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APPENDIX C11

EVALUATING ALTERNATIVE SANCTIONS FOR MULTIPLE-OFFENDER DWIS-A DESCRIPTION OF SOME PRIOR AND CURRENT RESEARCH

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In this paper, we describe some current research we are conducting to evaluate some alternative sanctions to jail that are being used for multiple-offender DWIs.

BACKGROUND

For many years, the *legal approach* to controlling alcohol-crash risk was essentially the only approach of any significance. Then, it was devoted almost entirely to the applying the theory of legal deterrence. Now, the legal approach also includes the regulation of the availability of alcohol (Jones and Lacey, 1989). A major component of the Traffic Law System that attempts to deter drunk driving and other unsafe driving behaviors proscribed by law is what we have called elsewhere the Traffic Case Disposition System. *The Traffic Case Disposition System is composed of the judicial agencies and administrative agencies that determine the guilt or innocence of accused drunk drivers and impose legally authorized sanctions as punishment on those found guilty.*

Traditionally, these sanctions have been in the form of a fine, incarceration, or a suspension (or revocation) of the driver license. When a law permits a convicted drunk driver to be incarcerated (even for a short time), adjudication and sanctioning must be performed by a judicial agency as a criminal proceeding, and the law violation is called a crime.

Since every State has laws authorizing (and in some cases mandating) incarceration, all DWI cases covered by these laws are heard by a judicial agency. However, licensing sanctions are often imposed by a non-judicial (administrative) agency. Administrative proceedings are generally more efficient for "processing" accused drunk drivers, since they do not have to provide the full protection required in a criminal proceeding.

For many years, judges have experimented with *alternative sanctions* for drunk driving. Most commonly, these involved referral of drivers to treatment and education, and such referrals have now become "legitimized" by statutes in many States. The process of diagnosing, referring, treating, and supervising DWIs (or accused DWIs if parts of the process are performed prior to conviction) is performed by a number of Traffic Law System and Public Health System agencies. Following Filkins (1969), we have used the term *Health / Legal System* to describe the collection of agencies that participate together in this process (Jones, Joscelyn, and McNair, 1979).

Other alternative or non-traditional sanctions that have been tried for DWI (and also legitimized in some instances) include community service in lieu of or in addition to jail, impoundment or forfeiture of vehicles or license plates, victim restitution, visits to a hospital emergency room that treats traffic accident victims, and using license plates that identify the vehicle owner as a DWI, among others. Often, these sanctions have been used in combination with traditional sanctions, a practice that makes their evaluation more difficult.

More recently, alternatives to incarceration have received considerable attention as a sanction because of the lack of jail space for holding offenders and also with the inappropriateness of incarceration for many kinds offenses. Much interest is being given to a class of such alternatives called intermediate sanctions (Morris and Tonry, 1990), and the U.S. Department of Justice has been studying such alternatives for a wide range of offenses under its intermediate sanctions program (U.S. Department of Justice, 1990). The term "intermediate sanctions" is used to describe the range of post-adjudication sanctions (note that pre-trial diversion is not included) to fill the gap between traditional probation and traditional jail or prison sentences. In their recent review of the evaluation literature on intermediate sanctions, Byrne and Pattavina (1992) provided brief descriptions of several of the sanctions along with their conclusions about the effectiveness of the sanctions, viz.:

- Intensive Supervision Probation - Intensive supervision probation (ISP) provides probation agencies with the ability to work more intensively with select probationers.

This is accomplished by higher levels of surveillance of probationers and / or more treatment services geared to probationer needs. Intensive probation programs are characterized by smaller caseload sizes, generally ranging from 15 to 75 probationers per officer, depending upon the agency. With smaller caseloads, more intensive surveillance and treatment services can be offered than through the normal caseloads of nearly 300 probationers per officer. However, solid evaluations conducted to date of high-risk offenders have not indicated measurable reductions in recidivism, and the hypothesis that these programs accomplish diversion from prison or net-widening to include persons likely to be on less intensive probation has not been unequivocally accepted.

- **Boot Camps / Shock Incarceration** - Boot camps are correctional programs that are characterized by military-style boot camps (e.g., discipline, strict rules, drills, and physical training). These programs are similar to previous shock incarceration programs because of their focus on short, intensive periods of incarceration. They are similar to military training because of their intensity and their emphasis on rigorous training and discipline. They are often a component of a split sentence incorporating intensive supervision after release. These programs have only recently gained popularity and little is known about their effectiveness. MacKenzie and Parent (1992) report the results of a study utilizing a quasi-experimental design that shows no effect and caution that much more needs to be learned about the effectiveness of this type of approach before it is more broadly embraced.

- **Day Reporting Centers** - A day reporting center (DRC) provides a structured non-residential program that can consist of supervision, treatment services, and sanctions. DRCs can be developed into a continuum of correctional services to augment intensive supervision, residential programs (e.g. halfway houses, work release centers, etc.), and regular supervision. The centers can provide a setting where services are available and offenders can come into continuous contact with their supervising agent. Little is yet known about the effectiveness of this type of sanction.

- **Day Fines** - A day fine is a unit penalty which is derived from consideration of the severity of the offense (as expressed by the number of "units" attached to the offense) and the monetary value of one day's salary. The day fine can be used as a sole sanction or it can be used in combination with other sanctions, e.g. probation, incarceration, etc. Systems have used the day fines concept for low income offenders. The emphasis of evaluations to date has tended to be on effectiveness of the collection strategy and little is known about this type of sanction's effect on offender behavior.

- **House Arrest / Electronic Monitoring** - House arrest involves using the offender's home as a "prison." The offender is required to remain in residence at given hours. Generally, the offender can not leave without the permission of the supervising agent. Some programs use electronic technology to monitor the whereabouts of the offender. House arrest / electronic monitoring can be used in combination with other intermediate sanctions and is frequently used with intensive supervision programs. Baumer and Mendelsohn (1992) indicate a random assignment study of this sanction failed to discern an effect and argue that the appropriate research has not yet been done in the effectiveness of this category of sanction as a front-end intermediate sanction.

Some other alternative sanctions have been developed and adapted specifically for DWI offenders. These include treatment combined with incarceration, alcohol interlock devices on vehicles, license plate confiscation, restrictive license plates, and vehicle impoundment and forfeiture, among others.

ALTERNATIVE SANCTIONS BEING EVALUATED BY MID-AMERICA

Mid-America is currently conducting evaluations of three alternative sanctions programs for repeat DWI offenders. This research is being sponsored by NHTSA under Contract DTNH22-92-C-05174 entitled "Evaluation of Alternative Programs For Repeat DWI Offenders." The three programs are:

- **Intensive Supervision Probation** - The Milwaukee County Pretrial Intoxicated Driver Intervention Project
- **Electronic Monitoring** - The Los Angeles County Electronic Monitoring/Home Detention Program
- **Weekend Intervention Program** - The Wright State University Weekend Intervention Program

The Milwaukee County Pretrial Intoxicated Driver Intervention Project is coordinated by the Wisconsin Correctional Service (a non-profit corporation) in cooperation with the District Attorney's office. It is designed to deter repeat DWI offenders from continuing to drive while intoxicated. The program is an early intervention program aimed at engaging the offender in treatment shortly after arrest with ongoing monitoring and supervision throughout the pretrial period. This period varies according to case backlog, but is typically of the order of six months. Caseworkers monitor the offenders bi-weekly during this period.

The program uses several new and traditional interventions while the offender is under intensive supervision by WCS case workers. These interventions include alcohol and

drug abuse treatment, in-vehicle breath alcohol testers, home detention, victim impact panels and community supervision. The specific components of an individual's program are recommended by a representative from the pre-trial program and must be agreed upon by the DA and the offender, but all components employ ISP.

The Milwaukee program became operational in October 1992 and currently has approximately 500 participants. A full caseload will be 600 clients annually, with 50 new clients entering the program monthly. Participation is voluntary but strongly encouraged by all segments of the system. Offenders who participate are told that successful completion of the program will be considered by the judge at time of sentencing. The Wisconsin DWI law requires a mandatory jail sentence for second offense DWI, but allows considerable judicial discretion in the length of the jail sentence. Thus, the "carrot" offered (but not promised) prospective participants is a significant reduction in their jail sentence.

The *Los Angeles County Electronic Monitoring/Home Detention Program* is coordinated by the Los Angeles Pretrial Services Division. The program engages offenders immediately after conviction and sentencing with ongoing home monitoring and supervision as ordered by the courts. This particular EM program is of interest because it was developed as a public/private partnership. As such, it is designed to be self-sufficient with program costs paid by the offenders, relieving the burden of tax monies being spent on incarceration or other publicly funded EM programs. Rates charged to offenders to cover program costs are assessed on ability to pay; wealthier offenders pay higher rates, covering the costs of indigent offenders.

Los Angeles County Probation Programs Services provides supervision of the private companies and ensures accountability for the services provided. At time of conviction, the Court refers the offender to the Pretrial Services Division. The offender is interviewed, his/her complete criminal history is accessed, a risk assessment scale is completed and a determination is made as to the offender's suitability for program participation. The comprehensive screening is designed to provide community protection by excluding offenders with a history or convictions of violence, sex crimes against children, drug manufacture or sales.

After screening, the offender returns to court with a recommendation from Pretrial Services on suitability. If found suitable, the offender is ordered to report to a private monitoring company to complete a specific program designed by Probation and the private company.

The Los Angeles County program became operational in October 1992 and has had approximately 1,000 participants to date.

The *Wright State University Weekend Intervention Program*, (WIP) was developed by Harvey Siegal and associates at Wright State and placed into operation in 1978. It is an intensive, three-day residential program to which persons involved in a drug or alcohol offense may be remanded by a court or other supervising agency. It bases its methods on "marathon" substance-abuse counseling sessions using a cognitive-behavioral-oriented approach combined with presentations structured around a modified health belief model. WIP participants become involved in small-group and individual counseling sessions during which they explore the consequences and risks resulting from their involvement psychoactive drugs. During these sessions, participants provide the professional staff the data necessary to evaluate their status and to formulate assessments for the referring courts and or agencies.

The counseling staff complete a comprehensive report on each individual. The report includes an assessment built around the American Psychiatric Association's schema presented in the third edition of its Diagnostic and Statistical Manual (DSM-III-R). The report includes a recommendation of the most appropriate treatment for that individual. The primary therapeutic goal for each is total abstinence from alcohol or other mood-altering drugs not provided under a strictly-supervised medical regimen.

The weekend sessions are conducted in a closed facility at which the participants must remain during the three-day period. Participants are referred from 124 different courts in Ohio, with most of the participants being referred from Dayton area courts. A total of about 1,600 participants are currently being referred annually to WIP, and roughly 700 of those are multiple offenders.

The general approach we are taking to the evaluation of the above three alternative sanctions programs is described below.

MID-AMERICA'S EVALUATION APPROACH

The overall objective of the evaluation is to determine the effectiveness of each alternative sanctions program as an alternative to jail. Effectiveness is to be measured in terms of the incidence of drunk driving or some appropriate surrogate of drunk-driving incidence. Spillover effects on some other unsafe driving behaviors will also be examined. The evaluation will include both an effectiveness component and a process / administrative component. The operational environment of the program will also be monitored and factored into the overall analysis of the program.

Effectiveness Evaluation

The major research question to be addressed by the *effectiveness* evaluation of each program is:

What is the recidivism for offenders participating in the alternative sanctions program and how does it compare with the recidivism for offenders given traditional sanctions?

The term "recidivism" is used in a broad sense in this project. Normally, recidivism is defined as the probability of a re-arrest (and / or re-conviction, depending on the nature, completeness, and reliability of available data) for a given offense (in this case, DWI) on or before time T. We are modifying this definition to include arrests or convictions for several other types of offenses including refusal to take a breath-alcohol test, major traffic offense (DWI or breath-test refusal or reckless driving or hit and run), and various types of criminal offenses. Accidents as a measure of recidivism will probably not be feasible for this project because of the time lag between the accident and entry of the accident data into the driver records file. However, if up-to-date accident data are available, we will use them in the analysis.

The recidivism of the treatment group will be compared to that of a "control" group that did not participate in the alternative program. Since random assignment to the treatment and control groups will not be possible, the control group will be selected to match the treatment group as closely as possible on variables known to have a strong effect on DWI / refusal recidivism, including age, sex, and number of prior arrests / convictions for alcohol-related traffic offenses. We will also be considering other variables for matching, including marital status, employment status, BAC at time of arrest, number of prior accidents, zip code as an indicator of socio-economic status, and a dummy variable that will indicate which judge heard the case. The actual matching will be accomplished using statistical models (see discussion below).

The number of subjects in each treatment group will be at least 1,000, the actual number depending the particular sanction being evaluated. The control group will have approximately the same number of subjects as the treatment group and will be selected from repeat DWI offenders charged either during or shortly before the period immediately preceding the start of the program.

Process / Administrative Evaluation

The *process* evaluation is designed to describe the process (client intake, referral, treatment, and supervision) that was followed in executing the program. The *administrative* evaluation is designed to determine the *extent* to which the program's activities were performed. Of major concern is client flow through the alternative sanction "system" and the frequency of interventions.

The process / administrative evaluation will be based on a formal "system description" of the program. We will use the *functional analysis* technique for developing this description. This technique envisages a "system" as a collection of resources and procedures that are required for accomplishing one or more specific objectives. To accomplish these objectives, the system must perform certain functions following specified procedures that require resources in the form of personnel, equipment, and facilities. The term "functional analysis" derives from the analysis of these functions and their interrelationships.

Another component of the process/administrative evaluation will be the staff's perception of the program and its performance. We will measure this perception through two mechanisms, first, through informal discussions with staff, and second, by administering a short questionnaire to staff.

An ancillary part of the process/administrative evaluation will be the determination of community awareness and support of the program. Community support is critical if the concept is to be transferrable to other jurisdictions. It will be measured by a short questionnaire to be administered by program staff in cooperation with the pertinent DMV at driver license stations.

SUMMARY AND CONCLUSIONS

In light of the expense and overcrowding of jails and the perception the jail is an ineffective deterrent for multiple DWI offenders, a number of alternative sanctions have been proposed and are being tested and evaluated for this high-risk group. The results of the Mid-America evaluations and others reported at this seminar will be useful to policy makers and practitioners in more effective management of the alcohol-crash risk in their jurisdictions.

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APPENDIX C12

REHABILITATION OF THE PERSISTENT DRINKING/DRUGGING DRIVER

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INTRODUCTION

Results from a comprehensive meta-analytic review of treatment efficacy for DUI offenders suggested the following points that are relevant to treatment of the persistent offender. (Wells-Parker, et al, 1994):

A. As compared to standard sanctions such as jail or fines or no treatment, rehabilitation showed a generally small but positive influence (7-9 percent reduction) on reducing incidence of alcohol-related driving recidivism and crashes, when averaged across all types of offenders and rehabilitation.

B. Treatments that combined strategies - i.e. education plus therapy plus follow-up (contact monitoring or probation, aftercare, etc.) were most effective for multiple, as well as "first" offenders. These combination strategies were superior to educational programs alone and to contact probation alone in reducing subsequent drinking and driving. Rehabilitation