



Between the Lines

American Prosecutors Research Institute

The Research and Development Division of NDAA

Mark Your Calendars 2008

June 24-26

IPTM Symposium on Alcohol and Drug Impaired Driving Enforcement
Orlando, FL

July 13-16

NDAA 2008 Summer Conference
Tucson, AZ

July 14-18

Impaired Driver Course [NTLC]
National Advocacy Center (Columbia, SC)

August 3-9

National Stop on Red Week
[Federal Highway Administration]

August 15-September 1

Drunk Driving. Over the Limit,
Under Arrest

National Crackdown [NHTSA]

September 7-10

Governors Highway Safety Association
(GHSA)

Annual Meeting (Scottsdale, AZ)

September 15-18

NDAA Fall Conference

September 21-27

Child Passenger Safety Week [NHTSA]

Between the Lines is published quarterly by the American Prosecutors Research Institute's National Traffic Law Center. Items may be reprinted if attributed to APRI's National Traffic Law Center. Please provide copies to *Between the Lines*. Contact us if you have inquiries or article suggestions at 703.549.9222.

MADD Revamps Court Monitoring Programs and Urges a New Look at First-Time DWI Offenders

By Angela Downes, J.D. and Janet Dewey-Kollen¹

Across the United States, the work to reduce drunk driving crashes continues; however, the rate of drunk driving crash fatalities has not decreased substantially in approximately 10 years, according to the National Highway Traffic Safety Administration (NHTSA). Intense efforts in 2006 by law enforcement, prosecutors, courts, public health and safety programs, and drunk driving prevention organizations, both public and not-for-profit, resulted in a less than one percent decrease in drunk driving crash deaths nationally.

Tragically, 17,602 people died in these alcohol-related crashes in 2006 (compared to 17,590 people in 2005) and many thousands of people were injured.² Percentages of total alcohol-related crash fatalities by state ranged from a low of 24 percent (Utah) and 30 percent (Kentucky) to 52 percent (Hawaii), 51 percent (Rhode Island), and 50 percent (South Carolina and Wisconsin).

The New MADD Court Monitoring Program

In the face of these daunting statistics, in 2006, Mothers Against Drunk Driving (MADD) initiated a Campaign to Eliminate Drunk Driving. According to MADD Executive Director Chuck Hurley, "Our goals of reducing drunk driving substantially in the short term and eliminating drunk driving in the long term are both ambitious and achievable. Through increased high-visibility enforcement, current technology such as alcohol ignition interlocks for all convicted drunk drivers, advanced vehicle technologies and public support, these goals can come to fulfillment and lives can be saved."

MADD hopes its newly revamped Court Monitoring Program may be a major contributor to this goal. Assisting court systems and working to improve the prosecution, adjudication and appropriate sentencing of DWI offenders are key objectives of this long-standing MADD effort. The organization has traditionally had a presence in courts assisting DWI victims and victim families; however, the Court

Monitoring Program, now active in at least 16 jurisdictions nationwide, will send trained volunteers into courtrooms on a regular basis to observe cases and note their outcomes.

Specifically, court monitors observe case processing, record sentencing outcomes, and plot dismissal trends, and identify other patterns concerning the handling of DWI /DUI cases. MADD can then work with judges, prosecutors, law enforcement agencies and others to identify weak points in a system and seek solutions. In New Mexico, for example, sentences including mandatory ignition interlock use for first offenders increased dramatically after MADD New Mexico shared observational data with court officials.

Tom Kimball, Traffic Safety Resource Prosecutor with the Tennessee District Attorneys General Conference, has worked with MADD court monitors and sees great promise for MADD's revamped and expanded Court Monitoring Project. "My experiences with MADD Court Monitors have been extremely positive. MADD's presence in the courtroom is a helpful tool. The monitors learn reality. They understand the difference between a case that can be proven beyond a reasonable doubt and one that cannot. They learn quickly about the needs of the judicial system and tend to advocate for changes that will improve the system, including funding for more prosecutors. I wish we had a monitor in every courtroom in Tennessee," says Tom Kimball.

Taking a Tough Approach to "First-Time" Drunk Driving Offenders

One aspect of DWI offender treatment now under evaluation is the nature of first-time DWI offenders. MADD believes that it is time for courts to take a tougher stand with DWI first offenders. In fact, based on research, the organization believes that changing the way the criminal justice system treats first-time DWI offenders will help courts intervene more effectively in potentially deadly, life long patterns of drunk driving that often end in crashes.

Studies by leading researchers offer surprising

results about drinking and driving behavior by those arrested for a first DWI offense.

- *First offenders are likely to have driven drunk before.* Studies of enforcement patterns find that one arrest is generally made for every 88 instances of driving over the illegal limit (Zador, et al, 1997). Thus, the average first offender will have driven drunk 87 times before being caught—some less, some more. Researcher William J. Rauch, Ph.D., calls this behavior “learning” to drink and drive.
- *First offenders’ BACs at time of arrest are almost as high as the rates of repeat offenders.* Instead of being slightly over the presumed level of intoxication at 0.08 BAC, research shows that most first offenders are almost twice the legal limit (Rauch, 2005; Jones and Lacey, 2000). According to the Jones and Lacey study, “An unexpected finding on repeat offender characteristics was the relatively small practical difference in their mean BAC from that of first offenders (0.18 and 0.16 respectively).”
- *First offenders are very likely to have a problem with alcohol.* Over a three-year period, retired Massachusetts judge Albert Kramer of the Quincy District Court ordered clinical evaluations for 1,252 first offenders. Over 80 percent were assessed as problem drinkers or alcoholics, and only 18 percent were found to be social drinkers (Rauch, 2005). Similarly, other studies have shown that 70 to 80 percent of DWI offenders have alcohol abuse problems (Wieczorek, 1992).

Ignition Interlock Use Effective

Requiring first-time DWI offenders to install an alcohol ignition interlock in vehicles they drive is a key component of innovative sentences in some jurisdictions and a sentencing outcome that MADD court monitors routinely look for. As noted researcher Paul R. Marques, senior research scientist with the Pacific Institute for Research and Evaluation, points out, “We need to keep in mind that dependent users of alcohol may not simply be defiant law breakers, but people with a significant self-control problem.” In other words, drunk driving offenders have demonstrated that they have poor decision-making skills which have ultimately endangered the lives of other motorists.

Some may see installation of an ignition interlock as a punitive action by the courts or a licensing agency. However, as noted above, many drunk drivers have a diagnosis of an alcohol use problem, usually one of dependence (alcoholism). Hence, it is not unusual to find that many clinicians view the interlock as an adjunctive therapeutic device that assists drunk drivers who are in recovery to maintain a sober life style.

And then there’s the public safety aspect of ignition interlock use. In New Mexico, officials announced in November of 2007 that ignition interlock devices prevented approximately 63,000 trips by DWI offenders who registered positive for alcohol.

Multiple studies on interlocks for both first-time and repeat offenders show decreases in repeat offenses (i.e. recidivism) up to 90 percent while the interlock is on the vehicle (Willis, Lybrand and Bellamy, 2005). Specific findings include: a 77 percent decrease in recidivism among interlocked first offenders in West Virginia (Tippets and Voas, 1998), an 80 percent reduction in recidivism among interlocked first offenders in Quebec (Vezina, 2002), a 95 percent reduction in recidivism among interlocked first offenders in Alberta (Voas, et al, 1999).

Currently 45 states and the District of Columbia have statutes providing for the use of ignition interlocks (all states except Alabama, Hawaii, Maine, South Dakota and Vermont.) Twenty-four states have some mandatory provisions, and four states (Arizona, Illinois, Louisiana, and New Mexico) require ignition interlock use by all first-time DWI offenders.

MADD advocates for a shorter license restriction period for all convicted drunk drivers and a longer ignition interlock period. The goal of this approach is to encourage offenders to prove they can drive sober for a period of time and not endanger others on the roadways.

Fresh Approaches to Reduce Drunk Driving

America faces a great challenge in the effort to reduce drunk driving crashes and prevent the death of more than 13,000 people annually. The lack of progress nationally demands that stakeholders take a fresh look at all aspects of DWI prevention. For court systems, this means evaluating the effectiveness of court systems relative to DWI adjudication and considering more consequential sentencing requirements for DWI offenders, particularly first time offenders. MADD hopes its Court Monitoring Programs will serve as a positive force in this effort.

References can be found on the NDAA Web site: www.ndaa.org.

This project was supported by Grant No. 2006-DD-BX-K277 awarded by the Office of Justice Programs, U. S. Department of Justice. Points of view in this document are those of the author and do not necessarily represent the official position or policies of the U.S. Department of Justice.

For more information contact: www.madd.org/courtmonitoring.

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² \geq 0.1 BAC, NHTSA 2006 Annual Assessment of Motor Vehicle Crashes, September 2007

The National Traffic Law Center is a program of the American Prosecutors Research Institute, the research and development division of the National District Attorneys Association. This document was prepared under Cooperative Agreement Number D17NH22-98-H-05881 from the U.S. Department of Transportation National Highway Traffic Safety Administration. Points of view or opinions in this document are those of the authors and do not necessarily represent the official position or policies of the Department of Transportation, or the NDAA and the APRL.



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