAL</b>  “DUII Intensive Supervision Probation Program (DISP)” Multnomah County, OR	<ul style="list-style-type: none"> <li>• Sale of all offender owned vehicles</li> <li>• Electronic monitoring</li> <li>• Short initial jail sentence</li> <li>• Abstinence required</li> <li>• Fines</li> <li>• Treatment usually outpatient/group</li> <li>• Random urine, hair follicle tests/polygraphs</li> </ul>	<ul style="list-style-type: none"> <li>• Honesty required in self-reporting slips in drinking, drug use, and driving</li> <li>• Monthly meetings with monitoring/strict compliance mandated</li> <li>• During years 2-3, compliant offenders are transferred to modified enhanced bench probation supervision</li> </ul>
<b>RURAL, INDIVIDUAL, LOCAL</b>  “24/7 Sobriety Project” South Dakota	<p><i>All Offenders:</i></p> <ul style="list-style-type: none"> <li>• Abstinence required</li> <li>• Twice daily breath tests</li> </ul> <p><i>Some Offenders:</i></p> <ul style="list-style-type: none"> <li>• Urinalysis</li> <li>• Drug Patch testing</li> <li>• SCRAM</li> </ul>	<ul style="list-style-type: none"> <li>• Offender pays</li> <li>• Offender agrees not to enter any establishment serving alcohol</li> <li>• Program is 4 months in duration</li> <li>• Works logistically in rural, less populated areas</li> </ul>

Program Type/ Program Name/ Location	Program Components	Program Characteristics
RURAL, INDIVIDUAL, LOCAL  “DUI Supervised Probation Program” Fremont County, WY	<ul style="list-style-type: none"> <li>• Random breath tests</li> <li>• Abstinence required</li> <li>• Treatment</li> <li>• Individualized plan</li> <li>• DUI Education course, AA, VIPs, and ignition interlocks</li> </ul>	<ul style="list-style-type: none"> <li>• Tailored to each offender</li> <li>• Designed for rural communities</li> <li>• Serves Native-American population</li> <li>• Not as intensive as the WY Drug Court, which handles more cases of three or more DUI offenses within 5 years</li> <li>• Inpatient treatment occurs outside of the county</li> <li>• Although some costs paid by offenders, DSP also depends upon grant funding</li> </ul>

## Evaluation and Analysis Methods

Impact evaluations were conducted on three of the ISPs: “Staggered Sentencing for Multiple DWI Convicted Offenders” in Isanti County, Minnesota; “DWI Offender Program” in Westchester County, New York; and “DUII Intensive Supervision Probation Program” in Multnomah County, Oregon, to determine whether these programs reduced recidivism relative to comparison subjects within the same States. Comparison groups were selected according to demographic, geographic, and behavioral variables to be as similar as possible to the ISP subjects on these relevant factors. Potential differences in recidivism rates between the program subjects and comparison subjects were tested via survival analysis, with all other relevant predictive factors accounted for by covariance and/or stratification. Descriptions of the analyses conducted follow.

### *Staggered Sentencing—Isanti County, Minnesota (plus 3 other counties)*

A quasi-experimental design was used to assess the staggered sentencing impact on the 200 offenders assigned to this form of ISP. Offenders were from Isanti County ( $n=131$ ), but also included a small number from three neighboring counties using the staggered sentencing method shown in Table 2.

**Table 2. Staggered Sentencing Participants’ County of Residence**

County of Residence	Number of Offenders
Isanti	$n=131$
Pine	$n=32$
Kanabec	$n=19$
Chisago	$n=18$
Total Assigned	$n=200$

Random assignment was impossible as the data were already collected. It was important to determine post-hoc an appropriate comparison group from the Minnesota data file containing the driver history and offense records for all Minnesota drivers. This data file contained only the most recent 5 years of driver records, beginning with events on or about December 1, 2003. For the non-ISP drivers, the limited data file could not provide sufficient years to determine how many prior DWI offenses (or equivalent, including ALR, open container, etc) a person may have had in his/her lifetime. Many multiple offenders were excluded if they had not committed more than one DWI offense in the past 5 years. Offenders who committed two DWI offenses in the past 10 years, for example, were excluded from analyses.

From the Minnesota driver file, a pool of potential comparison offenders was selected based on the following criteria:

- Known multiple DWI offenders who had at least two DWI or other alcohol-driving offenses (such as ALR and open container) within these 5 years.
- Offenders who resided outside the four counties that otherwise qualified for the staggered sentencing ISP program.
- Offenders who did not have the exact date of birth (M/D/Y) as any of the 200 Intervention Group subjects (to ensure subjects were not represented in both groups).
- Offenders who were within the same age range of our 200 ISP subjects (born within the years 1944 to 1984, inclusive).
- Offenders who had valid gender coding of either “M” or “F”.
- Offenders who committed their “second” [*sic known*] DWI or other alcohol offense no later than December 31, 2006, in order to allow enough post-offense exposure to permit valid survival analysis.

After selecting for all of these characteristics, a potential comparison pool of 8,759 known multiple DWI offenders remained whose demographics and priors were within the same broad range of parameters as the 200 ISP offenders; however, the overall age-by-sex distribution of this pool was still markedly different from the age-by-sex distribution of the ISP group. (We refer to this group of 8,579 as the “unmatched” comparison pool in the Results section.) In the initial analyses for Minnesota, we used this unmatched pool as the initial comparison group, with corrections for the group’s dissimilarity in age and gender distributions accounted for via covariate adjustment.

A second, more specific comparison group was created from this comparison pool. Within each age-by-sex stratum, a preset quota of offenders (i.e., one quota for each of the 16 demographic strata) was determined, proportional to the ISP group’s demographic distributions, and subjects within that stratum randomly selected to fill each quota. This resulted in a subset of *quota-matched* comparison subjects, whose overall group composition is equivalent in demographic distribution to that of the ISP group. With this method of proportional matched-sampling, the limiting factor for the maximum size of any quota-matched comparison group’s total sample is the one stratum that was most underrepresented, relative to the target [ISP] group’s distribution. This proportional stratified-random sampling from within the comparison pool produced a matched comparison group of 3,701 known multiple DWI offenders with at least two DWI

offenses within the 3 years from 2004 through 2006 (inclusive), whose demographic distribution was identical to that of the ISP group on every stratum.

In every comparison driver's case, the second of his/her DWI offenses was selected as the baseline or index offense (to be sure the person was at least a two-time offender when the comparison began), and potential exposure for recidivism began the day after this second DWI offense.

The recidivism data for all these offenders were analyzed using survival analyses, namely Cox Regression models that account for varying exposure periods and quickness to recidivate (Kaplan & Meier, 1958; Cox, 1972; Cox & Oakes, 1984). These methods calculate hazard functions over exposure time, relative to the number of offenders still "exposed" (or for whom risk of recidivism can be measured) at any given time point. The Cox Regression models were used to analyze the length of time until recidivism, as well as the cumulative proportional risk of recidivism across time for each group, with group (treatment/ISP versus comparison) as a binary factor, and adjusting for age and sex cohorts as covariates.

All offenders' exposure periods were censored at November 30, 2008, if they had not already recidivated before that point. This permitted a usable exposure period of at least 2 full years and potentially up to 5 years for the comparison drivers (similarly for both comparison groups: the overall pool, as well as the subset of matched comparisons), though this exposure period averaged about 3.5 years for comparisons. Some ISP offenders had committed their index DWI offense (the most recent DWI offense before being sentenced to the ISP) some years before 2004. Consequently, some ISP offenders had up to 9 years of exposure post index offense. Most ISP offenders had between 3 to 5 years of exposure.

Offenders in any of these groups who recidivated more than once had each of their recidivism offenses counted toward the group's overall rate. Thus, an offender who recidivated three times was roughly equivalent (in terms of the impact on a group's rate or risk) to three offenders who each recidivated one time within the equivalent exposure period. Although this differs slightly from the traditional application of survival models (in which a person can experience no more than a single terminal event, producing estimates of proportions of exposed persons recidivating), this counting of multiple re-offenses by the same person produces a more appropriate "incidence rate" for the entire group.

Cox Regression assumes proportional hazards across time between groups/cohorts being tested (and among covariates), so the exponent of the parameter coefficient—expressed as  $\text{Exp}(B)$ —for the group effect produces a likelihood risk estimate for the ISP group relative to the comparisons, and is interpretable similar to an odds (e.g., an  $\text{Exp}(B)$  of 1.25, meaning that the group was 25% *more* likely to recidivate; conversely an  $\text{Exp}(B)$  of 0.86 essentially would mean the group is 14% *less* likely to recidivate).

### ***DWI Offender Program—Westchester County, New York***

The impact evaluation on the Westchester County ISP also used a quasi-experimental design. The impact evaluation was conducted on 3,324 drivers assigned to the ISP over 16 years, from 1993 to 2008. Less than 20% of the ISP participants were listed as first offenders according to the data records, but Westchester's ISP officials note that. Many of these ostensible first

offenders were actually repeat offenders who had a prior that had been pled down to a lesser charge. Others were actual first offenders, but with a serious or aggravated charge (such as causing injury or death or having a very high BAC).

Random assignment is seldom possible with judicial sanction programs because of due process (equal protection) concerns, and all offenders qualifying for a sanction are generally mandated to participate. This was also the case with Westchester's ISP program. Without random assignment, it was important to compose an appropriate post hoc comparison group. The State provided 30 years of criminal history data, including alcohol-related driving arrests and convictions (DWI and DWAI) for ISP offenders and for residents with any DWI offense within the same period of 1993 to 2008. (Note: In every case, conviction data rather than arrest data were used.) A potential pool of comparison offenders from the total file of New York DWI offenders was selected as follows:

- Those who had committed a repeat (second or subsequent) DWI offense at any time within the 1993 to 2008 period (i.e., the earlier DWI convictions could have been before 1993).
- Offenders whose DWI convictions were not adjudicated/sentenced in Westchester County.
- Those who were within the same age range as those in the ISP (i.e., those older than 80 at the time of the DWI offense were excluded).
- Offenders who had a valid gender coding of either "M" or "F."
- Those who had fewer than nine prior DWI offenses (as this was the maximum of the ISP group) Note: At least 20 to 30 of the potential comparison offenders had many more than nine prior DWI offenses.

After selecting for the above characteristics, 173,926 drivers remained who had one or more repeat offense within the 1993 to 2008 period. For each of these drivers, one of his/her repeat DWI offenses occurring within that period was randomly chosen as that person's baseline or index offense for comparison purposes. After randomized sampling for each person had determined which repeat offense would be used as the index offense, the number of prior DWI offenses was calculated, and future recidivism incidents were computed relative to the exposure beginning at that index offense. Conveniently (and expectedly), this random selection of index offense for the comparisons naturally produced a distribution of prior DWI offenses for the group that was very similar to the distribution of priors for the ISP group. Unlike in Minnesota, this enormous comparison group of drivers was quite similar in their distribution of age and sex to the drivers in the ISP group. In addition, the New York data also provided us information on prior felony convictions and prior misdemeanor convictions; as with prior DWI offenses and age and sex, the ISP and comparison groups again proved quite similar on these measures, too (although the comparison group had, on average, slightly more prior felonies and prior misdemeanors). The distributions of these measures (felonies, misdemeanors) were highly skewed, so linear transformed versions of these covariates (using square root, natural log), as well as dichotomous and trichotomous recoding, were also created so that the proper form of risk relationship of these predictors could be assessed in the models. (For both of these prior conviction variables, the natural log version proved to be the best model fit; prior DWI offenses

were used as a four-level ordinal predictor, with five or more prior DWI offenses being grouped in with four priors). The recidivism data for all these offenders were analyzed using survival analyses, namely Cox Regression models, as described for Minnesota. Besides adjusting for age and sex cohorts as covariates, with New York’s data, many additional factors predictive of recidivism risk could be included that were not available in Minnesota. These include a five-grouping race/ethnicity factor, prior DWI offenses (four levels), and the two prior felony and misdemeanor covariates.

All offenders’ exposure periods were censored at the end of 2008 if they had not already recidivated before that point. This permitted a usable exposure period of up to 15 years for both groups. As with Minnesota, an offender in either of the groups who recidivated more than once had each of his/her recidivism offenses counted toward the group’s overall rate. All other statistical assumptions and methods described for Minnesota also apply to New York.

***DISP—Multnomah County, Oregon***

Using a quasi-experimental design, an impact evaluation was performed to assess the DISP impact on the 446 offenders assigned to it during the period from November 2000 through June 2003, primarily from Multnomah County (*n*=320), but also including a number of offenders who were residents of other Oregon counties (mostly neighboring counties in the Portland area).

As indicated in Table 3, another 21 offenders were included in the analyses who resided in various Oregon counties outside the Portland area. (18 DISP offenders were excluded from this analysis because they were not Oregon residents at the time the Oregon DMV extracted the data in 2009 but were at the time of their conviction for DWI). According to data from their driver records, almost all (83%) of the DISP offenders were repeat DWI offenders, verifiable from Oregon DMV data, with 41% of them having three or more alcohol offenses.

**Table 3. DISP Participants County of Residence**

<b>County of Residence</b>	<b>Number of Offenders</b>
Multnomah County	<i>n</i> =320
Clackamas	<i>n</i> =54
Washington	<i>n</i> =34
Marion, Yamhill, Columbia, Hood River, & Clatsop	<i>n</i> =17
Various counties outside Portland area	<i>n</i> =21
Total Assigned	<i>n</i> =446*

\*Does not include 18 out-of-State offenders assigned to this DISP.

As with the other two ISPs evaluated, random assignment was impossible in Oregon, so it was important to determine post-hoc an appropriate comparison group. A potential study comparison group was derived from all Oregon drivers who had any DWI alcohol conviction and/or administrative sanction (e.g., ALR/per se, implied consent, open container in vehicle) since 1998 (i.e., DISP subjects and potential comparisons). These records included alcohol offenses with arrest dates as early as 1971 (which is the case for the DISP subjects as well), so a retrospective period for determining prior offenses (i.e., before offenses occurring within the DISP period) was approximately 30 years up through June 2009 for both groups.

From this pool of 122,630 offenders (excluding those assigned to the DISP program), the pool of potential comparison subjects was further delineated as follows, such that they would be identical to the DISP group on all these key factors:

- Offenders were current Oregon residents, as of July 2009
- Offenders who committed an alcohol offense within the timeframe corresponding with the DISP sentencing period of November 2000 through June 2003
- Offender's age at time of comparably timed index offense was at least 18 years and less than 75 years (to match the age range of the DISP group)
- Sex coding for DMV was either male or female
- Offenders had fewer than eight prior alcohol offenses to match the range of the DISP group

After selecting for all of these characteristics, there remained 50,029 drivers for the potential comparison pool. For each potential comparison driver, his/her first DWI (or other alcohol-driving-related offense) occurring within the DISP sentencing period became that person's baseline or index offense for comparison purposes. The number of prior DWI offenses (pre-DISP period) was calculated, and future recidivism incidents computed relative to the exposure beginning at that index offense. This calculation of priors, and of future recidivism, relative to the period of index offenses 2000-2003, was therefore identical for both groups, DISP subjects and potential comparison subjects alike.

The majority (77%) of the potential comparison pool of offenders (50,029) were first offenders at the time of their "index" offense committed within the November 2000 to June 2003 period. The DISP program targets repeat offenders; less than 17% of the DISP subjects were ostensibly first offenders as recorded by the DMV data. Although it is likely that the statistical methods used for analysis would properly account for any such differences between groups via covariate adjustments, two matched comparison groups were composed via stratified random "quota" sampling, so that similar proportions of the comparisons would have priors distributed similarly to the DISP group within age and sex breakouts. To accomplish this, we performed random selection within each two-way stratum (age by priors) in proportion to the two-way age by prior distribution of the DISP group. Sex or gender was not included as a stratifying component because the overall distribution of sex in the potential comparison pool was already virtually identical to that of the DISP group. Sex was also equivalent across age and by priors, so sampling for the other two strata automatically retained the proper proportions for sex. Two such random samples were created independently in order to have a resampling validation on reliability of the comparison sampling procedure. The first comparison sample had 9,185 drivers, and the second comparison sample had 9,142 drivers. Both comparison samples were equivalent in three-way distribution of age by sex by priors to the DISP group's composition. It should be noted that both of these comparison samples utilized County of residence as a stratification factor, so that the DISP subjects could be contrasted specifically against comparison subjects from within their same county – e.g., Multnomah DISP subjects with Multnomah comparison subjects; DISP subjects from counties outside the Portland area ("rest of State") would likewise be contrasted with comparable subjects from those same counties.

The recidivism data for all these offenders were analyzed using survival analyses, namely Cox Regression models, as described for Minnesota and New York, adjusting for age and sex and prior cohorts as covariates. Additionally, each driver's county of residence was included in the model, as there was evidence that recidivism rates differed by county, which could reflect a difference in enforcement exposure and/or socioeconomic differences of the drivers themselves.

For all analyses of Oregon's DISP, a second replication analysis was performed (i.e., using both comparison samples); results were virtually identical, and the differences were trivial. For each one, the most conservative results of the two are reported (i.e., the *least* significant) in order to have the most guarded estimates of outcome effectiveness.

All offenders' exposure periods were censored at the end of June 2009 if they had not already recidivated before that point; additionally, drivers' exposures were censored earlier at a deceased date if they died. This permitted a usable exposure period of up to 8 years and 8 months for both groups. Offenders in either of the Oregon groups who recidivated more than once had each of their recidivism offenses counted toward the group's overall rate. All other statistical assumptions and methods described for the other two States also apply to Oregon.



## Evaluation Summary of Results for Three ISPs

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### Highlights of the Results of the Three ISP Evaluations

Summary results for the three ISP impact evaluations are as follows:

- **The Minnesota 10<sup>th</sup> District Court “Staggered Sentencing for Multiple DWI Convicted Offenders” Program** participants had *25.4% less recidivism* than subjects from comparison communities over 5 years post-offense. Limiting exposure to fewer than or equal to 4 years resulted in the staggered sentencing program participants having *a recidivism rate 30.6% lower* than DWI offenders from comparison communities (see Table 4, Exp(B): 1- 0.694 =.306). Estimates indicate that this program prevented 15 to 23 re-arrests for DWI. This is substantial considering the small number of ISP offenders analyzed ( $n=200$ ).
- **The Westchester County, New York, “DWI Enforcement Program”** participants showed an *18.1% lower recidivism rate* compared to matched offenders not in the ISP over the short term (5 years). This prevented an estimated 78 re-arrests for DWI due to the program in that period. However, over the long term (15 years post- offense), the effects disappeared (a 5.4% nonsignificant lower recidivism rate (see Table 5, Exp(B): 1- 0.946 =.054). ( $n=3324$ ).
- **The Multnomah County, Oregon, “DISP”** intervention group had *54.1% lower recidivism* (see Table 6, Exp(B): 1- 0.459 =.541) (per same equivalent exposure, up to 8 years post index offense) than both of the stratified matched-sample comparison groups, adjusting for the demographic covariates (Wald=51.70;  $p>.001$ ). This prevented an estimated 67 re-arrests, a substantial benefit for such a small group of DISP offenders ( $n=446$ ).

### Impact Evaluations of the Three ISPs

#### *Outcomes—“Staggered Sentencing for Multiple DWI Convicted Offenders” in Minnesota (primarily Isanti County)*

Using Cox Regression models, accounting for the effects of offender age and sex, we found that the ISP intervention group had 18.7% lower recidivism (per same equivalent exposure, up to 5 years post index offense) than the *unmatched* total comparison pool, adjusted for the demographic covariates, although this difference was not statistically significant (Wald=2.07;  $p=.150$ ). Most subjects in both groups had fewer than 4 years’ exposure. However, a survival analysis of the same data using Cox Regression, after censoring at 4 years the few remaining cases (i.e., removing any recidivism beyond 4 years), findings indicate a 24.1% lower recidivism

for the ISP intervention group, which would be significant with a directional hypothesis (Wald=3.29; two-tailed  $p=.070$ ).

After randomly sampling quotas of subjects within each age by sex stratum of the comparison pool to compose a matched comparison sample having demographic distributions equivalent to the ISP group, the same survival analyses, using Cox Regression models, was conducted to account for the effects of offender age and sex. The ISP intervention group revealed a 25.4% lower recidivism (per same equivalent exposure, up to 5 years post index offense) than the matched comparison group, adjusted for the demographic covariates (Wald=4.03;  $p=.045$ ). For the survival analysis of the same subjects when censoring at 4 years, we found a 30.6% lower recidivism for the ISP intervention group (Wald=5.66;  $p=.017$ ).

Figure 1 illustrates the 4-year exposure point, the ISP group had a 24% cumulative recidivism rate, versus a 31% cumulative recidivism rate for the unmatched comparison pool. The difference is most pronounced at the 3-year exposure point, at which the ISP group had a 16% recidivism rate versus a rate of 26% for the comparison pool.

Whether using the relatively large comparison pool of 8,759 multiple DWI offenders, or the smaller subset of it that was random-quota sampled by strata to produce a demographically equivalent matched comparison sample containing 3,701 multiple offenders, the limiting factor in both analyses is the small size of the ISP group ( $n=200$ ). This makes it difficult to detect significant differences without a sizeable N. In both sets of analyses, age is the most predictive factor ( $p<.001$  in each model) with recidivism risk generally dropping as one gets older. The effect of sex, with females having a 15% lower recidivism risk, is significant ( $p<.005$ ) in the analysis against unmatched comparisons, but this decreases to 9 to 10% lower risk using the matched comparison sample and is no longer significant ( $p=.238$ ).

**Table 4. Cox Regression Model Parameters for Isanti (Matched Comparison Sample, with 4-Year Exposure Period)**

	B	SE	Wald	df	Sig.	Exp(B)
<b>ISP</b> (versus Comparisons)	-.3652	.1535	5.66	1	.017	0.694
<b>Female</b> (versus Male)	-.0967	.0892	1.18	1	.278	0.908
<b>Age Group</b> (versus <20)			28.13	7	<.001	
20-24	-0.2762	0.1166	5.62	1	.018	0.759
25-29	-0.2674	0.1186	5.08	1	.024	0.765
30-34	-0.4826	0.1195	16.32	1	<.001	0.617
35-39	-0.4846	0.1218	15.83	1	<.001	0.616
40-44	-0.5441	0.1538	12.51	1	<.001	0.580
45-49	-0.5248	0.1511	12.06	1	.001	0.592
50+	-0.4976	0.1964	6.42	1	.011	0.608

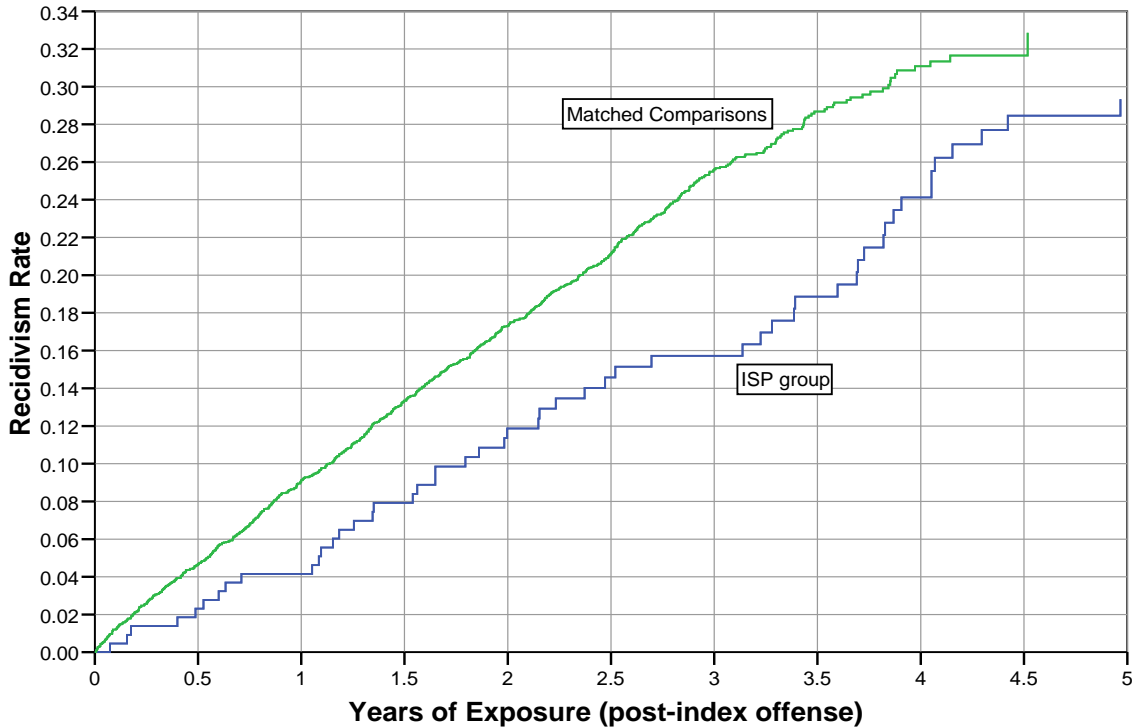


Figure 1. Recidivism Rates for Minnesota ISP versus Comparison Offenders

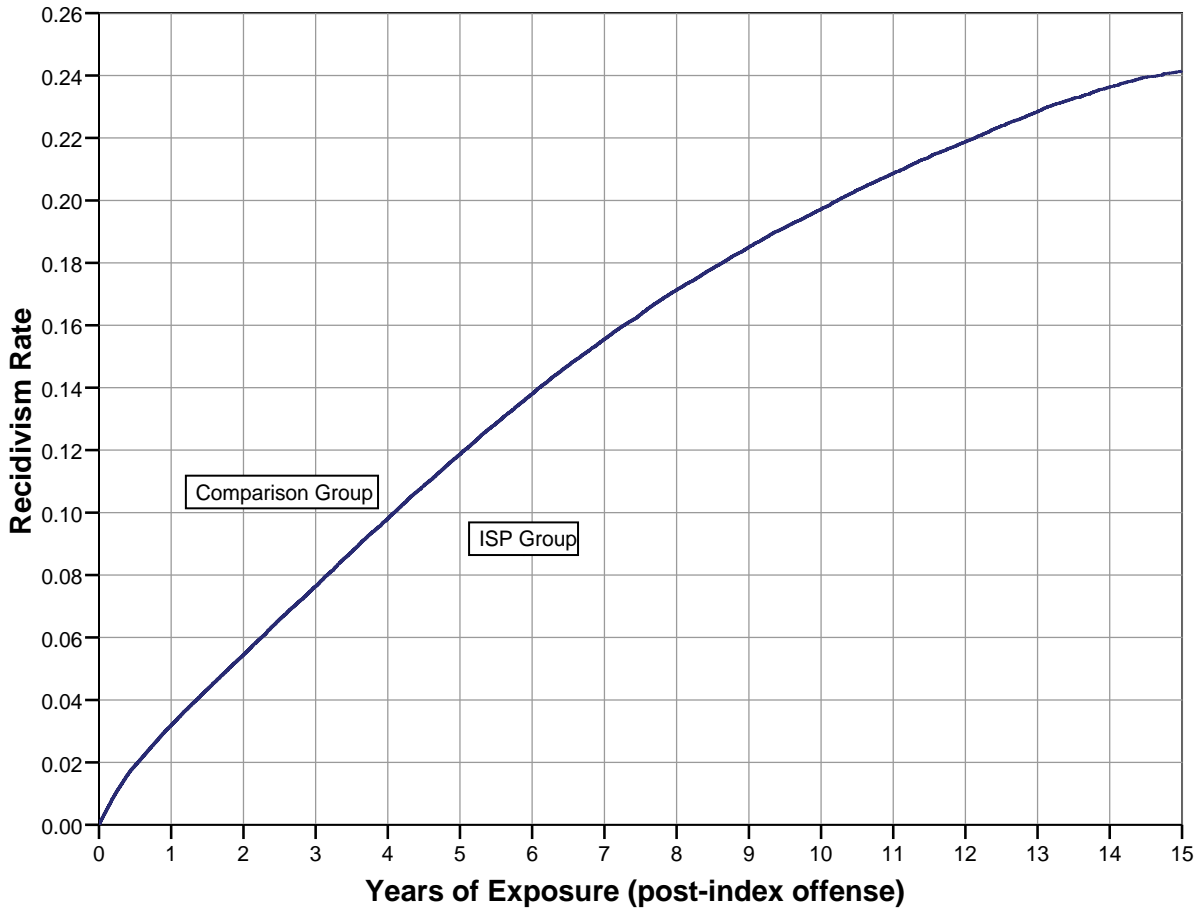
***Repeat DWI Arrests Prevented—“Staggered Sentencing for Multiple DWI Convicted Offenders” in Minnesota (Primarily Isanti County)***

Using the recidivism rates obtained from the survival analyses, adjusting for significant predictors (age and sex), the best prediction for the amount of recidivism that would have hypothetically occurred among the ISP group (had they experienced traditional sanction procedures) was derived from the rates actually observed for the comparisons. The number of additional re-arrests that would have been necessary to raise the ISP group’s rate to that of the matched comparison group becomes the estimate for the number of re-arrests prevented. The hypothetical “prevented” number can be computed from the ISP group’s actual incident counts, multiplied by the inverse of the Cox Regression parameter for group effect. Note that this calculation assumes the same amount of total exposure for the ISP group (in person-months of post index exposure) during that (up to) 4-year or 5-year period (which likely averages to 2.0-2.5 years exposure), and that the arrests prevented would have occurred proportionally across time, raising the ISP group’s survival curve by a constant multiplier.

The ISP Group experienced 45 re-arrests during the period up to 4 years (averaging 2 years exposure). The Cox Regression models for Minnesota projected there would have been 60 such incidents if they had the same rate as the comparison group. They had 52 re-arrests in the period up to 5 years (and averaging 2.5 years exposure); our models projected there would have been 75 such incidents had they been equivalent in risk to the comparison group. The projected savings of 15 re-arrests prevented in 4 years, or 23 re-arrests prevented in 5 years, is a substantial benefit for such a small group of ISP offenders ( $n=200$ ).

**Outcomes—“DWI Enforcement Program” in Westchester County, New York**

The analysis was performed using Cox Regression models, and accounted for the effects of offender age, sex, race and ethnicity, prior DWI offenses, prior felonies, and prior misdemeanors. The analysis found that subjects assigned to Westchester’s ISP group showed evidence of 5.4% lower recidivism over 15 years of post index offense exposure than the comparison offenders having similar prior DWI backgrounds in the rest of the State, although this difference is not statistically significant (Wald=1.87,  $p=.171$ ). The survival curves shown in Figure 2 show that the ISP group displays lower recidivism for about 9 years, before catching up with the comparison group by the 10<sup>th</sup> year of exposure, and then perhaps slightly exceeding the comparison group through about the 14<sup>th</sup> year of exposure.



**Figure 2. Recidivism Rates for Westchester ISP versus Comparison Offenders**

These results for 15-year exposure/cumulative recidivism are adjusted for the significant effects of other predictive risk factors for which the covariates are included in Table 5.

**Table 5. Cox Regression Model Parameters for Westchester (with 15-Year Exposure Period)**

	<b>B</b>	<b>SE</b>	<b>Wald</b>	<b>df</b>	<b>Sig.</b>	<b>Exp(B)</b>
<b>ISP</b> (versus Comparisons)	-.0558	.0408	1.87	1	.171	0.946
<b>Prior DWIs</b> (versus one/none)			<i>625.05</i>	3	<i>&lt;.001</i>	
2 priors	.2397	.0147	266.39	1	<.001	1.271
3 priors	.3611	.0218	275.06	1	<.001	1.435
4+ priors	.5480	.0271	409.36	1	<.001	1.730
<b>Prior Felonies</b> (log)	.1976	.0169	136.69	1	<.001	1.218
<b>Prior Misdemeanors</b> (log)	.1789	.0108	273.99	1	<.001	1.196
<b>Female</b> (versus Male)	-.1135	.0198	32.82	1	<.001	0.893
<b>Age Group</b> (versus <20)			<i>1802.96</i>	11	<i>&lt;.001</i>	
20-24	-.2946	.0524	31.57	1	<.001	0.745
25-29	-.4565	.0516	78.17	1	<.001	0.634
30-34	-.5544	.0515	115.94	1	<.001	0.574
35-39	-.6659	.0517	166.06	1	<.001	0.514
40-44	-.8154	.0524	241.89	1	<.001	0.442
45-49	-.9140	.0539	288.03	1	<.001	0.401
50-54	-1.0819	.0572	357.56	1	<.001	0.339
55-59	-1.2046	.0637	357.47	1	<.001	0.300
60-64	-1.3158	.0752	306.55	1	<.001	0.268
65-69	-1.4866	.1011	216.39	1	<.001	0.226
70+	-1.8776	.1439	170.27	1	<.001	0.153
<b>Race/Ethnicity</b> (versus White)			<i>107.26</i>	4	<i>&lt;.001</i>	
Black	.1339	.0225	35.47	1	<.001	1.143
Hispanic	-.0962	.0250	14.81	1	<.001	0.908
Other	-.0072	.0458	0.02	1	.876	0.993
(unknown)	.2365	.0320	54.51	1	<.001	1.267

Restricting the analysis to a 5-year exposure period (as the ISP subjects are sentenced to either 3 or 5 years, depending on offense), provided evidence of a statistically significant benefit of 18.1% lower recidivism (Wald=13.87,  $p<.001$ ) for the ISP offenders.

However, the graph shows that virtually all of this margin occurs in the first 6 months after the index offense (Note: the ISP group’s recidivism curve is flat at near-zero until 6 months), which generally corresponds to the period before the offender is sentenced. After the 6-month mark, both groups have virtually identical rates of recidivism for the next 5 years, as displayed by the parallel slopes. This unusual flatness in the ISP group’s recidivism rate before they are sentenced to the ISP suggests that an artifact of some sort might account for the test result, such as a selection or [dis-]qualification artifact that excludes the portion of the offender pool (potential ISP assignees) who may have reoffended quickly before their sentencing. Because the median lag between index offense and sentencing is 7 months, with two-thirds taking at least 6 months, it is clear that the benefit accrued to this “proto-intervention” group is happening in the brief period before they become part of the ISP and is most likely artifactual. A possible explanation for the

low recidivism rate of the comparison group is that the Westchester ISP participants avoided incarceration and the comparison group did not. Being incarcerated would tend to inhibit the ability of the comparison offenders to recidivate. Also note that recidivism rates for offenders in New York are substantially lower than in Minnesota and Oregon.

### ***Repeat DWI Arrests Prevented—“DWI Enforcement Program” in Westchester County, New York***

The amount of predicted recidivism that would have hypothetically occurred among the ISP group is derived from the inverse of the two Cox Regression parameters for group effect, one from the full 15-year exposure model, and the other from the model limiting exposure to just 5 years. This calculation assumes the same amount of total exposure for the ISP group (in person-months of post index exposure) during the potential exposure period. This averages to about 7.5 years exposure for the 15-year model, but the majority of subjects in both groups had already reached 5 years of exposure (except those with index offenses since November 2003—less than 20% of the subjects), so the average exposure for the 5-year model calculation is about 4.5 years. This hypothetical calculation also assumes that the arrests prevented would have occurred proportionally across time, raising the ISP group’s survival curve by a constant multiplier.

The ISP group ( $n=3324$ ) experienced 617 re-arrests during the period (up to) 15 years; our models projected there would have been 652 such incidents if they had the same rate as the comparison group, based on the (nonsignificant) effect size parameter of  $\text{Exp}(B)=0.946$ . This is a projected savings of 35 re-arrests prevented across 15 years (though averaging out to be about 7.5 years exposure).

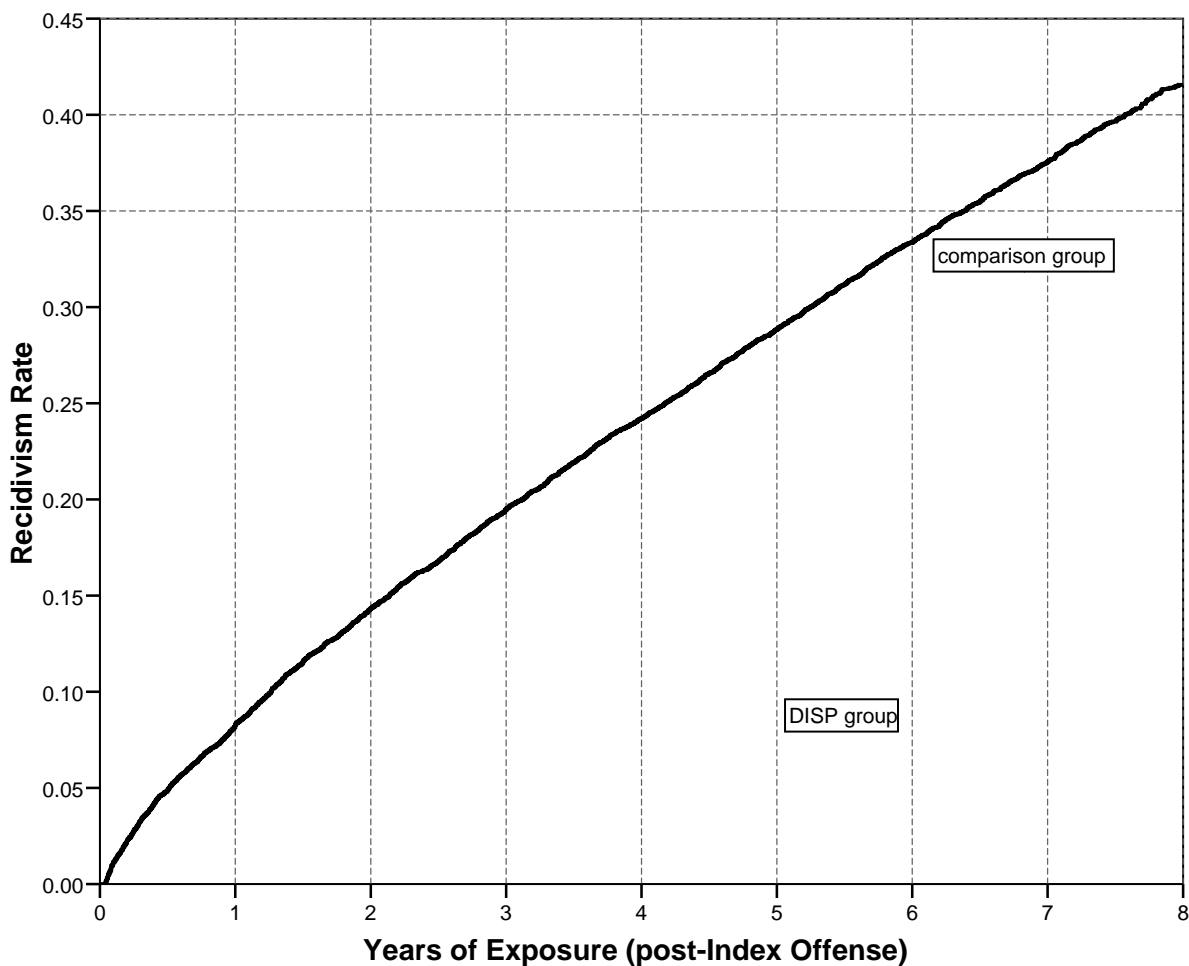
The ISP group had 354 of these 617 re-arrests in the shorter exposure period up to 5 years; our models projected there would have been 432 such incidents within that same period had they been equivalent in risk to the comparison group based on the effect size parameter of  $\text{Exp}(B)=0.819$ . This is a projected savings of 78 re-arrests prevented within the first 5 years post index offense, which projected savings actually *decreases* to 35 rearrests prevented when extending the exposure. This “disappearing savings” is reflected in Figure 2, as the ISP group’s recidivism curve begins to catch up with the comparison group beyond the 5-year point (and likely disappears entirely, as shown in the graph, and is reflected in the nonsignificance of the group effect parameter).

### ***Outcomes—“DISP” in Multnomah County, Oregon (and Counties Surrounding Portland)***

Using Cox Regression models, accounting for the effects of offender age, sex, priors, and county, it was found that the DISP intervention group had 54.1% lower recidivism (per same equivalent exposure, up to 8 years post index offense) than both of the stratified matched-sample comparison groups, adjusting for the demographic covariates ( $\text{Wald}=51.70$ ;  $p<.001$ ). (Note: Without matched-sampling, using covariate adjustment only against the entire potential comparison pool composed of mostly first offenders, the benefit is still a similar, and hugely significant, a reduction of 51.7% less recidivism.)

When running the same analysis separately for each of the three geographical subgroups – the two largest counties (Multnomah, Clackamas) and the rest of the State (primarily just a few counties near or neighboring Portland) – the effects of the DISP intervention are slightly higher, at 56.3% less recidivism, for Multnomah residents alone (who comprise 72% of the DISP group) versus comparison groups from their same county. Clackamas County residents, who comprise slightly more than 12% of the DISP group, have a better than 70% benefit in terms of reduced recidivism versus the comparison group from the same county. Subjects residing in the remaining 16% of the DISP group (i.e., the “rest of the State” but primarily counties near Portland) show the least reduction in recidivism at only 40%, compared with the comparison groups from those same counties. Despite the small intervention sample size, the 40% reduction in recidivism is statistically significant. (All results are listed under the DISP category in Table 6.)

Recidivism rates illustrated in the Figure 3 appear to accrue within the first 4 years from the index offense. After 4 years, the recidivism rate of the DISP group seems to increase, and becomes parallel to the comparisons’ recidivism from that point onward. After 5 years of exposure, the DISP subjects have exactly 10% cumulative recidivism versus 29% for the comparisons—almost three times as much. This two-thirds relative difference diminishes as the two groups recidivate at parallel rates over the next 3 years. However, even after 8 years, the total cumulative benefit persists, and is still quite large: the rate of recidivism for the DISP group is 24.2%, as opposed to 41.7% for the comparison group(s).



**Figure 3. Recidivism Rates for Oregon DISP versus Comparison Offenders**

These results for 8-year exposure/cumulative recidivism are adjusted for the significant effects of other predictive risk factors, of which the covariates are included in Table 6. Separate analysis results for the two largest DISP counties (and for the remainder of the DISP group) are shown separately, with the numbers of DISP subjects in those counties shown in parentheses.



**Table 6. Cox Regression Model Parameters for Oregon with 8-Year Exposure Period**

	<b>B</b>	<b>SE</b>	<b>Wald</b>	<b>df</b>	<b>Sig.</b>	<b>Exp(B)</b>
<b>ISP versus Comparisons</b>	-.780	.108	51.70	1	<.0001	0.459
Multnomah County ( <i>n</i> =320)	-.827	.133	38.86	1	<.0001	0.437
Clackamas County ( <i>n</i> =54)	-1.206	.361	11.15	1	.001	0.299
Rest of Counties Outside of Area ( <i>n</i> =72)	-.511	.220	5.38	1	.020	0.600
<b>County of Residence</b>			57.48	30	.002	
<b>Prior DWIs (versus 1)</b>			195.43	4	<.0001	
2 priors	.294	.053	31.12	1	<.0001	1.342
3 priors	.528	.055	91.85	1	<.0001	1.696
4 priors	.638	.067	91.16	1	<.0001	1.892
5+ priors	.822	.070	138.11	1	<.0001	2.275
<b>Female (versus Male)</b>	-.1543	.049	9.84	1	.002	0.857
<b>Age Group (versus &lt;21)</b>			35.99	8	<.0001	
21-24	-.144	.122	1.40	1	.237	0.866
25-29	-.167	.117	2.02	1	.156	0.847
30-34	-.225	.117	3.68	1	.055	0.799
35-39	-.187	.117	2.56	1	.109	0.829
40-44	-.268	.117	5.23	1	.022	0.765
45-49	-.344	.120	8.22	1	.004	0.709
50-59	-.340	.123	7.66	1	.006	0.712
60+	-.668	.158	17.75	1	<.0001	0.513

***Repeat DWI Arrests Prevented—“DISP” in Multnomah County, Oregon (and Counties Surrounding Portland)***

Using recidivism rates obtained from the survival analyses, adjusting for significant predictors (age and sex), our best prediction for the amount of recidivism that would have hypothetically occurred among the DISP group (had they experienced traditional sanction procedures) was derived from the rates actually observed for the comparison group. The number of additional re-arrests that would have been necessary to raise the ISP group’s rate (24.2% at 8 years) to that of the matched comparison group (41.7% at 8 years) becomes the estimate for the number of re-arrests prevented within that 8-year period. The hypothetical “prevented” number can be computed from the DISP group’s actual incident counts, multiplied by the inverse of the Cox Regression parameter for group effect. This calculation assumes the same amount of total exposure for the DISP group (in person-months of post index exposure) during that 8-year period, and that the arrests prevented would have occurred proportionally across time, raising the DISP group’s survival curve by a constant multiplier.

The Oregon DISP Group experienced 93 re-arrests during the period up to 8 years; our models projected there would have been 160 such incidents if they had the same rate as the comparison

group. The projected savings of 67 re-arrests prevented in eight years is a substantial benefit for such a small group of DISP offenders ( $n=446$ ).

**Predictors of Recidivism**

The other factors that might be expected to be predictive of the likelihood to recidivate (age, gender, race/ethnicity, and number of prior DWI offenses and other prior criminal offenses) were also examined, as available. This ensured that any ISP group effects found in each State were not an artifact of some other factor on which the groups might have been different, although the two comparison groups had been composed via stratified random sampling to match the intervention group on these factors. (Differences among counties in Oregon were also examined.)

**Age**

After adjusting for the impacts on recidivism due to the other factors mentioned, a similar general pattern for age was found among all three States: Younger offenders were more likely to recidivate, with the risk dropping monotonically as age cohorts progress to the oldest offenders, who were least likely to recidivate. These age effects were significant to  $p<.001$  in all three States, as noted in the previous tables for those States’ analyses. Using the age cohort of 30 to 39 as the baseline, the following relative likelihood factors for broader groupings of the age cohorts were obtained, as shown in Table 7.

**Table 7. Relative Likelihood of Recidivism**

Age	Minnesota	Oregon	New York
<30	+30.4%	+8.2%	+36.3%
30-39	<i>(reference level)</i>		
40-49	-14.4%	-9.5%	-22.5%
50-59	-14.4%	-12.5%	-41.3%
60+	-13.1%	-37.0%	-55.2%

**Sex**

After adjusting for the impacts on recidivism due to the other factors mentioned, females were less likely to recidivate than males. The magnitude of this effect was quite similar in all States: 10.7% less likely in New York ( $p<.001$ ), 14.3% less likely in Oregon ( $p=.002$ ), and 15.2% less likely in Minnesota ( $p=.003$ ).

**Race/Ethnicity**

This factor was only available for the New York data. After adjusting for the impacts on recidivism due to the other factors mentioned and contrasting all minority groups with the White category due to its predominant size of offender numbers, African Americans were found to be 14.3% more likely to recidivate ( $p<.001$ ), and Hispanics were found to be 9.2% less likely to recidivate ( $p<.001$ ).

### **Prior DWIs**

A measure for this variable could not be reliably estimated in the Minnesota data (at least not in the full “real” range that would have been recorded) due to the unusually short pre-index offense period. For the other two States, prior DWI offenses was a potent predictor of future recidivism. (All relative likelihoods here were significant well beyond  $p < .001$ .) Relative to those with just a single prior, those with two priors were 27.1% (New York) and 34.2% (Oregon) more likely to recidivate. For those with three priors, the increased risk was 43.5% (New York) and 69.6% (Oregon) more likely than first offenders; and for those with four or more priors, the increased risk was 73.0% (New York) and 105.8% (Oregon) more likely.

### **Other Prior Offenses**

In New York, we had available a detailed database of other criminal convictions, which included far more than just traffic offenses. Having more prior criminal convictions was also highly predictive of future recidivism although the amount per each additional prior is not a constant value or increment, as the relationship was curvilinear (i.e., additional risk, in absolute terms, diminishing as priors accumulated). For example, a person with just one prior felony was 14.7% more likely to recidivate than someone with none. A person with two prior felonies was 24.2% more likely to recidivate; a person with three prior felonies was 31.5% more likely to recidivate. To provide a higher reference point on this logarithmic shaped function of diminishing marginal risk, a person with eight prior felonies was 50% more likely to recidivate than someone with zero. The same relationship of increased risk per prior convictions was also found for misdemeanors but of a slightly smaller magnitude (about 2% less). Both of these were significant well beyond  $p < .001$ .

## ISP Costs

All of these programs charge offenders to participate. Table 8 lists a brief summary of costs to the offender, operational costs of the programs, and reported cost savings by the programs to the public where the information was provided. Detailed explanations follow the table.

**Table 8. ISP Program Costs and Savings**

<b>Program</b>	<b>Cost to Offenders</b>	<b>Costs of Programs</b>	<b>Savings Provided by Programs</b>
Nebraska Standardized Model for Delivery of Substance Abuse Services	Nebraska offers a combination of <ul style="list-style-type: none"> <li>• sliding scale, and flat fee for alcohol and other drug assessment and treatment services</li> <li>• set fees for assessment</li> <li>• fee-for-service voucher system</li> </ul>	State paid to develop the system and a standardized assessment tool	
Wisconsin Pretrial Intoxicated Driver Intervention Program	(Varies by county)	A combination of county, State and Federal funds pay for these county programs	
Staggered Sentencing for Multiple DWI Convicted Offenders 10 <sup>th</sup> District Court, Cambridge, MN	Fines Treatment Electronic monitoring costs \$8-14/day	Up to \$765,000 annually in grants	Reduction of jail time and related costs—\$3K per offender (\$60/day)
Serious Offender Program Clark County, NV	Fines Treatment Electronic monitoring Interlock VIPs		Estimated annual savings of \$500,000 in costs of jailing offenders
DWI Enforcement Program Westchester County, NY	Fines Admin fee \$30/mo Treatment Interlock (\$90/mo approx.)	Westchester County funds the probation department; NY State provides some funding	
DWII Intensive Supervision Probation Program Multnomah County, OR	Repeat missed fines \$5K; Felony Fine max \$100K; Treatment \$25-40 per week electronic-monitoring costs paid to vendor		
24/7 Sobriety Project South Dakota	Offenders pay for twice daily testing (\$1 for each test)		Saved \$70 per day for 320,000 days in jail
DWI Supervised Probation Program Fremont County, WY	Supervision fee \$25/mo	Program is funded by a State grant	

## Nebraska State System Funding

State funding for this system occurred as the system evolved over many years. Nebraska offers a combination of a “sliding scale” and a “flat fee” for alcohol and other drug assessment and treatment services for offenders. There are set fees for an assessment, but there is also a “fee for service” voucher system. Before the State pays, the justice treatment specialist verifies with the referring officer that the evaluation has met the criteria of the standardized model (i.e., the assessment and evaluation team used the State standard screening instrument, a State approved evaluation instrument, and a standardized risk assessment of reoffending, and that the treatment provider is registered with the State).

## Wisconsin Program Funding

The County pretrial programs are funded by a combination of Federal (Section 410), State, and county funds. County contributions come from county or municipal budgets, client (offender) fees, and other public or private sources. As a program matures over the first 4 years, county funding is expected to increase substantially, as Federal funding decreases to zero. Table 9 (reprinted from the State Annual Report) shows the shift in funding over the first years.

**Table 9. Annual ISP Funding Source Allocation Schedule**

Year	Local Funding Share	Funded with Federal or State Money	
		Federal Section 410 Funding	State ISP Grant Program Funding
Year 1	25%	67%	33%
Year 2	30%	50%	50%
Year 3	35%	33%	67%
Year 4	50%	0%	100%

## Minnesota 10<sup>th</sup> District Court Staggered Sentencing Costs and Funding

A legislative study was conducted on the “Staggered Sentencing for Multiple DWI Convicted Offenders” program in Minnesota (Cleary, 2003). Cleary found the program reduced, on average, 52 days of jail time per offender (Cleary, 2003). At the conservative per diem cost of \$60 per day, that saved more than \$3,000 in jail costs per offender alone. More importantly, Cleary reports that further savings are due to a 50% reduction in recidivism, by their estimation. The Minnesota House of Representatives appropriates as much as \$765,000 a year in grant funding. Indigent offenders and those needing financial assistance to pay for the monitoring service may apply for funds from a State grant program.

Except for the cost of incarceration, most of the costs of this staggered sentencing program are borne by the offenders. Offenders pay fines, pay for their treatment, and pay for the costs of the

electronic alcohol monitoring. The alcohol monitoring systems for use in their residences cost \$8 to \$14 per day to lease from private vendors.

### **Nevada—Clark County “Serious Offender Program” Costs**

Nearly all costs are borne by the offenders to participate in the “Serious Offender Program,” including treatment, house arrest fees, ignition interlock, and VIPs. Sometimes, offenders may be given a discount if the family’s income can be shown to be particularly low. The house arrest division may provide a discount of 50% or 100%. The primary treatment facility may reduce fees by 50% to as much as 80% for the disabled. The SOP may provide discounts of 50% or 100%. Discounts are relatively rare though, and there is a belief that paying for services has the twin benefits of reminding participants of the value (and importance) of the service and reducing discretionary income that could be used to buy alcohol. By using house arrest rather than jailing program participants, the county saves an estimated \$105 per day per offender. Clark County officials reported that this resulted in a savings of more than a half million dollars annually to the Nevada Department of Prisons.

### **New York—Westchester County “DWI Enforcement Program” Costs and Funding**

Much of the cost of running the “DWI Enforcement Program” comes from Westchester County funding of the probation department, although some funding comes from the State of New York. Offenders pay fines and court fees at time of sentence. Program participants pay an administrative fee of \$30 per month to be in the program. This fee is in place for the duration of offenders’ sentences. Offenders pay for the cost of treatment, which varies between facilities. Offenders pay for the costs of the interlock, which varies between providers, but is roughly \$90 per month.

### **Oregon—Multnomah County “DUI Intensive Supervision Program” Costs**

Most of the costs of DISP are billed to the offenders, except for the cost of incarceration. These costs include fines for treatment services and charges for electronic alcohol monitoring. The maximum penalty for a repeat misdemeanor DWI is 1 year in jail, a \$5,000 fine plus costs and assessments, a required alcohol and drug education or rehabilitation program, and attendance at one VIP session (\$10 fee). Maximum penalties for a felony DWI are 5 years in prison, a \$100,000 fine, and treatment and rehabilitation programs assigned for misdemeanor charges. Offenders pay from \$25 to \$40 per week for treatment, unless indigent. Providers may impose additional fees according to a sliding scale. All electronic-monitoring services and equipment are contracted through a private vendor, whose staff monitors the equipment, trains defendants to use the equipment, and tracks individual offender compliance. Offenders pay all costs and fees for electronic monitoring directly to the private vendor.

## **South Dakota—“24/7 Sobriety Project” Costs**

Because the offenders are paying for the breath tests and drug tests, the 24/7 program is reportedly self-sufficient. Each breath test for alcohol costs \$1; each urinalysis for drugs costs \$5; the SCRAM device costs \$5 per day; and the drug patch costs \$40 per patch. The State 24/7 Coordinator, reports that the 24/7 program has saved 320,000 days in jail of the offenders at \$70 per day.

## **Wyoming—“DUI Supervised Probation Program” Costs**

Offenders in the DUI Supervised Probation (DSP) Program are required to pay supervision fees of \$25 for every month the offender is in the program. There are no indigent funds for those who cannot pay, although DSP reports that they do not turn away offenders who cannot pay. When these offenders get jobs, they begin to pay. The probation officers are responsible for accepting the payments and providing receipts to the offenders.

This offender fee does not begin to cover the costs of the DSP Program. The current grant from the State covers the remaining costs. They are looking for continuous funding when the grant is completed. The program officials believe that local government should fund the DSP Program.

## Conclusions and Recommendations

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### Conclusions

This study confirms prior research showing that ISPs reduce recidivism of DWI offenders. All three ISPs that were evaluated indicated significant reductions in medium-term recidivism for ISP offenders up to 5 years (although one of the findings may have been due to an artifact in the comparison offender group, and the effect has disappeared by 15 years). The reductions in recidivism ranged from 54.1% in Oregon up to 8 years post-offense, to 25.4% in Minnesota up to 5 years post-offense, to 18.1% in New York up to 5 years post-offense. The evidence appears to be strong that ISPs with the following common features can be very effective:

- Screening and assessment of offenders for the extent of their alcohol/substance abuse problem
- Relatively long-term, close monitoring and supervision of the offenders, especially for alcohol and other drug use or abuse
- Encouragement by officials to successfully complete the program requirements
- The threat of jail for noncompliance

ISPs are an alternative to jail, which is very costly. Offenders who remain out of jail are able to remain employed and can contribute to society and the well-being of their families. In some ISPs, offenders who remain out of jail are paying some or all of the costs of their participation in the ISP.

Clearly, different approaches to intensive supervision of repeat DWI offenders yield positive results to communities in increased public safety and decreases in the costs associated with re-arrest. Not all programs or program components work effectively in all communities, nor do some laws permit the use of some sanctions (e.g., the sale of all offender vehicles in Oregon). However, ISPs with these program elements (at a minimum) should be feasible in most communities. Community and public safety officials need to determine which program components are affordable and which may work in their communities. A large number and variety of ISP components may not be as important as the commitment of program staff. Further studies of promising ISPs may help communities assess which programs or components they can implement and what benefits they can expect.

The monitoring of alcohol and other drug use by offenders to maintain abstinence appears to be a key component of these programs and has the potential to be very effective in reducing offender recidivism. There are encouraging data emerging from the South Dakota 24/7 program where the key program element is the twice daily testing for alcohol or other drug use (see Appendix B). In a pilot test of 1,000 repeat offenders, it was reported that 67% were 100% compliant (tested twice a day for an average of 111 days), 17% failed one test, 10% failed two tests, and 6% failed



more than two tests. In the more than 4 years of testing up to 11,000 offenders, 99.6% of the tests were negative for alcohol. In addition, as the number of offenders in the 24/7 program has risen, the number of alcohol-related fatal crashes in South Dakota has declined, indicating a possible significant correlation. It remains to be seen, however, whether the recidivism of the 24/7 program offenders is significantly lower than matched offenders not participating in the program. In a report by Loudenburg (July 2009) from Mountain Plains Evaluation, the 2-year DUI recidivism rates for 24/7 offenders tested for 90 consecutive days was 2.1%, whereas the 2-year recidivism rates for similar comparison offenders not in the 24/7 program was 12%.

There are several documented ways to monitor alcohol use by offenders:

- Frequent contact by probation officers, the judge, or other officials (observation)
- Surprise visits in the home and BAC testing (and sometimes drug testing via a urine sample)
- Daily call-in with random testing (sometimes the offender must report for a test; sometimes not)
- Electronic monitoring and home confinement with remote BAC testing (e.g., Sobriotor)
- Use of the alcohol ignition interlock record of the offender
- Regularly scheduled testing (e.g., twice/day like the 24/7 program)

With the advent of new alcohol monitoring devices (the SCRAM™ and the Smart Start IN-HOM™), many ISPs and DWI Courts may mandate their use. However, these devices and alcohol monitoring in general need to be evaluated for their effectiveness and feasibility. There appears to be substantial potential in alcohol monitoring as a key component to reducing DWI recidivism.

The benefit/cost of ISPs appears to be excellent in terms of re-arrests prevented. Each re-arrest for repeat DWI offenders costs thousands of dollars in law enforcement resources, court costs, and sanctions (jail time). An additional, and perhaps even more important benefit/cost, is the public safety savings in potential injuries prevented and lives saved due to the reduction in DWI recidivism of these multiple offenders.

### ***Recommendations***

- In Minnesota, in particular, examining the records of offenders 5 years post-offense means that many of the offenders were still on the staggered sentencing probation (probation ranges from 3 to 6 years for offenders). Follow-up analyses of the Minnesota ISP after 5 years to determine if the reductions in recidivism hold up over a long time span is recommended.
- One of the potential reasons the reduction in recidivism for the Westchester County, New York “DWI Enforcement Program” at 5 years of exposure was 18.1% (less than the programs in Minnesota and Oregon) may be because the overall recidivism rates for offenders in New York State are substantially lower than in other States. Additional analyses should be conducted on the New York ISP (e.g., perhaps using

similar offenders in other States as a contrast). Further research is also needed to determine if the New York finding was artifactual.

- The promising 24/7 program in South Dakota needs a full scientific evaluation for its effect on recidivism.
- Alcohol ignition interlocks were used in several of the ISPs examined. Research shows that recidivism is reduced an average of 60 to 70% while the interlocks are on the offenders' vehicles. This could be a key component to ISPs. Research should be conducted to separate out offenders using interlock devices to determine if recidivism rates are lower.
- Finally, further research is warranted to determine what specific component is more effective in reducing recidivism: e.g., mandatory assessment and treatment, frequent alcohol monitoring, mandatory ignition interlocks, or some combination of components.

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## Appendices

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**APPENDIX A:** Protocol Used for Interviewing ISP Officials

**APPENDIX B:** Summaries of Eight ISP Case Studies

**Appendix A:  
Protocol Used for Interviewing  
ISP Officials**

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# INTENSIVE SUPERVISION PROGRAM (ISP) SITE VISIT PROTOCOL

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City/County/State \_\_\_\_\_

ISP Start Date \_\_\_\_\_

**ISP Eligibility Criteria:**

How are offenders selected (what are the eligibility criteria; include official documentation as appropriate)? \_\_\_\_\_

\_\_\_\_\_

What are the incentives/sanctions for offender participation in the ISP? \_\_\_\_\_

How many offenders have been selected for the ISP to date?

\_\_\_\_\_ Date \_\_\_\_\_

How many offenders have refused to participate? \_\_\_\_\_

How many offenders have successfully completed all elements of the ISP? \_\_\_\_\_

How many offenders were unsuccessful and were removed from the ISP program?

\_\_\_\_\_

How many offenders chose to leave the ISP program for the alternative?

\_\_\_\_\_

**ISP Guidelines:**

What program guidelines are provided to participating offenders (include attachments as appropriate)?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**ISP Phases:**

Describe program phases and sanctions all offenders are required to complete (include attachments as appropriate):

\_\_\_\_\_

\_\_\_\_\_

Include, at a minimum:

- Length of each phase \_\_\_\_\_
- Screening/evaluation for treatment \_\_\_\_\_
- Meetings with the judge \_\_\_\_\_
- Intensive supervision probation \_\_\_\_\_
- Electronic monitoring \_\_\_\_\_
- Alcohol/drug testing \_\_\_\_\_
- Treatment program \_\_\_\_\_
- Meetings with probation officer \_\_\_\_\_
- Alcohol ignition interlock on vehicle \_\_\_\_\_
- Fines/fees \_\_\_\_\_
- Community service \_\_\_\_\_
- Participation in other programs (e.g., Victim Impact Panels; AA meetings)  
\_\_\_\_\_
- Other elements (describe) \_\_\_\_\_

**ISP Data Tracking System:**

Describe how an offender is tracked through the entire ISP from arrest to final disposition (attach data forms used)

\_\_\_\_\_

How is sobriety monitored? \_\_\_\_\_

How is compliance with all sanctions documented? \_\_\_\_\_

**Offender Demographics and Lifestyle Changes:**

Document demographics of each offender (e.g., gender, age, marital status, occupation, number of children, ethnicity) \_\_\_\_\_

Describe how significant lifestyle changes are documented for each offender:

\_\_\_\_\_

(Examples include marital status, occupation, having children, remaining alcohol/drug free.)

**ISP Compliance:**

How is noncompliance with any element of the ISP handled?

\_\_\_\_\_

How is compliance with all elements handled? (e.g., graduation ceremony, certificate, license reinstatement)

\_\_\_\_\_

**Alternatives to the ISP:**

Describe alternative programs for similar offenders not participating in the ISP:

\_\_\_\_\_

Describe major differences between ISP offenders and offenders in alternative programs:

\_\_\_\_\_  
\_\_\_\_\_

**Documentation of Offenses:**

Describe the nature of offenses that are documented for each offender during participation in the ISP: \_\_\_\_\_

**ISP Success Stories:**

Describe any success stories occurring with ISP offenders:

\_\_\_\_\_

**Comparison Group of Offenders:**

Is there a comparison group of similar DUI offenders who are being tracked? \_\_\_\_\_

Please describe, if so \_\_\_\_\_

# INTENSIVE SUPERVISION PROGRAM (ISP) DATA COLLECTION FOR IMPACT EVALUATION

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City/County/State \_\_\_\_\_

ISP Start Date \_\_\_\_\_

ISP End Date (for evaluation purposes) \_\_\_\_\_

ISP Eligibility Criteria \_\_\_\_\_

Number of Participating Offenders in ISP \_\_\_\_\_

Number of Offenders Successfully Completing (graduating from) ISP \_\_\_\_\_

Number of Offenders in Comparison Group (similar eligible offenders not selected for ISP)  
\_\_\_\_\_

Demographics of Offenders (gender, age, marital status, employment, etc.) \_\_\_\_\_

## Measures of Recidivism:

- Re-arrest for DUI/DWI
- Arrest/citation for any alcohol/drug related offense
- Arrest/citation for any other offense (including traffic violations)
- Convictions for any of the above
- Relapse in sobriety (measured or self-reported)
- Incidence of drinking 5+ drinks in one session

## Recidivism Periods:

- 6 months
- 1 year
- 18 months
- 2 years

## Recidivism Rates:

- **ISP Offenders versus Comparison Group of Offenders versus ISP Dropouts**

## Offender Activity Information:

- Alcohol/drug test results
- Failures to appear (FTAs)
- Other appropriate data

## **Appendix B: Summaries of Eight ISP Case Studies**

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# SUMMARIES OF THE EIGHT ISP CASE STUDIES

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## State-Level ISPs

### **I. Nebraska “Standardized Model for Delivery of Substance Abuse Services”**

The Nebraska Standardized Model for Delivery of Substance Abuse Services (referred to henceforth as the “Nebraska Standardized Model”) is a State-level management and data collection system that guarantees uniformity in assessment of offenders and in the level of resources provided to offenders throughout Nebraska. (This system handles ALL offenders, not just those with DWI-related offenses which, in Nebraska, are termed DUI [driving under the influence] offenses.) On average, there are approximately 22,000 offenders (again, that is all offenses, not just highway-safety-related offenses) on probation in a given year in Nebraska. A high percentage of these probationers, roughly 9,000 to 10,000, have committed DUI-related offenses. The majority of these DUI offenders are *first-time* offenders.

#### **A. Process Description – Nebraska Standardized Model**

The Nebraska Standardized Model is a collaborative system encompassing standardized training of all probation staff statewide that requires their knowledge of the model and strict adherence to only using the following instruments and services to maintain efficacy:

- A standard screening instrument (Simple Screening Instrument or “SSI”) is a brief set of questions to determine the level of the substance abuse problem.
- Standardized evaluations include the use of specific instruments (the Addiction Severity Index or “ASI” for adult offenders/the Comprehensive Adolescent Severity Inventory or “CASI” for juvenile offenders) to determine addiction severity and recommend the level of care needed to deal with the addictions.
- A standardized risk assessment of offenders (the Standardized Risk Assessment Reporting Format for Substance Abusing Offenders or “SRARF”<sup>2</sup>) indicates the probability of an offender’s risk of re-arrest.
- Services from treatment providers currently registered with the State. Current registration certifies compliance with standardized criteria and treatment programs with standardized levels of care ensuring offenders will receive appropriate treatment (e.g., intensive out-patient or out-patient counseling).

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<sup>2</sup> SRARF was developed in collaboration with the University of Nebraska in Omaha. It was designed by taking the various instruments in use at the time across justice agencies in Nebraska and reducing them to areas consistent across the various instruments and areas significant in relationship to risk indicators. SRARF was not designed as an all-inclusive instrument but was intended to serve as a flag for those involved in sentencing and case management to focus on offenders showing higher risk for recidivism.

In addition, probation staff and treatment provider staff must be able to:

- collect necessary offender information,
- input and retrieve pertinent data into a management information system, and
- communicate, as necessary, between the agencies.

As of 2004, there were between 500 and 600 substance abuse treatment providers who had completed *training* on the standardized model in Nebraska, and 466 (as of mid-year 2007) have since *registered* and are included on the list of State-approved justice providers.

The Nebraska Standardized Model also tracks offenders in data systems as they move through the justice and treatment systems. Multiple offenders may be detected even if appearing in different courts and/or different State agencies. Offenders cannot seek more lenient treatment providers because treatment is standardized throughout the State. Likewise, courts are receiving standardized recommendations from probation based on standardized assessments of offenders, and judges are more able to make informed decisions to help preserve public safety. The records of offenders are available to all pertinent agencies, and all offenders with similar risk assessments are treated the same statewide *if* the judges follow the recommendations.

### **A.1 Probation Responsibility to the Statewide Standardized Model**

All probation officers/case managers must understand the policies and procedures of the Nebraska Standardized Model, as well as the tools available. Specifically they must:

- be trained on the principles of criminogenic risk and need factors;
- be trained on the nature of substance abuse addiction;
- understand the operation of Nebraska's substance abuse delivery system;
- understand the incorporation of the model into PSI/PDIs (Presentence Investigation and Predisposition Investigation) and supervision; and
- understand utilization of the two data systems used in data collection.

The Nebraska Statewide Probation staff handles the following elements:

- Screening/assessment (SSI and SRARF)
- Evaluation referral (formal communication)
- Monitoring compliance with treatment (standardized levels of care)
- Maintain and provide the list of registered treatment providers
- Offender data collection
- Training for probation staff

The second item, the evaluation referral, consists of the following:

- Referral for Substance Abuse Evaluation form (the release authorization in the body of the form)

- Attachments: SSI/SRARF/criminal history/BAC and/or drug tests results (if available)
- Referral to the registered provider
- Signed Release of Information to Provider on file during the probation term

All basic training and continuing education courses for probation staff are conducted by the Administrative Office of the Courts/Probation.

Typical caseloads for probation officers vary widely from urban to rural areas. The various jurisdictions have great latitude in assigning caseloads and officers may specialize or mix caseload types.

## **A.2 Treatment Provider Responsibility to Maintain State-Registered Status**

The treatment evaluations and programs for DUI offenders in Nebraska are conducted by clinicians who have:

- been licensed in Nebraska with a scope of practice to assess and treat substance abuse disorders;
- completed the Standardized Model Orientation;
- attended training and show proficiency in the ASI and/or CASI;
- passed training on the Standardized Reporting Format; and
- completed or have agreed (in a reasonable amount of time, such as within 6 months) to take 6 hours of criminal justice training on thinking and behaviors related to substance abuse disorders and participate in 12 hours of ongoing training every 2 years.

Training for treatment providers is handled collaboratively through the Nebraska Probation Administration and the Office of Health and Human Services Division of Behavioral Services. All registered treatment providers must:

- meet the provider criteria;
- understand the model process;
- agree to the requirements of the model; and
- register their services with the Office of Probation Administration.

The Nebraska Justice Treatment Program Specialist within the Office of Probation Administration maintains the quality assurance of all registered treatment providers and is the person who approves all the registrations. The specialist ensures that licenses are valid and up-to-date, that treatment providers complete all training, and maintains the current list of registered providers statewide that is distributed via e-mail. All treatment providers must re-register annually and provide proof of ongoing training and a copy of their current State license. The Justice Treatment Specialist is responsible for compliance issues related to treatment providers. She removes the name of a treatment provider from the list who does not meet with the standards



and does not respond sufficiently to warnings. If a treatment provider is not getting the information necessary to perform a function (e.g., no SSI scores or risk information), the Justice Treatment Specialist is also the point of contact to notify the local probation office and to work to resolve any issues.

### **A.3 Nebraska Standardized Model Reporting Format and Data**

The purposes of the reporting format of the Nebraska Model data-gathering systems are to provide:

- standardized organization of evaluation information;
- consistency in the reporting of information received by the Judiciary and Justice Agency; and
- a common, unified language for consistent information exchange between treatment providers, the Judiciary Agency, the Probation Agency, or other justice agencies.

The elements of the model reporting format follow:

- Demographics
- Presenting problem (current charge or offense)
- Medical history
- Work/school/military records
- Alcohol and drug history
- Legal history
- Family/social/peer reports
- Psychiatric/behavioral history
- Collateral information
- Diagnostic/screening tools
- Clinical impression
- Recommendations (primary level of care and *available* level of care in the community)

According to the Nebraska Probation System Policies and Procedures, data are entered into two systems: the Nebraska Criminal Justice Information System (NCJIS) and the Nebraska Probation Management Information System (NPMIS). Both are interactive systems where information can be input and retrieved. However, these systems are currently not integrated, so some data entry must be duplicated. These data are linked to each offender by a unique identifier, such as name and court case, and are available to authorized personnel within the justice system. Further, limited authorization of access to these data soon will be available to registered providers.

## B. Program Components—Nebraska Standardized Model

Although the State has oversight as to which program components are available, State probation officials have to be cognizant of the ability of the counties to provide services. The State provides the probation system with money to cover salaries, training, and travel. Individual counties provide operational expenses (e.g., office space, equipment, and supplies). The counties also have a financial investment in the various programs for offenders residing within each county. Recently, the State has subsidized program funds for specific targeted offender populations. Previously, the kind of services an offender could receive in any community was directly correlated to the services offered in that community and to what he or she could afford. Now more options are available to courts, and offenders can participate in programs outside the community in which they reside.

As of mid-2007, there were 466 treatment providers across Nebraska providing services for alcohol- and drug-related problems, and some of these programs provide mental health and other disorder treatment. As stated earlier, these treatment providers must hold a Nebraska State license that includes, in the scope of practice, the ability to administer substance abuse evaluations and treatment.<sup>3</sup>

Judges in Nebraska decide the conditions of probation, which can include jail time, supervision, license suspension, education, offender assessment, treatment, and attendance at VIPs. Although Nebraska law allows the use of ignition interlocks, the DMV typically assigns this sanction in relation to administrative license revocation and not as a condition of offender probation.<sup>4</sup> Probation is currently trying to work with the courts to more closely monitor DUI offenders. They have recently implemented a pilot program using SCRAM™.

There are State statutes providing mandatory minimum and maximum penalties regarding jail or probation, fines, and driver's license revocation for DUI offenses. There are enhanced DUI statutes requiring the courts to provide certain sanctions for offenders with BAC levels of .15 g/dL or higher. There are also statutory requirements for evaluation and/or treatment of substance abuse issues for DUI offenders at their expense, whether for first or multiple offenses. In practice, however, provisions for these are largely contingent upon recommendations made by the probation officers, and/or are contingent upon the philosophy of that particular court, and community response in that area to DUI overall. *Many judges in Nebraska do not appear to be bound by the sentencing guidelines either for sanctions or for evaluation and mandated treatment for substance abuse issues.*

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<sup>3</sup> There is more than one Nebraska State-issued license that has substance abuse treatment within the scope of practice. For example, there is the licensed alcohol and drug counselor, the licensed mental health practitioner, and psychologists and psychiatrists who have met criteria established by the American Society of Addiction Medicine. Any individual who holds one or more of these or other licenses may apply to be a justice-registered provider if they meet the criteria discussed under the section, "Treatment Provider Responsibility to Maintain State-Registered Status."

<sup>4</sup> Offenders convicted of a second or subsequent DUI offense are subject to vehicle immobilization for a period of not less than 5 days and up to 8 months. This means revocation or suspension of the registration of all vehicles owned by the offender, including the license plates. Ignition interlock is an alternative to vehicle immobilization (§ 60-6, 197.01). Offenders may also be required to use a continuous alcohol monitoring device (§ 60-60-6, 197.01).

In some of the larger jurisdictions, there are trained ISP officers designated to higher-risk offenders (that include but may not be limited to DUI offenses). An ISP coordinator supervises community corrections ISP units. The coordinators all report to the ISP Chief Probation Officer.

Depending upon the nature and severity of a probation violation, the court has in its discretion the ability to revoke the probation and sentence for an individual or to modify the original order and add additional conditions. In the instance of technical violations, the probation officer has the authority to apply sanctions that may include increased alcohol/drug testing or treatment.

### **C. Costs—Nebraska Standardized Model**

Nebraska offers a combination of a “sliding scale” and a “flat fee” for alcohol and other drug assessment and treatment services. There are set fees for an assessment, but there is also a “fee for service” voucher system. Therefore, if a targeted offender has been identified with a substance abuse problem and is having difficulty in paying/affording the evaluation/treatment services, funding assistance is available. Third-offense and felony DUI offenders are eligible for the assistance. For example, for a \$190 evaluation, if the service provider determines that the offender can only afford to pay \$20, the State subsidizes the remaining \$170. Before the State pays, the justice treatment specialist verifies with the referring officer that the evaluation has met the criteria of the standardized model.

The total amount of State substance abuse treatment dollars was \$19,702,701 in fiscal year 2000. Of these dollars, the State allocated 4% to the Nebraska Department of Corrections for the adult criminal justice system. Only 1% of the total amount was allocated to the juvenile justice system via the Office of Juvenile Services. No monies were specifically allocated to the courts or probation. The majority of the funds were allocated to the public substance abuse treatment system that served some justice clients. Adjusting for inflation, substance abuse treatment dollars decreased 16.5% from 1992 to 2000, according to the Nebraska Health and Human Services Department. Since implementation of the voucher program, \$2 million has been allocated legislatively, specifically for substance abuse treatment for justice offenders in the community. Additional dollars are set aside through fees collected from the offenders. Finally, substance abuse funding through the State regional system is still used to support treatment funding.

### **D. Conclusions—The Nebraska Standardized Model**

The Nebraska Standardized Model for Delivery of Substance Abuse Services is a collaborative system for both probation and treatment providers that encompasses standardized training and uniform practices and procedures in assessment and treatment modalities. Reportedly, an impressive number of data elements are collected for all offenders and maintained in two centralized databases. Pertinent data are available to the courts, probation, and treatment providers. However, even with a statewide standardized assessment and treatment system, DUI cases are not necessarily uniformly adjudicated because outcomes depend upon the rulings of individual judges. Further, the level of services ultimately provided to offenders is determined by what is available within each community.

The Nebraska Standardized Model allows for use of all of the traditional probation program components. Eventually, this process could prove to be more resource efficient and fiscally responsible at the State level because it consolidates assessment and treatment efforts through

standardization. Any possible effects regarding reduction in recidivism due to a statewide, standardized system have yet to be studied.

## II. Wisconsin Pretrial Intoxicated Driver Intervention Program

The Wisconsin pretrial intervention program is, as the name implies, a program that offenders enter after arrest for an OWI (operating while intoxicated) offense but before appearing in court to answer to the charges. Thus, offenders typically participate for a relatively short time—a few months between the offender’s arrest for OWI and conviction. Nevertheless, the program includes most of the same requirements as other ISPs.

The Wisconsin Pretrial Intoxicated Driver Intervention Program, which began in 1993, is a State program in which the State’s DOT BOTS oversees county-level programs. They oversee funding and determine that the programs are run according to the State’s requirements and that programs meet requirements for reporting. Not all counties in Wisconsin have such programs; currently, 11 programs are operating in 13 counties. More counties are interested in starting such intensive supervision programs in the future should State funds become available to establish them.

The State collects data from the participating county programs and works with them to provide part of the funding for the programs. Data collected includes information regarding the offenders who participate, outcomes of participation, and fiscal information regarding program costs. Programs receive grant funding from the State and must submit grant applications to the BOTS yearly.

To participate in the State program, a county program must include the following components:

- *Centralized supervision*—All ISP participants must be supervised by a single agency within a county or multicounty area.
- *Structured program participation and monitoring*—Includes intake procedures; regular office visits; monitoring of re-arrests; a program fee based on State statute 85.53; reference to and monitoring of alcohol and other drugs of abuse (AODA) treatment and follow through; defined rules for program participation; and alcohol or drug testing.
- *Uniform data collection*—Data related to admissions to supervision, discharges from supervision, types of discharges, BAC at admission, gender, age, ethnicity, OWI offense at time of admission, number of offenders admitted to treatment, treatment status at time of adjudication, recidivism during supervision (charged with a new OWI offense), and level of education.
- *Standardized review of program compliance*—Being accountable to DOT and other stakeholders in meeting program fidelity. Meeting core elements established. Stakeholders could include but are not limited to funding agencies, municipalities, and the criminal justice system.
- *Professional evaluation*—Evaluate program progress in coordination with criminal justice system or Intoxicated Driver Program (IDP) assessment agency, maintain an ongoing relationship with the criminal justice system or IDP agency, and submit an annual report to the criminal justice system or assessment agency and DOT.
- *Driver Safety Plan*—Facilitate the completion of an assessment by the defendant for the Driver Safety Plan requirement.

Across all participating county programs, there are many similarities; however, each program is tailored to meet the needs and requirements of the county in which it operates. The program requirements are set forth by the individual courts and may differ on a case-by-case basis. Agencies that run the program in each county are charged with supervising offenders between arrest and conviction to make certain they meet program requirements.

The programs differ significantly from county to county. The Wisconsin DOT publishes a report that describes in greater detail the programs within each county. As of this writing, the most recent version of this report is current to December 2007 and can be found online at [www.dot.wisconsin.gov/library/publications/topic/safety/intervention.pdf](http://www.dot.wisconsin.gov/library/publications/topic/safety/intervention.pdf).

Programs are conducted by private companies selected by each county. These companies are generally either private correctional agencies or substance abuse treatment agencies, with the majority being the former. Some are for-profit and some are not-for-profit agencies. One company, Wisconsin Community Services, operates programs in four counties and maintains offices in each. In some instances, the agency that runs the program provides all services in-house, whereas others contract for services such as AODA treatment. In other instances, the primary administration of the program may be conducted within a county department using county staff. The Wisconsin DOT BOTS decides which agencies to fund as part of the program. In some situations, BOTS will agree to provide funding to a county, and that county, with approval from the State, will select an agency to administer the program. In other cases, the State works directly with the service provider.

#### **A. Process Description—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

The process each offender goes through differs depending on the county, the judge, the methods of operation of the various programs, and the type of offense. After an arrest for OWI, an offender is generally held in custody until sober or until a responsible driver is located to take the offender home. A bond hearing is held the next day the court is in session. Depending on the individual program, offenders may be accepted into the program at the bond hearing as a condition of bond or may be admitted later in the process voluntarily or involuntarily.

Most programs are voluntary, with the motivation for participation being consideration for reduced sentences. Different requirements for participation by offense level (e.g., number of prior convictions) also affect the process from county to county. Differences in the process between counties reportedly create significant differences in the characteristics of participants, lengths of stay, and program impacts. There is interest in standardizing the process and the types of offenders who participate across programs.

Wisconsin sentencing guidelines mandate periods of incarceration and license revocation for all second and subsequent OWI offenders. These guidelines may be modified somewhat within each judicial district, but all must conform to State laws. Nearly all intervention program participants will serve at least some time in jail. In some cases, judges may sentence offenders to home detention or house arrest.

#### **B. Eligibility Criteria—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

Offenders with prior OWI offenses are eligible for the pretrial intervention program. In some counties, this includes second offenders; in other counties, participation is limited to offenders

with three or more prior OWI convictions. The policy regarding number of prior offenses used as an eligibility factor has also changed over time in some counties. Because assignments to the program are largely decided by judges, thresholds for number of prior offenses are often based upon decisions of individual judges. There have been counties where judges have considered assigning first-time offenders to the program.

Across the State, programs have been established in urban, suburban, and rural areas. Offenders are from a mix of background and socioeconomic levels. Males make up more than 80% of participants. Each individual county intervention program annual report provides data on the number and nature of offenders and outcomes. No data are available on all offenders since the beginning of the program. According to Wisconsin's 2006 State report, there were 4,868 program participants between October 2005 and September 2006. Of these, 2,774 participants (57%) had completed the program, 1,498 (31%) were still in the program, and 591 (12%) had dropped out or been removed for noncompliance. Completion rates have reportedly increased since the initial days of the program as typical startup problems get resolved.

### **C. Program Phases—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

Upon entry into the program, program staff interview offenders to determine the nature of their alcohol and/or drug use and to identify patterns of use that may indicate dependence. Programs do not use a common screening measure but have been working toward developing one.

Generally, offenders are referred for AODA assessment to a treatment agency certified by the State for conducting assessments and treatment. In most cases, the treatment agency is not the agency that manages the program.

Generally, offenders are referred to an assessor designated by the county to develop a Driver Safety Plan (DSP), designed to prevent future alcohol- or drug-related problems. The assessment facility files the DSP for each offender with the DOT. The assessment generally lasts about an hour. DSP assessments in all counties are conducted using a standardized instrument—the “Wisconsin Assessment of the Impaired Driver” (WAID). The DSP provides recommendations to the AODA treatment provider for consideration in developing the AODA treatment plan.

The agency that develops the treatment plan and provides treatment will not necessarily be the same agency that develops the DSP. Even if they are the same agency, the staff member in charge of treatment for an offender normally does not develop the DSP. Offenders must have completed a DSP prior to license reinstatement. The DOT has been encouraging completion of all offenders in the program, regardless of offenders' intention to reinstate. Program agencies have been working to have all program participants complete DSPs.

#### **C.1 Meeting with Case Managers—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

As part of their program participation, all offenders meet with case managers affiliated with the agency that conducts the pretrial intervention program. Meetings are conducted on a regular schedule pre-determined by the ISP Case Manager. Meetings provide an opportunity to monitor offenders through interviews and to conduct drug and alcohol testing. Missed meetings can indicate that offenders may be drinking or using drugs. Case managers will write reports regarding program participation. Information will include updates on program activities and

compliance levels. The reports are submitted to the appropriate Circuit Court, District Attorney's Office, and defense counsel before court appearances. In addition, there may be information submitted to the courts regarding specific incidents needing immediate attention.

## **C.2 Treatment and Program Components—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

Not all offenders receive treatment for AODA. Offenders who opt not to participate in the program (at the risk of increased sanctions) cannot be compelled to attend treatment for AODA. Theoretically, those who choose to participate in the program and who wish to receive AODA treatment usually receive it, though there are areas where funding issues have reportedly limited availability to such treatment.

Because the length of program participation is relatively short, the period of treatment is relatively short. In some counties, judges and program agencies have taken steps to lengthen the treatment period as needed. For example, they may obtain commitments from participants to continue treatment after they complete the program, or they may lengthen the period between arrest and final trial date. Private health insurance or county vouchers cover the costs of outpatient treatment.

Not all counties in the Wisconsin program require absolute abstinence from alcohol to participate in the program. When an intake assessment or other evidence suggests that a particular offender's situation warrants it, abstinence may be required. Milwaukee and some other participating counties require all participants to abstain from using alcohol and other drugs.

Clients may be encouraged to attend self-help groups or similar programs when the intake assessment or subsequent evidence warrants it, but there is no requirement.

### **C.2.1 House Arrest and Alcohol Monitoring or Alcohol Ignition Interlock Devices**

Some counties in the pretrial program have begun using the SCRAM™ devices with clients. It is too early, however, to report on their experience with SCRAM™. House arrest and use of ignition interlock devices are not considered a standard part of the pretrial program. In individual cases, judges may elect to assign offenders to these technologies in order to monitor these offenders more effectively.

### **C.2.2 Victim Impact Panels**

Program participants may be required to attend a VIP. The purpose of these panels is to expose offenders to the consequences of drunk driving suffered by offenders and victims who have been involved in impaired-driving crashes. Different agencies are responsible for running the VIP depending on the individual county.

## **D. Costs—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

Historically, funding includes a combination of Federal (Section 410), State, and county funds. County contributions come from county or municipal budgets, client (offender) fees, and other public or private sources. As each county program matures over the first 4 years, county funding is expected to increase substantially, as Federal funding decreases to zero. Table 10 (reprinted from the State Annual Report) shows the shift in funding over the first 4 years.



**Table 10. Annual ISP Funding Source Allocation Schedule**

Year	Local Funding Share	Funded with Federal or State Money	
		Federal Section 410 Funding	State ISP Grant Program Funding
Year 1	25%	67%	33%
Year 2	30%	50%	50%
Year 3	35%	33%	67%
Year 4	50%	0%	100%

**E. Potential Issues—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

The following are potential program issues in Wisconsin.

**Table 11. Program Issues—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

E.1	Lack of Standardization	Each program is tailored to a specific community and the philosophies of the local judges. The elements of a pretrial program, which make it effective, are not necessarily adopted by judges in establishing requirements for an offender. There were reports of judges who were not taking full potential advantage of the program, and judges who might be expecting more from the program than it can provide (e.g., wanting to assign more offenders to the program than it can effectively accommodate).
E.2	Treatment Duration	The duration of pretrial treatment is significantly shorter than in other ISPs. Some of the Wisconsin programs have recognized this and may increase the length of treatment.
E.3	Funding Issues	Due to a shortage of State funds, after 2008, there will be no guarantee of continued funding to county programs currently being funded. New programs may be funded. Counties also fund a portion of the programs and so have influence over how the programs are run, which if based on political issues, may not contribute to the success of the program.
E.4	Treatment Certification	Aspects of pretrial program participation, such as case management and creation of a Driver Safety Plan (including assessment), are considered part of the treatment process. Depending on the program, staff conducting these may not be certified to provide treatment for addiction to alcohol or other drugs. In some cases, participants may never encounter certified treatment providers as part of their participation in the program.

**F. Conclusions—The Wisconsin Pretrial Intoxicated Driver Intervention Program**

The Wisconsin Pretrial Intoxicated Driver Intervention Program is a state-level pretrial monitoring system in which separate programs are operated at the local level by private agencies, with oversight and some funding provided by the State DOT. Compared to most other programs

under study, offenders in the Wisconsin programs participate for a relatively shorter time—a period of a few months, compared with other intensive supervision programs under study, where offenders may participate for a few years. In most cases, pretrial program participation in Wisconsin lasts from arrest to trial. The primary motivation for offenders to participate is the expectation that judges will lighten sentences for program participation.

Although core elements of the program are the same for all counties, the nature of the program for any given offender is primarily a function of conditions set by the court for that case. Additionally, because these are essentially county-run programs, many decisions made by the county and county agencies affect program delivery and outcomes. The particular nature of a county's program is affected by decisions made by the county's program provider and the county's Health and Human Services Department, which allocates funds for the delivery of AODA treatment services to those not insured or underinsured, and any aspects of the program set by the county government.

Depending on how long a county's program has been in operation, a mixture of Federal, State, and county funds will cover program costs. Although program funds come from various sources, the offender's insurance covers a portion of the treatment costs, or if the offender's insurance does not cover those costs, the county covers them. Generally, offenders do *not* pay a large share of the cost of the program.

Since the start of the program, interest has been sufficiently high (maintained) so that 13 counties are participating and more would like to participate. Funding issues have limited the number of counties that can participate. There will be State funding after 2008, but no decision has been made as to which of the current programs will receive funding and which new counties will receive funding to start new programs.

## INDIVIDUAL SITE ISP CASE STUDIES

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### I. 10<sup>th</sup> District Court, Minnesota “Staggered Sentencing for Multiple DWI Convicted Offenders” Program

The “Staggered Sentencing for Multiple DWI Convicted Offenders” program is a DWI Court where the staggered sentencing method forces repeat DWI offenders to earn probation time in lieu of some jail time. (Minnesota law<sup>5</sup> requires that, upon conviction, repeat DWI offenders must be incarcerated for *some* amount of time, be monitored for alcohol use for *some* amount of time, and they must pay certain fines.) A unique feature of this intensive supervision program is that *the burden of sustaining and proving sobriety falls on the offenders*. The court retains contact with these repeat DWI offenders over a longer period than with traditional sanctions (sometimes as long as six years). Therefore, there is a greater chance to disrupt destructive behavioral patterns (e.g., drinking that can lead to impaired driving) by motivating the offenders to commit to behavioral changes over the years of sustained contact. In exchange, the offenders have a chance to serve less time in jail and/or to reduce their time and money spent on alcohol monitoring.

#### A. Process Description—Staggered Sentencing Program

The relatively long probation period (typically 3 years, but it can be 6 years or longer)<sup>6</sup> and the frequent, uniform contact with the probation officer (typically monthly) and the judge (twice a year) provide a lengthy period of oversight and are integral to the structure of this form of staggered sentencing. Sobriety is mandatory and usually a remote electronic alcohol monitoring (REAM) device is mandated for part of the probation period.

By following a set protocol to *earn* the reduced sanctions (i.e., appearing in court on set dates to petition for forgiveness and providing proof of adherence to the court-ordered program), these offenders are taking responsibility for their actions. The desired effect on repeat DWI offenders is: to provide goals for them to strive to meet, insist that the offenders take an active role in their case, and encourage the offenders to positively change their lives by providing structure, support, and direction from an officer of the court who stays involved over an extended period of probation. The desired effect of this program on public safety is to reduce repeat DWI offenders’ rates of recidivism.

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5 Minnesota Statutes §§ 169A.44 (conditional release), 169A.275 (nonfelony DWI sentencing), 169A.276 (felony DWI sentencing), 169A.277 (long-term monitoring), 169A.73 (remote electronic alcohol monitoring program), and 169A.285 (penalty assessment).

6 M.S. § 609.135, subd. 2, governs the maximum length of a stay of sentence (which in turn defines the probation period), with the maximum stay being: 2 years for misdemeanor DWI (versus one year for most non-DWI misdemeanors), and 6 years for gross misdemeanor DWI (versus 2 years for most non-DWI gross misdemeanors). The longer maximum probation periods for DWI offenders are in recognition of the need for longer court supervision of offenders committing crimes involving chemical dependency.

## **B. Eligibility Criteria—Staggered Sentencing Program**

Typical program participants have had two or more DWI offenses. The program accepts offenders with no other criminal convictions. Offenders with records of assault or disorderly conduct are typically not permitted into the staggered sentencing program, although there are some exceptions. Offenders must have entered a straight guilty plea to be eligible and must agree to all of the staggered sentencing program requirements.

## **C. Offenders in the Program—Staggered Sentencing Program**

Approximately 100 offenders have completed the program to date with about another 100 offenders from four counties currently participating. An evaluation by the Legislative Analyst with the Research Department of the Minnesota House of Representatives reported a 50% reduction in recidivism for the 61 staggered sentencing offenders compared to the statewide recidivism rates of similar categories of repeat DWI offenders in the same timeframe. The program reduced, on average, 52 days of jail time per offender. At the conservative per diem cost of \$60 per day, that saved more than \$3,000 in jail costs per offender. More importantly, the report states that further savings will be realized by the 50% reduction in recidivism.

## **D. Program Phases—Staggered Sentencing Program**

The staggered sentencing program essentially divides the jail and electronic alcohol monitoring sanctions of offenders with multiple DWI convictions into smaller, separate time segments. This segmentation of the sanctioning period provides the offenders an incentive to stay sober and refrain from drinking and driving by offering to stay<sup>7</sup> and eventually pardon segments of the sanctions if the offenders prove they have remained sober and are making positive progress. As an example, a 90-day jail sentence may be broken out into 30 days the first year, 30 days in the second year, and 30 days in the third year of probation.<sup>8</sup> Offenders are encouraged to file motions each year that can stay subsequent segments of jail time or electronic alcohol monitoring sanctions, *provided the offenders can demonstrate sobriety and lifestyle changes*.

Probation violations result in warrants for arrest and incarceration or summons to a hearing. If a program participant is reported for alcohol usage or re-appears in court on a new DWI charge, the offender is immediately incarcerated. For any minor, non-alcohol-related offense, a notice of probation violation is issued and a hearing is held. Typical sanctions for minor probation violations include repeating one of the phases and lengthening the probation period.

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<sup>7</sup> A judicial order to temporarily set aside an action pending some event or outcome, or until the court lifts the order.

<sup>8</sup> A first DWI offense in Minnesota is typically a misdemeanor; repeat offenses within a 10-year period are either gross misdemeanors or felonies, depending upon their number, where four or more within 10 years is a felony. (Note that a high BAC—>.20 and child endangerment—are used to enhance criminal penalties only for misdemeanor and gross misdemeanor DWI crimes. Those factors also enhance administrative sanctions for all DWI violations. They cannot, however, be used to enhance a DWI crime to the felony level. Only prior DWI offenses within a 10-year period can enhance criminal penalties to the felony level, in that four or more DWI offenses within 10 years is a felony, and following conviction for a felony DWI, every subsequent DWI is also a felony, irrespective of the time lapse). Although the maximum sentence of incarceration for a gross misdemeanor is one year, consecutive sentences of up to 3 years may be permitted for repeat DWI offenses deemed gross misdemeanors (when combined with other DWI-related misdemeanor and gross misdemeanor crimes such as driving after revocation or driving without insurance).

### **A.1 Constitutional Considerations and Reversing the Assumptions of Traditional Probations—Staggered Sentencing Program**

Under *this* version of staggered sentencing, the full sentence to jail (i.e., the sum of the jail segments as initially sentenced) is considered as having been ordered to be *executed*. Then, as any segment after the first one is forgiven, that segment shifts from being *executed* jail time to being *stayed* jail time. This is an important distinction, as it means that *the court does not have to revoke any of the offender's probation (i.e., stayed jail time)* when ordering a person to serve the next segment, *as that segment of time has already been ordered by the court at the time of initial sentencing to be executed*. Thus, with staggered sentencing, the court does *not sentence the person multiple times*, which would violate constitutional protections; rather it sentences the offender only once, but to multiple segments. Not only is this constitutional, but as a practical matter, this also makes the role of the probation officer and the judge much easier because a subsequent segment of jail, already ordered to be served beginning on a specific date, must indeed be served unless it is stayed. The court does *not* have to go through a probation revocation hearing, and the probation officer does *not* have to compile extensive documentation of the person's probation violations, as would be necessary for a probation revocation hearing. The prosecution does *not* bear the burden of persuasion by *clear and convincing proof* (burden on the State for probation violation) but rather *the burden of persuasion shifts to the offender*.

### **E. Costs—Staggered Sentencing Program**

Most of the costs of this staggered sentencing program are borne by the offender, except for the cost of incarceration. Offenders pay fines, pay for their treatment, and pay for the costs of the electronic alcohol monitoring. The alcohol monitoring systems for use in their residences cost \$8 to \$14 per day to lease from private vendors. Indigent offenders and those needing some financial assistance to pay for the monitoring service may apply for funds from a State grant program.<sup>9</sup>

### **F. Conclusions—Staggered Sentencing Program**

To summarize, staggered sentencing effectively reverses the presumption of traditional probation. Under traditional probation, the probationer is presumed to remain out of jail, unless he or she significantly violates a condition of probation. In contrast, under this form of supervision, the offender will indeed return to jail for the next segment as initially ordered, unless he/she actively complies with the conditions of probation, including actively participating in his or her sobriety. Under traditional sentencing, such accountability for the offender is hard to match.

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<sup>9</sup> As cited herein, according to a policy brief by Jim Cleary from the Research Department of the Minnesota House of Representatives, as much as \$765,000 has been appropriated annually by the legislature to fund this grant program.

## **II. Clark County, Nevada “Serious Offender Program”**

The Clark County, Nevada, Serious Offender Program (SOP) has been in place since January 1998. It is essentially a diversion program for third-time DUI offenders, which is a felony offense in Nevada if within 7 years of another DUI offense. It allows these DUI offenders to reduce the third offense to a misdemeanor second offense (although it remains as a third DUI offense on the driver license record) and avoid 1 to 6 years of prison, in exchange for agreeing to participate in the program. Because program participation occurs prior to sentencing, it is described in this report as a “pretrial” program. Participants who remain in the program through successful completion serve no jail time for that particular offense. Jail sentences for nonparticipants can range from 1 to 6 years by law, though most sentences are for 1 year and rarely extend beyond 3 years. It should be noted that legislation was passed in August of 2007 which effectively changed the SOP into a DWI court. The description in this report is of the program as it operated prior to the 2007 legislation.

### **A. Program Description**

Offenders who wish to participate in the program request an interview with SOP staff. The interview occurs before the initial arraignment. To participate in the SOP, offenders must first plead guilty to the felony offense. The judge decides which offenders participate in the SOP and then stays adjudication of the felony offense. Offenders enter the SOP at this point after consenting to treatment and participation as ordered by program staff. Requirements of this program include, total abstinence from alcohol and nonprescription drugs and submission to random drug and alcohol testing throughout the duration of the program.

The program involves 3 years of intensive supervision where offenders meet with SOP staff anywhere from daily to monthly, including a period of house arrest, group and individual treatment sessions, participation in AA, use of an interlock device, and possibly an in-home breathalyzer for those who have difficulty maintaining abstinence. Program staff may also elect to assign clients to inpatient treatment or a halfway house, if necessary. Offenders pay for the costs of treatment, program participation, ignition interlock, and house arrest.

The house arrest agency is a division of the county jail and is responsible for installing equipment and monitoring offenders. SOP may request that house arrest officers visit offenders at any point in the program, including “compliance checks” for offenders who have moved to subsequent phases and are no longer under house arrest. House arrest officers will provide information to SOP regarding issues such as whether the home environment is conducive to continued sobriety, whether the client appears to have access to unreported, non-interlock-equipped vehicles, and whether the clients appear to be alcohol and other drug-free. House arrest officers are authorized to search the premises for alcohol and other drugs. Upon discovery of a non-interlock-equipped vehicle, these officers will install a club device on the vehicle and the key will be kept at the jail until clients are ready to install the interlock device.

If there is a serious violation of the terms of the program, a warrant is issued and the offender is arrested and taken to jail. Offenders will remain in jail until a hearing with the judge, by which time the prosecutor’s office will have discussed the case with SOP to determine whether SOP believes the offender would benefit from a second chance. A letter outlining the charges and SOP recommendations is sent to the prosecutor’s office, the judge, and the defense attorney.

When possible, officials will endeavor to keep offenders in the SOP, especially if it seems that participants have been working hard to comply. However, certain offenses, such as drinking and driving, chronic lack of compliance, and absconding from the program, will result in automatic revocation from the program.

Minor compliance issues identified by the SOP (e.g., relapses that do not involve driving, poor attendance at treatment, and failure to pay fees) will not result in jail or a hearing for offenders. The SOP may respond by putting an offender back on house arrest, requiring in-home breath-testing equipment, and/or increasing treatment levels, among other things.

One treatment agency handles most of the SOP clients. Group treatment sessions are composed of SOP clients only. The treatment providers are in close communication with the SOP regarding issues such as clients' attendance, progress, and potential problems.

### **B. Eligibility Criteria—Serious Offender Program**

Offenders may not participate if they were involved in crashes resulting in death or serious injury, have histories of violent criminal offenses or sex offenses, or have been program participants in the past. Historically, most offenders who applied were accepted. Before February 2006, an estimated 96 to 98% of applicants were accepted.

All candidates must live in the greater Las Vegas area, including Las Vegas, North Las Vegas, Henderson, and Boulder City. Those offenders who live in outlying areas must relocate to the Greater Las Vegas area, as the program and house arrest staff cannot properly supervise offenders who live 50 to 100 miles away.

### **C. Offenders in the Serious Offender Program**

As of October 2006, there have been 724 program participants. Of these, 194 were still in the program. Fourteen people died while in the program. Of the remaining 516 individuals, 344 (67%) successfully completed the program, and 172 (33%) were removed for noncompliance.

A few offenders decided they would rather spend 1 to 6 years in jail than 36 months under intensive supervision (understanding that most sentences are 1 year and sentences of 3 years or more are rare). Roughly, an estimated 2 to 3% of offenders who were potentially eligible decided not to participate either before or after their interview with SOP.

Racial, ethnic, and gender mix of the 724 program participants, include 56% Caucasian; 8% African-American; 10% U.S.-born Hispanic; 23% foreign-born Hispanic, and 3% Native American or Asian or Pacific Islander. Males accounted for 88% and females for 12% of program participants. No information on participant ages was readily available.

### **D. Program Phases/Components—Serious Offender Program**

The program lasts for 3 years and has four phases. The length of each phase depends on the offenders' progress. Phase 1 includes house arrest. Phase 2 may involve house arrest also, depending on offenders' performance. While under house arrest, offenders may go to work and attend treatment. All phases include treatment, with both individual and group counseling. Offenders are required to keep interlocks on all vehicles to which they have access. Offenders may be required to provide BACs at home using home breath-testing equipment. The SOP began

using the SCRAM™ on a few offenders starting in late December 2006. They will likely be using it more in the future. Table 12 shows the requirements for house arrest and treatments in each program phase.

**Table 12. Elements of Program Phases**

Phase	Approx. Time	House Arrest	Treatment	
			<i>Group Therapy Frequency</i>	<i>Individual Therapy Frequency</i>
1	7-10 months	Yes	Twice weekly	Once weekly
2	6-8 months	Possibly	Once weekly	Once weekly
3	3-24 months	No	Every other week	Every other week
4	6-8 months	No	Every 4 <sup>th</sup> week	Every 4 <sup>th</sup> week

Movement through phases is not unidirectional. Offenders who move from one phase to the next can be sent back for poor performance. Participants who do not get to level 4 can still graduate from the program, provided they have served their 3 years in the program. The majority of clients do not make it to level 4, due to noncompliance, relapse, or other problems. Still, participants are motivated to progress from one phase to the next due to decreasing levels of supervision.

In rare instances, clients will not feel ready to end their treatment at the end of 3 years and will want to continue with the program. The cost of treatment includes up to 1 year of aftercare free of charge. The SOP staff believe that returning clients can be helpful to those still in the early stages of treatment by providing support (e.g., through relating lessons learned) and by representing examples of lives improved by successful completion of treatment.

**D.1. Treatment—Serious Offender Program**

Treatment most often takes the form of visits to an outpatient facility for both individual and group treatment sessions. In some cases, an offender will be admitted to an inpatient treatment facility. Treatment begins with assessment using standards set forth by the American Society of Addiction Medicine Patient Placement Criteria (ASAM PPC-2R), and using the Diagnostic and Statistical Manual of Mental Disorders, fourth edition (DSM-IV) for diagnosing alcohol/drug abuse/dependence disorders. Treatment providers may also use the Nevada Health Information Provider Performance System (NHIPPS), which is a secured Web site that can be used as a screening tool, evaluation program, and case management system. The course of treatment is guided by the assessment results, and reassessment is ongoing.

Group treatment lasts 75 to 90 minutes. Group sessions include a maximum of 15 people comprised of SOP clients only. The SOP staff feel that isolating its clients benefits participants because relatively less-violent SOP clients are not exposed to clients whose problems may be more severe and because group members have more in common (e.g., the SOP program). They are therefore better able to provide each other with moral support. During the program, SOP clients reportedly come to know fellow group members well, and support from other SOP clients in the group treatment environment is important to the successful completion of treatment for



many clients. Groups are gender specific. Based on experience, the SOP staff feels that members of mixed-gender groups become distracted by socializing, and that differences in communication styles and approaches to treatment between males and females lead to better results if groups are of one gender.

Individual treatment sessions last about 50 minutes. One-on-one counseling allows treatment providers to address the unique problems of each client and allows offenders to discuss personal issues that they may feel uncomfortable discussing with the group. Staff members who provide individual therapy have master's degrees and some training in mental health.

## **D.2. House Arrest**

Participants are under house arrest during the first phase of the program. House arrest officers visit at any point in the program. Participants must sign a house arrest inmate contract that stipulates house arrest conditions. Offenders must register their residence and telephone number with house arrest officers. Without first notifying and getting consent from the house arrest officers, offenders may not change residence or their telephone numbers. Offenders must also have an operational landline-based telephone for house arrest and for alcohol-monitoring equipment.

Officers gather information about aspects of offenders' daily lives that may affect or reflect sobriety, such as relationships with family and significant others, orderliness of the household, and signs of substance use by others in the household. Officers receive training in identifying attempts at deception. Offenders are instructed to ensure their households are free of illicit drugs and alcohol. Offenders sign a waiver of their right to privacy, which allows house arrest officers to search the premises for drugs, alcohol, or other signs of noncompliance. Officers may extend their search to household trash. House arrest officers also telephone offenders to listen for speech indicating drinking or drug use. They also may visit offenders at work.

Officers will look for signs that an offender has access to a non-interlock-equipped vehicle. Officers may conduct surveillance to determine whether offenders are driving noncompliant vehicles.

House-arrest equipment (which includes ankle bracelets, receivers, telecommunication devices, and sometimes in-home breath-test equipment with cameras) is leased by the county jail from a local house-arrest equipment provider. Use of home breath-testing equipment has made it possible to include offenders on the program who live farther away than would have been practical previously.

## **E. Costs—Serious Offender Program**

Offenders bear nearly all costs of the program, including treatment, house-arrest fees, ignition interlock, and victim impact panels (VIPs). Offenders pay a fee of \$10 a day for 6 months of house arrest (\$1,830 total). Offenders are allowed to pay off the costs over the 3 years of the program. Thirty dollars of the total is the startup fee. A sliding fee is available for those with very low incomes and disabled or elderly clients on fixed income. The fee helps defray the cost to the county of providing house arrest and saves an estimated \$105 a day it would cost to keep the offender in jail. It has been reported that the SOP has resulted in a savings of more than a half million dollars annually to the Nevada Department of Prisons. House-arrest officers will not

arrest clients for nonpayment of fees. They will make payment arrangements with clients because they believe both the offenders and the county are better served by having people in the program than in jail.

In some cases, offenders may be given a discount if the family's income can be shown to be particularly low. The house-arrest division may provide a discount of 50 or 100%. The primary treatment facility may reduce fees from 50% to as much as 80% for the disabled. The SOP may provide discounts of 50 or 100%. Discounts are relatively rare though, and there is a belief that paying for services has the twin benefits of reminding participants of the value (and importance) of the service and reducing discretionary income that could be used to buy alcohol.

#### **F. Conclusions—Serious Offender Program**

To summarize, the Clark County, Nevada, Serious Offender Program is a pretrial, diversion program for third-time DUI offenders (within 7 years of a prior DUI offense) that combines a requirement of abstinence from alcohol and other drugs, house arrest, ignition interlock, treatment, attendance at VIPs, and offender responsibility for payment for program participation. The SOP members work closely with the house-arrest agency and the courts to ensure offenders successfully complete the program or receive sanctions for noncompliance.

### **III. Westchester County, New York, “DWI Enforcement Program”**

The Westchester County DWI Enforcement Program operates out of the Criminal Supervision Bureau of the county’s Department of Probation (DOP). Under this program, 14 probation officers from the DWI Enforcement Program manage a caseload of approximately 1,300 cases each year. The probation officers monitor offenders’ adherence to program conditions and enforce sanctions for noncompliance. *All* DWI offenders in the county are required to participate in the program or serve a full jail sentence. The length of participation depends on whether the probationer has been convicted of a misdemeanor (3 years) or felony (5 years). The program requires that offenders meet with probation officers, participate in treatment, submit to unannounced drug tests and residence checks with warrantless searches, use an alcohol ignition interlock on the vehicle they drive, attend a VIP, and attend AA or Narcotics Anonymous (NA) meetings. Noncompliant offenders are incarcerated.

Most offenders convicted of DWI in Westchester County accept probation with special DWI/DWAI (driving while ability impaired) drug conditions. Some offenders, however, may choose jail over probation because they view incarceration as requiring less effort and commitment to lifestyle changes and may actually involve less time than participating in the Westchester County DWI Enforcement Program. In either case, the period of incarceration varies depending on the offense. Misdemeanor DWI offenders can be sentenced to up to 1 year in the local penitentiary; however, this is often reduced to 9 months or less for good behavior. Felony DWI can result in a sentence of between 1 and 4 years in a State penitentiary. Parole and other release programs may reduce the period of the sentence, and time spent in minimum security facilities and halfway houses may count toward the time served. Offenders who violate probation can be re-sentenced to the full original sentence, regardless of the amount of time spent on probation.

Nearly all functions of the ISP are performed by the probation officers. They have the authority to issue tickets for DWI and other motor vehicle offenses and to arrest probationers found to be in noncompliance with their program.

#### **A. Program Description—DWI Enforcement Program**

After offenders are arrested, a date is set for a court hearing. The time between the arrest and the final hearing varies, but it may take several months before a plea is entered. After the plea is entered, it takes an additional 6 weeks for the probation department to write a pre-sentencing report. Pre-sentence reports provide sentencing recommendations. In all DWI/DWAI drug cases, when probation is recommended in lieu of incarceration, special conditions are recommended. These conditions form the basis of the DWI Enforcement Program. The probation department will recommend that judges impose these conditions, though it is ultimately up to the judge to decide which conditions to impose.

Between arrest and trial, offenders go to jail until released on bail. If they cannot make bail, offenders will remain in jail until their trial. Upon conviction, offenders are not generally incarcerated while they await sentencing. Offenders are generally sentenced to probation. This means that program participants will not generally be incarcerated for any significant time before probation. In a few cases, offenders may be given “Shock Probation,” which involves incarceration of no more than 60 days for misdemeanor cases. This happens when offenders do

not cooperate with the courts or police, when there are unusual circumstances of the crime or multiple crimes involved (e.g., possession of drugs, reckless driving), or if the case involved injuries. Those sentenced to Shock Probation for felony DWI offenses can get up to 6 months incarceration for similar factors, though some of that time may include time served in jail between arrest and sentencing if the offender was not released on bail.

The probation department conducts its own assessment of the offenders' circumstances and needs using an in-house assessment tool called "Correctional Offender Management Profiling for Alternative Sanction" (COMPAS). COMPAS includes three questionnaires that are completed based on an examination of official records and an interview with the offender. The first questionnaire covers criminal history and assesses risk for criminal activity. The second includes questions about an offender's friends, family, finances, residential stability, social situation, employment, education, mental health, substance abuse, and attitudes toward criminal activities. The last questionnaire asks the participants about their ability to avoid problems in the future.

When offenders are first assigned to the program, they meet with their probation officer and the supervisor of the program. In this meeting, offenders are informed of the requirements of the program. Conditions of Probation are read and explained to each offender. The officers and supervisor endeavor to make offenders understand that they will be held accountable for their actions and that failure to comply will result in swift and sure sanctions.

### **B. Eligibility Criteria—DWI Enforcement Program**

All DWI offenders must participate in the program or be prepared to appear before the court on a violation of probation to face incarceration. This includes those convicted of a first DWI offense. Many first-time offenders plead down to a lesser charge of DWAI, so those convicted of a first DWI are generally second-time offenders. It was estimated that 98% of offenders convicted of a first DWI in Westchester County had actually had a prior offense that was reduced. There have also been cases of offenders who had a first offense reduced to a DWAI, and a second offense where they were convicted of a misdemeanor with "conditional discharge," which further forestalls participation in the program. In such cases, an offender would need three offenses before being assigned to the program as part of probation. This is reportedly happening less frequently as new laws are enacted and as judges and other officials begin taking impaired-driving offenses more seriously.

DWI offenders with past convictions for sex offenses or domestic violence are not eligible to participate in the DWI Enforcement Program; instead, they are referred to the Probation Sex Offender or Domestic Violence Units. However, the Special DWI Conditions apply and the DWI Enforcement Unit will assist with surveillance and enforcement of the DWI conditions when requested.

### **C. Offenders in the Program—DWI Enforcement Program**

Approximately 7,000 probationers have been supervised under this program since its inception in 1993. Reportedly, about 85% complete their probation and treatment program successfully. Statistics on demographic characteristics of participants are not available at this time.

## **D. Program Phases/Components—DWI Enforcement Program**

In phase 1, offenders must enter and complete treatment in an Office of Alcohol and Substance Abuse Service (OASAS)-approved program. In phase 2, offenders demonstrate a sober lifestyle for 1 year after completion and participation in a 12-step support program. In phase 3, offenders become eligible for driving with an ignition interlock (based on approval). In Phase 4 supervision requirements continue, but at a reduced level. If evidence of relapse is found, the offender is returned to phase 1.

Probation officers track the progress of offenders through the program using a probation-monitoring program called C-tag. The database can be accessed via the World Wide Web. From the field, probation officers with Personal Digital Assistants (PDAs) with telephone and wireless Internet technology can access C-tag and other information (e.g., interlock data). The database includes demographic information, such as the offender's age, ethnicity, marital status, and number of children. The New York State Division of Criminal Justice Services documents the re-arrest of an offender in the program and notifies the probation department of the new arrest.

### **D.1. Meetings with Probation Officers**

Offenders meet with probation officers between one and four times per month, including residence checks. As offenders progress through the program, the requirements for reporting to probation officers are lessened.

Probation officers in this program only handle DWI cases, including Vehicular Manslaughter or Assault cases. This is reportedly more effective than handling DWI cases along with other types of cases (sex offenses, larceny, burglary, etc.). Probation officers carry arms, as well as handheld breath testers (Intoximeter Alco-sensors) to check for alcohol use by probationers during residence checks. They also have oral fluid and urine-based drug-testing equipment to test for a variety of drugs. Probation officers reportedly have significant experience working with offenders addicted to alcohol and other drugs. All officers are trained in alcoholism/ drug addictions, and a supervising probation officer is credentialed in the field of alcoholism and substance abuse.

### **D.2. Treatment**

Participants must enter and complete an approved New York State Office of Alcohol and Substance Abuse Service (OASAS) treatment program. An offender's initial treatment is based on results of the intake assessment performed by the treatment facilities. Treatment staff will consider an offender's drinking history, including the number of prior drinking and driving offenses, and the nature of the offense.

There are many treatment centers available in the area. Facilities are chosen primarily based upon their proximity to an offender's home or work, though other factors, such as costs and insurance coverage, may also be considered. Cost of treatment varies between centers and as a function of the nature of treatment assigned. Some treatment facilities allow costs to be determined on a sliding scale that is based on the offenders' ability to pay, so that the cost of treatment is not an issue to indigent offenders.

The length of treatment will depend on the treatment providers' ongoing assessments of offenders' progress. Treatment providers interviewed said that treatment from one individual to the next varies sufficiently so that it is difficult to describe any "standard" type of treatment for clients from the DWI Enforcement program. Offenders will likely have individual and group counseling. A treatment provider reported that offenders requiring "intensive" treatment will have sessions 3 to 5 days a week for 3 hours per session. Offenders who do not participate in treatment as directed will remain in treatment longer. Offenders are responsible for the costs of treatment for as long as they are assigned to it.

Probation officers monitor offenders closely to ensure they do, in fact, schedule treatment and continue attendance according to the course of treatment established by the treatment facility. Program probation staff and treatment providers report that they work closely with each other. Probation officers have conferences with treatment providers when issues with a given client raise cause for concern. In addition to addiction treatment issues, program staff and treatment providers are concerned about treatment for mental health issues, which is often necessary for program participants.

### **D.3. Operation Nightwatch**

During all program phases, offenders are subject to unannounced evening and weekend residential visits and surveillances. This is referred to as "Nightwatch."

*Residential visits*—Probation officers visit probationers randomly or when there is evidence that offenders are or may be violating the terms of their probation. Evidence may come from reports from friends or family members, or attendance reports from treatment facilities. Visits may occur during the day but happen more often at night because that is when offenders are likely to be drinking. Probation officers will search the premises for evidence of alcohol or other prohibited items or activities. They may also go to known drinking establishments frequented by offenders. They may talk to family members and neighbors. Offenders found to be highly intoxicated will be taken by probation officers and/or ambulance to a detoxification facility in the area. A pair of probation officers may visit from 2 to 25 offenders in an evening depending on the distance to offenders' residences and outcome of visits. Probation officers conduct residential visits in teams of two. The officers are armed and wear bulletproof vests. Probation officers confiscate any and all weapons.

The program sees an advantage of having probation officers from the DWI Enforcement program make these visits, compared to visits from other officials (e.g., regular police officers), because the probation officers are more familiar with program guidelines, have a greater ability to identify infractions, and are more familiar with the offender and his/her circumstances. Another advantage in having the arrest function contained within the probation department is that the process of determining an arrest is necessary, then arresting the offender and getting him/her before a judge can be accomplished more quickly. This helps get potentially dangerous offenders out of the community faster and communicates to offenders that enforcement of program requirements will be swift. Offenders who are not removed from the program continue with an understanding that noncompliance will not be tolerated.

*Surveillance*—Surveillance is conducted when probation officers suspect offenders are driving or otherwise violating the terms of their probation. To aid in surveillance, the program uses an unmarked vehicle that has emergency lights and a siren but is unlike typical police vehicles. This vehicle can be equipped with a video camera so that evidence of violations can be recorded. Officers may wait outside offenders' homes, VIPs, treatment facilities, or other places where offenders may go to determine whether offenders are driving. Offenders who are caught driving in violation of their conditions of probation are ticketed and/or arrested by probation officers.

#### **D.4. House Arrest**

Electronic home monitoring is used for cases where late-night alcohol testing and/or curfew are required. Sometimes the assignment of electronic monitoring occurs because of the presentence investigation. More often, it is imposed because of a violation of probation. Electronic home monitoring generally lasts from 6 months to 1 year and, in rare cases, may be extended for noncompliance. The electronic device used is a standard house arrest ankle bracelet. Sometimes, electronic monitoring also requires use of a home breath-testing device that communicates test results by telephone. Some devices include GPS technology for tracking offenders' movements and location. Electronic home monitoring is used rarely in Westchester County. Reportedly, 51 offenders use home monitoring, and approximately 20% of those are DWI offenders. This suggests that only about 10 of 1,300 DWI offenders in Westchester County were using electronic home-monitoring equipment.

#### **D.5. Driver's License Sanctions**

Drivers' licenses are suspended by the DMV as part of the penalty for the drink-driving offense. In misdemeanor cases, offenders can be considered for full license reinstatement 1 year after the completion of treatment (except when there are injuries or children are in the vehicle). For hardship cases, judges can assign an offender a 1-year conditional license immediately after treatment is completed. Such a license requires use of an interlock during that year. In felony cases, offenders must demonstrate 1 year of sobriety after completion of treatment. After that year, offenders are eligible for conditional license reinstatement with an interlock device for the duration of their original sentence unless a judge orders otherwise.

Offenders may be granted "Travel Permits" that allow them to travel out of the county for business, family emergencies, or (less frequently) family travel. In such cases, probationers must show that travel will not interfere with their treatment.

When a license is initially suspended, the probation department works with the DMV to enter a "Probation Prohibit" into the offender's driver record. This prevents the offender from reinstating the license without a letter from the probation department indicating that it has no objection to reinstatement. "Conditional" licenses are also blocked by the "Probation Prohibit."

To reinstate their licenses, offenders must meet requirements of both the DMV and the probation department. The probation department's requirements are reportedly more stringent than those of the DMV. Once probationers have met the requirements of the program, the probation department will consider lifting the "Probation Prohibit."

## **D.6. Alcohol Ignition Interlock Devices**

Misdemeanor cases can be approved for ignition interlock during the first year after completion of treatment if offenders can demonstrate hardship. They must still demonstrate sobriety during that year, as required by the program. Interlock use is mandatory for all felony cases if they desire to drive after meeting program guidelines. The program requires that drivers who are reinstated have an ignition interlock on any vehicle that they drive. At last count, there were 360 current and former probationers assigned to use the interlock.

The county has three companies that install and maintain ignition interlocks: Dräger, National, and Interceptor. The first two companies have been established a relatively long time. The third (Interceptor) is fairly new and offers some features that are not part of traditional interlock systems. These new features include a digital camera, which takes a wide-angle picture of the person blowing when the sample is taken; remote data upload via cellular phone signal after each sample is taken; GPS receivers that record the location of the vehicle when the sample is taken; and e-mail alerts to probation officers when a violation has been recorded. Interceptor maintains a Web site that allows probation officers to view offenders' data via the Internet, including pictures of the sample provider, BAC data, and maps showing the GPS location for each sample. Probation officers carry PDAs with Internet access, so theoretically, they can receive an e-mail report of a violation while in the field, go to the Web site and determine the location of the vehicle, and go to the site to investigate before the offender leaves.

All three providers download data monthly, and those data are available to probation officers online. All three interlock companies contract with companies that specialize in automotive audio and security systems. These companies handle all installation, maintenance, and data downloading. The companies schedule blocks of time, generally a half or a full day, once or twice a month, to handle interlock clients only.

Historically, one probation officer handles the cases in which an offender is assigned an interlock. This officer serves as the interlock expert for the program. He has experience reading and understanding interlock data so that he can discriminate between serious problems requiring immediate attention and issues that are not true problems (e.g., alcohol readings due to mouthwash). Recently, the number of cases involving the interlock exceeded the caseload of this officer; therefore, other officers have been assigned to probationers who have interlocks. The original "interlock officer" provides assistance to other officers in handling interlock issues.

As stated, offenders report to their interlock provider once every 30 days to have data downloaded from the device. The probation officer is immediately aware if an offender fails to appear for a scheduled download because the officer is present for the offender's appointment with the interlock provider. The probation officer's experience has been that violations most often occur in the early stages of the offender's time on the interlock. One advantage to being present when data are downloaded is that the probation officer is forced to look at the data at that time. Although it is possible to look at the data later, this option prolongs the process, instead of dealing more swiftly with any problems.

## **D.7. Random Drug Testing**

Both regular and random drug and alcohol testing is required for all offenders. Probation officers carry equipment for conducting urine and oral fluid tests during residence checks.



### **D.8. VIPs/AA/Community Service**

All offenders are required to attend a VIP. The program is run by the probation officers of the DWI Enforcement Program. A \$25 donation to Mothers Against Drunk Driving (MADD) is required for those who attend. There is a separate VIP for Spanish speakers.

Program participants are required to enter, participate, and complete an AA or NA 12-step support program and demonstrate a sober lifestyle for 1 year after completion of that program. They are encouraged to continue with that program after probation.

Community service is sometimes imposed as a condition of probation, based on the facts of a particular case and as sanction for violation of probation conditions.

### **E. Costs—DWI Enforcement Program**

Much of the cost of running the program comes from county funding of the probation department. Some funding comes from the State. Offenders pay fines and court fees at time of sentence. Program participants pay an administrative fee of \$30 per month to be in the program. This fee is in place for the duration of offenders' sentences. Offenders pay for the cost of treatment, which varies between facilities, and sometimes involves a sliding scale based on offenders' ability to pay. Offenders pay for the costs of the interlock, which varies between providers, but is roughly \$90 per month.

### **F. Conclusions—DWI Enforcement Program**

The DWI Enforcement Program in Westchester County, New York, is a comprehensive resource-rich program with specialized probation officers, trained in alcohol and substance abuse addiction, with authority to issue tickets, conduct warrantless searches of offenders' homes, and make arrests. The four-phase program encompasses treatment, sobriety, reinstatement of driving privileges with ignition interlocks when appropriate, and intensive supervision that gradually declines when offenders have met program requirements.

The DWI Enforcement Program staff believe a key to their perceived success is their ability to encourage but also enforce program compliance. A central philosophy of this program is that it is necessary to maintain a "balanced" approach to handling DWI offenders by offering help, in the form of treatment and guidance, while making it clear that lapses of compliance will not be tolerated and will result in speedy court intervention with swift and certain sanctions.

#### **IV. Driving Under the Influence of Intoxicants (DUI) Intensive Supervision Program (DISP), Multnomah County Circuit Court, Portland, Oregon**

Judge Dorothy Baker developed and implemented the program in 1998. Originally, it was limited to those with three or more offenses but was expanded in 2001 to include second offenders. This comprehensive, 3-year program requires intensive probation and close monitoring through in-office meetings and tracking via the Oregon violations' computerized databases and built-in punishments and rewards. The incentive for participation is reduced jail time. Offenders spend only 1 to 3 days in jail as they begin the program. Refusing DISP can lead to 60 days or more in jail, depending on the district attorney's request. Reduced jail time by participating in DISP has the added benefit of allowing the defendant to keep his/her job, which would likely not happen with an extended jail time. DISP defendants do not serve additional jail time unless they violate the conditions of probation. This is a voluntary program. To be eligible, offenders must have no arrests for violent crimes, and they must have been arrested for DWI at least twice in 10 years.

##### ***A. Process Description—DISP***

The DISP is characterized by active involvement of judges in working with the offenders (a requirement for regular review hearings; sanctions tailored to individual offender needs; electronic monitoring [ankle bracelet and a telephone-based remote alcohol-testing device]; testing for drug use, if indicated; court-mandated treatment; and some form of intensive probation or court-based tracking). The unique features of this 3-year program are the mandate that offenders sell all vehicles they own and the requirement to submit to polygraph tests. The relatively long probation period (typically 3 years, but it can be 6 years or longer) and the frequent, uniform contact with the probation officer (typically monthly) and the judge (twice a year) provide a lengthy period of oversight and are integral to the structure of this form of sentencing. Sobriety is mandatory and usually a REAM device is also mandatory for part of the probation period.

##### ***B. Eligibility Criteria—DISP***

Although entry is voluntary, once offenders have entered DISP, they are required to complete the program. Typical program participants have had two or more DUI offenses. Offenders with violent offenses, such as assault or armed robbery, are excluded. Offenders must have entered a straight guilty plea to be eligible, and offenders must agree to all of the sentencing program requirements.

##### ***C. Offenders in the Program—DISP***

Originally limited to offenders with three or more DUI offenses, the program has expanded to include all repeat offenders. The DISP has an impressive record: At the end of May 2004, 357 offenders had successfully completed the 3-year program and stayed off probation an average of 406 days. Only 10 graduates (0.7%) had reoffended. Court statistics indicate that the overall recidivism rate, including those who did not complete the program, is 12.5%—much lower than comparable groups.

### ***D. Program Phases—DISP***

The five goals of the DISP attempt to influence thinking and produce behavior changes that will reduce recidivism, increase quality of life for offenders, and decrease risk to the community. These include honesty regarding slips in drinking, drug use, or driving; zero tolerance of alcohol and drug use; zero tolerance of driving while suspended; mandatory treatment; and payment of monetary obligations, including court costs, fines, and cost of monitoring and treatment.

Offenders in the DISP receive similar initial sentences, based on the number of prior DUI offenses. The intervention components of sentencing include electronic monitoring, sale of all offender-owned vehicles, a short initial jail sentence, zero tolerance of alcohol or drug use, payment of fines, treatment, full-time employment, and complete honesty with the court. These probation requirements include regular verified through administration of random urine screens, hair follicle testing for drugs, polygraphs, and frequent contact with their probation officer or case manager (monitor). The conditions of probation are enforced by increasing sanctions for each probation violation. During the study, two judges have presided over the DISP.

Following DISP sentencing, offenders are required to attend monthly meetings with their monitor, during which offenders must provide documentation of work, 12-step meeting attendance, and treatment attendance. They are asked about any recent use of alcohol, other drugs, and about driving.

The monitor conducts initial assessments and refers the offender to treatment after release from custody. Treatment for DUI is legislated in accordance with the Oregon DUI statutes and the relevant Oregon Administrative Rules. Placement follows the uniform standards established for treatment of offenders by the Oregon Department of Human Resources. The usual outpatient treatment consists of group therapy for 3 to 6 months.

In years 2 and 3, compliant offenders who have met all the DISP conditions are transferred from intensive probation to modified enhanced bench probation supervision. All DISP participants meet with a monitor monthly while on probation. Every 6 months, all offenders complete a polygraph test (during which offenders are asked about alcohol and drug use and driving). Consequences for failed polygraph tests are determined for each case by the judge. Offenders are also required to verify employment and pay all fees, fines, and assessments.

Defendants are required to sell their vehicles and provide proof of the vehicle sale. Defendants are not allowed to sell or transfer vehicles to family members. Monitors also verify the vehicle ownership status for each defendant using the Oregon DMV Registration database. Electronic monitoring includes both an ankle bracelet and a telephone-based remote alcohol testing device. The bracelet provides verification of an offender's presence within the immediate vicinity of their residence. Offenders submit schedules that permit them to leave for all legitimate activities, such as work, counseling, court hearings, doctors' appointments, etc. Otherwise, offenders are required to stay home except for a few hours each week for shopping and assorted personal activities. DISP participants are subject to a 3-year drivers' license suspension; however, if they are compliant with the program and demonstrate a need to drive under specific circumstances, they are authorized to receive a limited license after one year.

Alcohol consumption is monitored using a “BI SOBRIETOR” connected to the home telephone. The device uses voice verification, fuel cell alcohol testing, and other security technologies to ensure proper identification of the person being tested and accurate testing of blood alcohol levels. The alcohol testing occurs several times daily at random intervals or upon demand. The monitoring center computer places a telephone call to the offender’s home and summons the defendant to blow into the Sobrietor by emitting an electronic siren. When an alcohol test returns a nonzero result, the monitoring center notifies the local Sentinel office. That local office immediately reports that information to DISP staff, who contact the offender and direct them to report immediately to the court. If the offender does not report to the court, an arrest warrant is issued. DISP requires a minimum of 45 days of electronic monitoring, but many offenders receive 60, 90, or 120-day sentences to electronic monitoring, depending on the number of prior convictions. At the discretion of the judge, extra days of electronic monitoring may be added at any time during probation for noncompliance. Jail and electronic-monitoring sanctions typically applied to offenders in the DISP are determined according to the number of previous DUI offenses. For a second offense, the offender spends a weekend in jail and has 90 days of electronic monitoring. For a third offense, they receive 5 days in jail and 90 days of electronic monitoring. For a fourth offense, the sentence is 8 days in jail and 110 days of electronic monitoring. For a fifth offense, the offender stays in jail for 10 days and has 130 days of electronic monitoring. For a sixth plus offense, the placement in the DISP program and sentencing sanctions are at the discretion of the judge.

#### ***E. Costs—DISP***

Most of the costs of DISP are billed to the offenders, except for the cost of incarceration. These costs include fines for treatment services and charges for electronic alcohol monitoring. The **maximum** penalty for a repeat misdemeanor DWI is 1 year in jail, a \$5,000 fine plus costs and assessments, a required alcohol and drug education or rehabilitation program, and attendance at one VIP session (\$10 fee). Maximum penalties for a felony DUI are 5 years in prison, a \$100,000 fine, and treatment and rehabilitation programs assigned for misdemeanor charges. Offenders pay from \$25 to \$40 per week for treatment, unless indigent. Providers may impose additional fees according to a sliding scale. All electronic-monitoring services and equipment are contracted through a private vendor, whose staff monitors the equipment, trains defendants to use the equipment, and tracks individual offender compliance. Offenders pay all costs and fees for electronic monitoring directly to the private vendor.

#### ***F. Conclusions—DISP***

The desired effect of this program on public safety is to reduce repeat DWI offenders’ rates of recidivism. The DISP is designed to change drink-driving behavior and to maintain these changes over the 3-year program, with the expectation that these lifestyle changes will become permanent. The requirement of obtaining/maintaining employment and dealing honestly with the court (e.g., taking personal responsibility) reinforces these prosocial behavior changes. This approach has much in common with DUI and drug courts: frequent judicial monitoring and close supervision; treatment; and the Community Reinforcement Approach to reducing substance use, which uses social, recreational, familial, and vocational reinforcers for positive behavior changes. By following a set protocol to *earn* the reduced sanctions (i.e., appearing in court on set dates to petition for forgiveness and providing proof of adherence to the court ordered-program),

these offenders are taking responsibility for their actions. The DISP provides goals for offenders and insists that they take an active role in their own cases. It encourages them to positively change their lives by providing structure, support, and direction from a judge who stays involved with them personally over an extended time.

## RURAL ISP CASE STUDIES

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### I. South Dakota, “24/7 Sobriety Project”

The South Dakota 24/7 Sobriety Program is aimed toward repeat DWI offenders and similar offenders who have had repeated convictions related to alcohol abuse. The judge uses the 24/7 program as a condition of bond or sentencing during the offender’s hearing. Depending upon the circumstances, judges may also require these offenders to undergo treatment, attend VIPs, and/or perform a certain number of hours of community service. The only alternative to the 24/7 Sobriety Project is to serve jail time. No data are available that indicate how many offenders chose not to participate in the program.

The 24/7 program was pilot tested in Minnehaha, Pennington, McCook, and Tripp Counties in South Dakota beginning in January 2005. A compliance rate of 99% was reported for the pilot test. The average period that an offender participates in the 24/7 program is 4 months, if the offender tests clean. The program coordinator reports that it is currently operating in 57 of the 67 counties in South Dakota.

#### A. Program Description—24/7 Sobriety Project

Each offender is assigned to a parole agent or law enforcement representative. All offenders must agree to the following:

- Twice daily preliminary breath tests around 7 a.m. and 7 p.m.
- Urinalysis tests when directed (usually every 10 days).
- Drug patch testing (every 10-20 days or so).
- Pay for each assigned test: \$1 for each breath test; \$5 for each urinalysis test; \$40 for each drug-patch test.

Offenders who cannot appear for the twice daily breath tests (because of their working hours; because of the distance they must travel in rural counties; and other legitimate reasons) must agree to wear the SCRAM™ ankle bracelet instead. The SCRAM™ records any alcohol consumption via alcohol vapor through the skin every 60 minutes. If offenders use the SCRAM™, they agree to pay \$5 a day to cover the rental costs. All collected funds go back to the specific county treasury. SCRAM™ failures are treated the same as breath-test failures: the offender goes back to jail.

Offenders also sign agreements to do the following:

- Not possess or consume any controlled drug or substance (including marijuana), nor be knowingly present where other persons are doing so.

- Not consume alcohol nor enter a bar or establishment where alcohol is offered for sale and consumption on the premises.
- Not consume any of the following for a period of at least 30 minutes before the preliminary breath test: mouthwash, toothpaste, cough syrup, carbonated beverages, and food or tobacco products.

### **B. Eligibility Criteria—24/7 Sobriety Project**

Offenders with at least one prior DWI conviction within the past 10 years are eligible for the 24/7 program. Offenders under these circumstances are normally sentenced to jail but can avoid some jail time if they agree to the 24/7 program: no alcohol; no visiting bars; and alcohol breath tests each day at 7 a.m. and 7 p.m. If the offenders have indications of other drug abuse, the judge can include periodic urinalysis tests and drug-patch tests. If offenders skip or fail any of the tests, warrants for their arrest are issued and they are sent back to jail to serve their original sentence.

Some of the more egregious offenders (three or more priors) may serve some jail time up front and then be assigned to the 24/7 program. The program also takes some domestic violence offenders, public intoxication offenders, and some fitness for child custody offenders.

### **C. Offenders in the Program—24/7 Sobriety Project**

A report by Mountain Plains Evaluation (January 2007) summarized an analysis of 24/7 offenders from 14 South Dakota counties. The data set included information on 1,074 offenders. More than half (52%) of the offenders were serving their second DWI conviction, and more than a third (36%) were serving their third DWI conviction. About 108 offenders (10%) had four DWI offenses. An overwhelming 95% were assigned to the 24/7 program before trial. Minnehaha and Pennington Counties accounted for almost two-thirds (63%) of the offenders. The average age of the offenders was 35 ( $\pm 10$  years s.d.). The youngest offender was 20 and the oldest was 81. More than a third (37%) of the offenders were younger than 30.

Reportedly, the offenders showed up and completed 165,456 tests (99.8% of the time) and missed or “no-showed” on 766 occasions. Of the 766 misses, 407 were for legitimate excuses. Offenders passed 99.3% of the breath tests. Of the 341 offenders who failed at least one test, 277 (81%) failed one or two tests.

### **D. Program Phases—24/7 Sobriety Project**

The offenders averaged 111 days in the 24/7 program, and all were scheduled to take alcohol breath tests twice per day.

### **E. Program Costs—24/7 Sobriety Project**

Because the offenders are paying for the breath tests and drug tests, the 24/7 program is reportedly self-sufficient. The South Dakota State 24/7 Coordinator reports that the program has saved 320,000 days in jail at \$70 per day. Reportedly, two of the nine Native-American reservations in South Dakota are using 24/7.

## **F. Conclusions—24/7 Sobriety Project**

The 24/7 program is perceived to be successful by State officials in South Dakota and is operating in a majority of the counties (85%). The program demands sobriety and checks on it by breath testing offenders twice per day over 4 months. With the 99% compliance rate from a reported 640,000 breath tests over 3 years, it appears to be successful while in force. The 24/7 Sobriety Project has not been evaluated to determine if it reduces the recidivism of offenders compared to a standard program.

## **II. Wyoming, “DUI Supervised Probation Program”**

The DUI Supervised Probation (DSP) program currently operates in Fremont County, Wyoming. The DSP program is a standalone program, designed for use in many different environments, including a standard court, a drug court, a treatment provider, a probation office, or other social service agencies. The DSP program serves rural communities where there are relatively high rates of impaired driving and where communities suffer from limited resources.

The DSP program began in September 2004 as part of a 3-year pilot project through a federal highway safety grant from the Wyoming Department of Transportation to Injury Prevention Resources (IPR) of Wyoming, a nonprofit agency. IPR provides direct services to residents in Fremont County and resources to communities throughout the State of Wyoming.

The DSP program provides direct supervision of DUI offenders to ensure that they comply with the conditions of court-ordered probation. About half of the offenders in the DSP program are Native American. The majority of program participants are typically drivers 18 years or older who have been convicted of DUI for the second time within 5 years and have been ordered by the court into the DSP. If the offenders refuse to report to the DSP, typically the court sentences them to the remaining portion of their original jail term. Eligible offenders must have no pending charges for violent offenses and not currently supervised by any other agency.

The DSP program is an intermediate step between unsupervised probation and Drug Court, which is intensive supervision probation for the highest-risk offenders. While the DSP may contain similar program components, it does not replicate services provided by other agencies.

### **A. Program Description—DSP**

The DSP program is individualized, comprehensive, and relatively long-term. During the first 3 months in the program, offenders are required to meet with their caseworker at least once each week. After the initial 3 months, contact with caseworker may be reduced to every 2 weeks, if the offender is compliant with the conditions of probation. After 9 months of compliance, contacts with caseworkers may be reduced to monthly. If after 1 year the offender has successfully completed all conditions of probation (as determined by the caseworker), the offender may petition the court for release from supervised probation. If not, offenders remain on supervised probation for up to 24 months and the court decides what course of action will be taken.

All DSP offenders must obtain a substance-abuse evaluation and complete treatment plans as recommended. Offenders must sign a release-of-confidentiality so that the caseworker can evaluate treatment documentation. Caseworkers also ensure that offenders complete their



treatment as ordered. Abstinence from alcohol and drugs is required with routine and random testing for evidence of alcohol and drug use. Offenders are required to have either full time employment, attend school full time, or perform community service and the caseworkers monitor all of these activities. Offenders also must pay all fines ordered by the court (including any unpaid fines from previous offenses). All offenders are required to attend a DWI VIP, and most offenders are also required to complete a DWI education course in addition to any professional treatment they receive. Attendance at regular AA meetings is required for many offenders, depending on the outcome of their assessment.

Compliance results in release from probation at the end of the required term. Caseworkers conduct exit interviews with each offender upon completion of the program. During the exit interview, offenders are asked about what was most helpful, least helpful, and most difficult for them. After 1 full year, offenders who complete all probation requirements successfully with no additional incidents are advised by their DSP caseworker that they may request to be moved to unsupervised probation or possibly removed from probation entirely.

Because the DSP program is individualized and based on the needs of each offender, the definition of noncompliant may vary. When offenders are noncompliant (as determined by the caseworker), the caseworker has several options available, including requiring the offender to attend additional AA meetings, to obtain an updated evaluation and treatment plan, to submit to daily alcohol testing, and/or to attend more frequent meetings with the caseworker. If an offender refuses to meet with his/her caseworker or is arrested for another DWI or alcohol- or drug-related offense, the offender is turned back to the court to determine what action will be taken (usually probation is revoked and the offender must serve his or her full jail sentence).

DSP caseworkers do not visit the residences of offenders, as this could be dangerous. However, caseworkers may make contact with offenders outside of DSP offices at a public location agreed to by the caseworker and the offender.

Throughout the offender's participation in the program, all offenses are documented. Offenses can range from incidents of relapse to new criminal charges. Examples include failure to meet with a DSP caseworker, not completing treatment requirements, nonpayment of fines, or continued use of alcohol. If an offender who has done very well on the program misses an appointment, the likely response would be limited to a discussion with him or her at the next appointment. An offender who continues to drink but is very honest about relapses might be ordered to attend daily AA meetings and twice daily alcohol testing, and more frequent meetings with the caseworker (with a note to the court advising of these additions). An offender who has only one relapse but refuses to admit it may be referred to the Prosecuting Attorney's office for a warrant. DSP caseworkers expect most offenders to fail at some point during the program (these are high-risk offenders who typically have not had a lot of success in their lives), but as long as the offender is working toward success, the caseworkers will continue to work with them. DSP defines failure as (1) refusing to meet with a DSP caseworker; (2) another DWI or alcohol/drug-related offense; or (3) dishonesty about compliance with conditions of probation (including dishonesty about continued drinking).

## **B. Eligibility Criteria—DSP**

DWI offenders aged 18 years and older are court-ordered into the DSP program. They must have no current pending charges for violent offenses. An offender who is currently on supervised probation with another agency (i.e., Department of Corrections, Fremont County Drug Court, Fremont County Youth Services) is not eligible for the DSP program. A criminal-history check is completed for all offenders before (or immediately after) sentencing to the DSP program. DSP offenders are most commonly second offenders (usually with one prior DWI in the last 5 years), or first offenders who either had a high BAC or refused to submit to chemical testing when arrested.

Offenders with more than two prior DWI arrests within 5 years are eligible to be considered for Drug Court. There are two adult Drug Courts in Fremont County with two judges presiding over each. One is through Tribal Court on the Wind River Indian Reservation and is for Tribal members only. Sometimes, a third offender is brought before Drug Court, and the Drug Court screening team thinks he/she might do better with the DSP program. DSP officials work with the Drug Court on these issues. In Wyoming, a fourth DWI offense is a felony. Felony offenders are not eligible for DSP.

## **C. Offenders in the Program—DSP**

As of May 2007, the DSP had 335 offenders referred to program by the three courts that DSP serves. Of those, DSP referred 152 offenders back to the County Prosecuting Attorney for noncompliance with one or more conditions of probation (including, but not limited to, nonparticipation). Of these, 83 offenders became compliant, and 69 were removed by the court from the program for noncompliance. Fifty-three offenders have completed all DSP requirements.

Seventy-five percent of participants to date have been male; 32% were between the ages of 22 and 30 (26% ages 31 to 40 and 22% ages 41 to 50). A little more than half (53%) of program participants were Native American, and 40% were White.

## **D. Program Phases—DSP**

The judge orders the offender into supervised probation for a specific length of time (usually 24 months). All offenders begin at the first level (Level I) of supervised probation. Offenders who comply with all conditions of this probation may advance to Level II after 3 months and to Level III after 9 months.

**Table 13. Elements of Program Phases or Levels**

<b>Level</b>	<b>Duration</b>	<b>Program Components</b>	<b>Meet with DSP Caseworker</b>
Level I	3 months	ASI and ASAM; individualized treatment; AA meetings; VIP; DUI Education course	Weekly*
Level II	6 months	Treatment continued as needed; AA meetings	Every 2 weeks**
Level III	Up to 15 months	Treatment as needed; AA meetings	Monthly***

\*Level I—Offenders meet with their DSP caseworker at least weekly.

\*\*Level II—Visits reduced to twice a month (with telephone contact as needed between visits) if the offender is adequately complying with the conditions of probation.

\*\*\*Level III—Visits reduced to monthly (with telephone contact as needed between visits) if the offender continues to comply with the conditions of probation.

After 1 full year, each offender is reevaluated. Offenders who have complied with the conditions of probation and with any treatment plan imposed may request a hearing to review their judgment and sentence with the Court. The DSP caseworker may recommend changes in supervision requirements to the sentencing Court and to the prosecuting attorney.

The following are components of the DSP.

**Table 14. DSP Components**

<b>Component</b>	<b>Description</b>
1. Alcohol/drug testing	Offenders given a preliminary breath test at any time for any reason. All results are documented in offenders' files. Positive results may be cause for probation revocation.
2. Reporting to the courts	Caseworker submits reports to court at least monthly. Includes documentation of completed requirements and a status report on offender progress. Reports of an offender arrest or other serious violation are documented and sent immediately to the court and prosecuting attorney.
3. Evaluation	ASI and ASAM instruments are used. ASI determines degree of alcohol/drug abuse. ASAM determines treatment type needed.
4. Treatment	Administered by one of eight State-approved providers/agencies or two on the Reservation. Inpatient occurs outside of Fremont County. Outpatient has two levels: standard and intensive outpatient treatment.
5. Ignition interlocks	Not often used due to costs. For hard driver license suspensions, offender may apply for interlock after 45 days with no driving restrictions.
6. VIPs	Mandatory attendance of 50-80 offenders; cost is \$35 per offender.
7. DWI Education course	Ordered by judge or by the evaluation results. Approximately a quarter to a half of offenders required to attend. These 8- to 12-hour courses are held mainly for offenders without serious addiction problems.

**E. Costs—DSP**

Offenders in the DSP program are required to pay supervision fees of \$25 in cash or by money order for every month the offender is in the program. Fees are collected by the DSP caseworker at the offender's first scheduled appointment of each calendar month. The DSP caseworker documents payment through a receipt book and within the offender's case file. There are no indigent funds for those who cannot pay, although DSP reports that they do not turn away offenders who cannot pay. When these offenders get jobs, they begin to pay. The caseworkers accept the payments and provide receipts to the offenders.

This offender fee does not begin to cover the costs of the DSP program. The current grant from the State covers the remaining costs. IPR is looking for continuous funding when the grant is completed. The program officials believe that local government should fund the DSP program.

**F. Conclusions—DSP**

The Fremont County DSP program appears to be a promising rural program that addresses challenges of limited available resources and geographic distances. It has many components that have proven to be effective in other programs. Reportedly, according to DSP, noncompliance rates are down from more than 50% in the unsupervised program to 25 to 37% for the DSP participants, and compliant offenders do not recidivate at the high rates of noncompliant

offenders. The fact that over half of the offenders are Native American presents an additional challenge because of relatively high rates of alcoholism.

The most important component appears to be the frequent contact with the caseworker, especially in the first few critical months of the program. This contact with an official provides an extra incentive for the offender to remain sober and take responsibility to meet other requirements. The random testing for alcohol and other drugs is an enforcement of sobriety.

The DSP offenders are also required to have a full-time job or become a full-time student. If they cannot comply, they must perform up to 40 hours per week of community service. This is a significant lifestyle change for many of them that helps them to remain sober.

The Fremont County DWI Supervised Probation program and IPR develop partnerships with the judges, prosecuting attorneys, court clerks, treatment providers, law enforcement, and other probation agencies to help offenders have a positive outcome. This, in turn, tends to help those other agencies by greatly reducing court time in tracking offenders on probation.

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