




DWI SENTENCING ALTERNATIVES

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COMAL COUNTY COURT-AT-LAW #1


DISCUSSION POINTS

- **DWI FACTS**
 - **TRADITIONAL DWI SENTENCING**
 - **SENTENCING ALTERNATIVES**
 - **MONITORING DWI OFFENDERS**
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DWI FACTS

- 1. THE FBI ESTIMATES 1,017,808 DWI ARRESTS IN 2017.**
 - 2. 10,996 PEOPLE DIED (NATIONALLY) IN ALCOHOL-IMPAIRED CRASHES IN 2017**
 - 3. 64,784 DRIVERS WERE ARRESTED FOR DWI IN TEXAS IN 2017.**
 - 4. 4,885 PEOPLE INJURED DUE TO DWI ACCIDENTS IN 2017.**
 - 5. 528 PEOPLE DIED ALCOHOL RELATED DEATHS IN TEXAS IN 2017.**
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DWI FACTS

- 5. DRINKING AND DRIVING CLAIMS MORE THAN 10,000 LIVES PER YEAR.**
 - 6. ACCORDING TO MADD, 50 TO 75 PERCENT OF CONVICTED DRUNK DRIVERS CONTINUE TO DRIVE ON SUSPENDED LICENSES.**
 - 7. DRUNK DRIVING CRASHES COSTS THE UNITED STATES \$44 BILLION A YEAR.**
 - 8. AN AVERAGE DRUNK DRIVER HAS DRIVEN DRUNK 87 TIMES BEFORE FIRST ARREST.**
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DWI FACTS

8. 75% OF ALL DWI 1ST DEFENDANTS DO NOT RE-OFFEND,
BUT, 25% OF DWI 1ST DEFENDANTS DO.

******* DANGER ALERT*******

**THOSE CONVICTED OF A DWI 2ND HAVE A
75 % CHANCE OF BEING ARRESTED FOR A DWI 3RD!**

TRADITIONAL DWI SENTENCING

JAIL TIME

- THE “OLD SCHOOL” APPROACH TO DWI OFFENDERS
- SENTENCES VARY FROM JURISDICTION TO JURISDICTION BUT CAN BE FOR STRAIGHT JAIL-TIME OF ANYWHERE FROM 3 DAYS TO 180 DAYS IN JAIL FOR A CLASS B AND 365 DAYS FOR A CLASS A MISDEMEANOR.

TRADITIONAL DWI SENTENCING

JAIL TIME (*CONTINUED*)

- NHTSA RESEARCH INDICATES THAT JAIL SANCTIONS IN MISDEMEANOR DWI CASES ARE NOT EFFECTIVE.
- SIX DIFFERENT STUDIES REPORTED NO REDUCTION IN RECIDIVISM AND FOUND IMPOSITON OF THE MANDATORY JAIL SENTENCE EXTREMELY COSTLY AND NO MORE EFFECTIVE THAN OTHER SANCTIONS.


TRADITIONAL DWI SENTENCING

WEEKEND INTERVENTION

- **WEEKEND INTERVENTION PROGRAMS (WIP) ARE DESIGNED TO EVALUATE AND TREAT DEFENDANTS IN A “LOW-LEVEL” TREATMENT PROGRAM.**
- **WIP PROGRAMS CAN BE EFFECTIVE, BUT REQUIRE A FACILITY TO HOUSE THE DEFENDANTS AWAY FROM THEIR NORMAL HOMES AND PROVIDE INTENSIVE THERAPY.**

TRADITIONAL DWI SENTENCING

HOME DETENTION

- **ENFORCED BY ELECTRONIC MONITORING.**
 - **KEEPS DEFENDANT OFF THE ROAD EXCEPT FOR TRAVEL TO AND FROM WORK.**
 - **LESS EXPENSIVE BECAUSE THE DEFENDANT IS HOME, RATHER THAN IN JAIL.**
 - **RECIDIVISM RESULTS ARE INCONCLUSIVE.**
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TRADITIONAL DWI SENTENCING

PROBATION

- **IN MOST CASES, A DWI DEFENDANT WILL BE CONVICTED AND SENTENCED TO JAIL, THEN PLACED ON PROBATION IN LIEU OF JAIL TIME.**
- **AN UNDERLYING SENTENCE WITH PROBATION FOR A PERIOD UP TO 12 MONTHS FOR A CLASS B AND 24 MONTHS FOR A CLASS A MISDEMEANOR.**

TRADITIONAL DWI SENTENCING

PROBATION (*CONTINUED*)

- **PROBATION IS THE MOST COMMON TREATMENT FOR DWI OFFENDERS.**
- **TREATED THE SAME AS OTHER PROBATIONERS, WITH SOME ADDITIONAL ALCOHOL COUNSELING.**
- **THE PROBLEM IS THAT WHILE IT MAY SLIGHTLY REDUCE RECIDIVISM FOR LOW-RISK OFFENDERS, IT DOES NOT REDUCE RECIDIVISM AMONG THOSE AT HIGH RISK.**

TRADITIONAL DWI SENTENCING

INTENSIVE SUPERVISION PROBATION

- **MORE CONTACT WITH THE PROBATION OFFICER.**
- **PARTICIPATION IN VARIOUS EDUCATIONAL AND THERAPEUTIC PROGRAMS.**
- **HOWEVER, RESULTS ARE DIFFICULT TO EVALUATE. SOME STUDIES INDICATE THAT ISP MAY REDUCE RECIDIVISM, BUT RESULTS ARE INCONCLUSIVE.**

TRADITIONAL DWI SENTENCING

DAY REPORTING CENTERS


- **DRCs ARE HIGHLY STRUCTURED, NON-RESIDENTIAL FACILITIES THAT PROVIDE COUNSELING, SUPERVISION, EMPLOYMENT, EDUCATION AND COMMUNITY RESOURCE REFERRALS TO DWI PROBATIONERS.**
- **MORE COST EFFECTIVE THAN JAIL, BUT STILL EXPENSIVE AND DO NOT SIGNIFICANTLY REDUCE RECIDIVISM.**

SENTENCING ALTERNATIVES

- RESEARCH INDICATES THAT ALTERNATIVES TO THE TRADITIONAL APPROACHES CAN REDUCE RECIDIVISM AND SAVE MONEY.
- BEFORE IMPLEMENTING AN ALTERNATIVE APPROACH, **IT'S ESSENTIAL TO IDENTIFY THE HIGH RISK PROBATIONERS:**
 - BY READING THE OFFENSE REPORT
 - INFORMATION PROVIDED BY DEFENSE COUNSEL AND PROSECUTOR
 - PSI REPORT PREPARED BY PROBATION PRIOR TO SENTENCING
 - HIGH BREATH TEST OR BLOOD TEST RESULTS
 - WHETHER THERE WAS AN INJURY OR ACCIDENT WITH PROPERTY DAMAGE

SENTENCING ALTERNATIVES

DWI COURTS

- **DESIGNED TO PROVIDE CONSTANT SUPERVISION TO OFFENDERS BY JUDGES AND OTHER COURT OFFICIALS.**
 - **CLOSELY ADMINISTERED WITH COURT-ORDERED SANCTIONS AND TREATMENT.**
 - **FREQUENT INTERACTION WITH THE JUDGE.**
 - **INTENSIVE SUPERVISION BY PROBATION OFFICERS.**
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SENTENCING ALTERNATIVES

DWI COURTS (*CONTINUED*)

- INTENSIVE TREATMENT.
- RANDOM ALCOHOL AND OTHER DRUG TESTS.
- COMMUNITY SERVICE.
- LIFESTYLE CHANGES.
- SIGNIFICANTLY REDUCES RECIDIVISM.

SENTENCING ALTERNATIVES

SPECIAL PROBATION CONDITIONS

- **LICENSE SUSPENSIONS**
- **OCCUPATIONAL LICENSE CONDITIONS**
- **CURFEWS**
- **RANDOM UAs**
- **JAIL – TIME ON SPECIFIC HIGH RISK DATES, SUCH AS CHRISTMAS, NEW YEAR’S EVE, BIRTHDAYS OR ANNIVERSARY OF ACCIDENT.**

SENTENCING ALTERNATIVES

STAGGERED JAIL TIME

- **PLACING A DEFENDANT ON PROBATION, AND ORDERING HIM TO SERVE JAIL-TIME AS A CONDITION OF PROBATION, BUT IN 3 PARTS.**
- **THE JAIL-TIME IS BROKEN INTO 3 SEPARATE PERIODS OF CONFINEMENT.**
 - **1ST PERIOD AT TIME OF SENTENCING. (15 DAYS)**
 - **2ND PERIOD AT 6 MONTHS. (10 DAYS)**
 - **3RD PERIOD AT 11 MONTHS. (5 DAYS)**


SENTENCING ALTERNATIVES

STAGGERED JAIL TIME (CONTINUED)

- **THE 1ST PERIOD IS MANDATORY, WHILE THE 2ND AND 3RD PERIODS MAY BE SUSPENDED BY THE COURT IF:**
 - **DEFENDANT COMPLETES ALL THE TERMS OF PROBATION TIMELY.**
 - **DEFENDANT MUST PAY ALL FINES.**
 - **DEFENDANT PROVIDES LETTERS OF SUPPORT FROM FAMILY AND EMPLOYER. AND MOST IMPORTANTLY,**
 - **DEFENDANT MUST GET THE RECOMMENDATION FROM PROBATION.**


SENTENCING ALTERNATIVES

OTHER SANCTIONS

- **HOME CONFINEMENT WITH ELECTRONIC MONITORING.**
 - **COMMUNITY SERVICE RESTITUTION PROGRAMS.**
 - **FINANCIAL SANCTIONS.**
 - **SPEAK TO VICTIM'S FAMILY OR OTHER IMPACTED GROUPS.**
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MONITORING

DEVICES UTILIZED BY PROBATION OFFICERS TO MONITOR DEFENDANTS INCLUDE:

- **URINALYSYS**
 - **IGNITION INTERLOCK**
 - **SOBERLINK**
 - **SCRAM**
 - **GPS**
 - **TRANSDERMAL PATCH (DRUG PATCH)**
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MONITORING URINALYSIS

- MOST TRADITIONAL FORM OF MONITORING.
- URINE SAMPLE COLLECTION IS QUICK AND PAINLESS, BUT *MUST BE OBSERVED BY PROBATION OFFICER.*
- TESTS FOR ALCOHOL, AMPHETAMINES, BENZODIAZEPINES, MARIJUANA, COCAINE, PCP AND OPIODS.
- CAN BE TAMPERED WITH BY DILUTION, ADDITION OF ADULTERANTS AND SUBSTITUTION.



NEW TECHNOLOGIES NOW ALLOW FOR MORE ACCURATE MONITORING FROM A DISTANCE.

MONITORING

IGNITION INTERLOCK




- **REQUIRES THAT EACH ENGINE START BE PRECEDED BY AN ALCOHOL-FREE BREATH SAMPLE.**
- **INTERLOCKS REDUCE REPEAT DWI RATES BY 40-95%, BUT AFTER REMOVAL, RE-OFFENSE RATES CLIMB TO NEAR ORIGINAL NUMBERS.**

MONITORING

IGNITION INTERLOCK (*CONTINUED*)

THE EFFECTIVENESS OF THE IGNITION INTERLOCK CAN BE COMPROMISED IN SEVERAL WAYS:

- **IF INTERLOCK IS NOT INSTALLED CORRECTLY.**
 - **IF THE OFFENDER FINDS A WAY TO CIRCUMVENT THE DEVICE. (NEED DEVICE WITH A CAMERA)**
 - **IF THE OFFENDER USES A DIFFERENT VEHICLE.**
 - **IF THE RESULTS ARE NOT MONITORED AND REPORTED TO THE JUDGE.**
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MONITORING SOBERLINK

LIKE THE INTERLOCK, ONLY PORTABLE



Discreet, Convenient
Alcohol Monitoring



Disclaimer: Device should be used for Family Law or Research Use only.

MONITORING GPS



- **GPS IS AN ANKLE MONITOR THAT ARE USED TO MONITOR AND TRACK DEFENDANTS.**
- **THE GPS SENDS A RADIO FREQUENCY SIGNAL THAT REPORT THE LOCATION AND OTHER VITAL INFORMATION TO A RECEIVER.**
- **IF THE DEFENDANT MOVES OUTSIDE OF AN ALLOWED RANGE, IT SENDS AN ALERT.**

CHECKS LOCATION.

MONITORING TRANSDERMAL DRUG PATCH

- USES SWEAT AS THE SPECIMEN SOURCE.
- STAYS ON 10 DAYS OR MORE.
- ACTS AS A DETERENT TO DRUG (NOT ALCOHOL!) USE.
- SCREENS MARIJUANA, COCAINE, OPIATES, AMPHETAMINE/METHAMPHETAMINE & PCP



CHECKS FOR DRUGS.

MONITORING SCRAM



SCRAM (SECURE CONTINUOUS REMOTE ALCOHOL MONITOR):

- **WATER RESISTANT BRACELET THAT DETECTS ALCOHOL CONSUMPTION VIA TRANSDERMAL MEASUREMENTS THROUGHOUT THE DAY.**
- **ANTI-TAMPER FEATURES PREVENT BLOCKING SKIN CONTACT.**

CHECKS FOR ALCOHOL.

MONITORING

SCRAM (*CONTINUED*)

- **SCRAM TAKES AN AIR SAMPLE IN THE DEVICE AT LEAST ONCE AN HOUR AND UPLOAD DATA THROUGH A MODEM TO BE REVIEWED AND ANALYSED.**
- **ANTI-TAMPER DEVICES IN THE SCRAM:**
 - **SKIN TEMPERATURE MONITOR.**
 - **TAMPER CLIP WHICH BREAKS IF DAMAGED.**
 - **INFRARED BEAM MEASURES DISTANCE TO THE SKIN.**



MONITORING

GPS + PATCH + SCRAM

- THE MONITORING DEVICES CAN BE USED IN COMBINATION, OR NOT, DEPENDING ON THE HABITS OF THE INDIVIDUAL.



CONCLUSION

- **DWI DEFENDANTS ARE THE MOST DANGEROUS AND EXPENSIVE PROBATIONERS WE HAVE.**
 - **TRADITIONAL SANCTIONS OF JAIL AND/OR PROBATION FOR 1/3 OF DWI PROBATIONERS DOES NOT WORK.**
 - **NEW SENTENCING AND TREATMENT PROTOCOLS EXIST, AND CAN BE EFFECTIVE, IF UTILIZED.**
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