

Alaska Criminal Justice Commission
WORKGROUP ON TITLE 28
Thursday, April 7, 2:30-4:30 PM
AG's Conference Rooms, Juneau and Anchorage
(video- and audio-conferenced meeting)

Attendees: ACJC Commissioners Alex Bryner, Kris Sell, Trevor Stephens, Gary Folger and Stephanie Rhoades; DMV staff: Jayson Whiteside, Kirsten Jedlicka and Lauren Edades; MOA Prosecutor Seneca Theno; DPS Lt. David Hanson; Assistant PD Matt Widmer; attorney Fred Sloane; Partners for Progress Board member Billy Houser; ACJC staff Mary Geddes, Brian Brossmer; Alysa Wooden and Tricia Von Lohhoffel, ASAP/DHSS.

Next Meeting: Thursday, April 28 2:30-4:40 PM @ Brady Building, 5th floor conference room.

Legislative Update

Staff Mary Geddes reported that SB91 is working its way through the Senate and is expected to be on the floor this weekend. Partners for Progress had successfully advocated with the sponsors for an amendment that would allow those convicted of felony DUI to receive limited licenses if they were in a therapeutic court program for at least six months and received no other driving offenses. Comr. Rhoades suggested this provision would have limited impact because of the stacking effect of non-DUI related DI violations. Q: Comr. Alex Bryner asked if SB64 requires the Commission to evaluate the effectiveness of the Therapeutic Courts. A: SB64 does generally require the Commission to inventory existing treatment resources and provide information as to effectiveness.

A bill sponsored by Rep. Tammy Wilson proposes that administrative license revocation (ALR) processes be eliminated. Geddes does not know the current status of that bill nor its prospects. Jayson Whiteside noted that SB91/HB 205 does terminate an administrative revocation when there is an acquittal or if the case is dismissed.

Ignition Interlocks

The Workgroup returned to the topic of ignition interlocks. Geddes noted that she had prepared a background paper on the topic as a way of supporting the recommendation (draft was provided to the Workgroup) but sought clarification as to whether mandatory IID would be eliminated for all DUI offenders and whether the workgroup would be proposing IID as a discretionary condition of probation or of pretrial release.

Comr. Rhoades questioned the value of having an IID as a discretionary condition or pretrial condition if the interlock program is inadequate or is not evidence-based. Comr Sell indicated there is general unhappiness with the current program. Defendants are being told they have to have their cars towed to the IID servicers. Billy Houser said IID requirements are only worthwhile if the IID is being effectively monitored. He knows that the devices can be overcome (tampered). Really, he said, remote monitoring devices provide the only way to ensure that people are not drinking.

Comr. Stephens said we are struggling with whether the IID prescription is used as the carrot (incentive) or the stick (punishment).

Comr. Rhoades said our program does not sufficiently monitor IID use, so even if there are statistics from elsewhere that show recidivism reduction, it can't be assumed that the same is being achieved here. It shouldn't be mandatory for any driver. The only question, she thought, was whether it should be discretionary.

DMV was asked about the front end of the process, since there is a lot of evidence that ALRs are effective because they offer an immediate, swift and certain response to per se DUI. Jayson explained that when an arrest is made and the license is taken, drivers are given a notice that (1) their licenses are being revoked and (2) they are being given a 7 day temporary license allowing them to contest the police action. If they don't seek a hearing within 7 days, that license revocation goes into effect. About 2/3 of the drivers given the notice do not seek a hearing, therefore they are revoked. For those that seek a hearing, the temporary license remain in effect until the administrative hearing. There is no statutory provision allowing DMV to impose an IID requirement prior to an adjudication. However, for those who did not seek an administrative hearing and effectively capitulated to an administrative revocation, they may seek from DMV a limited license with an interlock restriction after the 'hard' revocation period has passed. The Courts do not have explicit statutory authority to impose an IID requirement as a pretrial condition, but there is nothing disallowing it either.

Matt Widmer asked if there is value in explicitly proposing IIDs as a discretionary condition of probation because judges will therefore impose it in every case. Shouldn't we be discouraging interlock use since it is not evidence based?

Someone asked about SCRAM or other remote monitoring technologies, and whether staff can get information as to their costs.

[Back to IID discussion] Comr. Stephens indicated that in most instances he would not see value in IID monitoring for first offenders, nor necessarily with respect to second offenders if the second offense was remote in time to the first. He noted the relevant look back time frame for misdemeanor DUI was 15 years.

The group was asked if it was agreed

- Not as a mandatory sentence
- Not to be used for bail conditions
- Instead utilize more effective tools like SCRAM
- Use these tools for more high risk offenders

Whiteside said that he would agree that use for first offenders should not be mandated, that IID should remain in the tool box for 2nd and offenders that need treatment, that there is information that IID use can be effective when it is tied to treatment. He asked for more information about SCRAM.

Billy Houser said that DOC has been using the SCRAM bracelet and other remote monitoring technologies since 2007. Like with IIDs, it is possible to set the level of alcohol for purposes of detection. They typically set the level as .02 because that level gets rid of false alerts for the use of mouthwash and other items like that. SCRAM can be as much as \$18-20/day or as low as \$6.45.

With respect to the IID question, Fred Slone said that his answer would depend on how the system is going to work as a whole. He agrees it makes sense to get rid of IID as a mandatory sentence. But with a second offender, facing a one year revocation, they can get an IID after 90 days, which keeps them working. He is wondering if remote technologies can really work statewide.

There was a discussion of what form of intervention or treatment should be ordered for the various levels of DUI offenders. For first offenders referred to ASAP (they all are), as long as there is no other history or not a high BA, they will be considered non-problem drinker. A repeat or a high BA will put them into another category and will trigger the need for an enhanced assessment.

Someone said [Rhoades?] there is no evidence that the prescription of treatment for first offenders is impactful. There was reference made to the Institute of Justice's April 2015 study showing that the combination of SCRAM in combination with treatment is beneficial.

Revocation Periods

Geddes reported that the research on revocations periods is that shorter is more effective than long. Short brings about a sanction, but too long can 'teach' an offender that they can drive cars without being caught.

Fred Slone said he thought the current revocation periods for misdemeanors were fair as long as limited licenses were provided. However, he does not think the periods of revocation for felony DUI is fair.

This reminded Comr. Rhoades that the second most frequently prosecuted criminal offense is DWLS. The current revocation periods are 90 days for a first offense (with 30 days as a hard revocation, and 60 days on a limited IID license) and 1 year revocation for a second offense (with 90 days as a hard revocation, and the remainder on a limited IID license). Rhoades stated that she thinks the 1 year revocation period for a second time DUI is too much.

Matt Widmer suggested that a 30 day revocation seems about right for a DUI. The lifetime revocation for a 3rd DUI teaches them they can get away with driving unlicensed. Plus not's not fair, he said, comparing the treatment of two DUI offenders – one of whom got his 3rd within ten years, and the other of whom got his 3rd in year 1 week 1. The first gets a felony DUI and a lifetime revocation. The second gets a hard 90 day revocation period.

Seneca Theno was not on line at this point in our discussion. It was proposed that staff or committee members talk to her and to the Muni's public defender to see what experiences and ideas they have on this topic. Rhoades suggested that the revocation sentence should be a shock, short, and capable of remediation. Jayson Whiteside likes a 30-day revocation noting that there seems no additional value obtained from longer revocations, and that we really want to encourage reinstatement.

Fines and Costs

There seemed little interest in doing anything about mandatory SR-22 insurance.

Public Comment

No additional public comment was provided.

To-Do List

- Develop proposal on revocation periods and supporting rationale.
- Redistribute earlier paper on administrative v. judicial revocation and the question on whether dual systems ought to be maintained, keeping in mind the evidence on effectiveness
- See if there is any way to determine what number of percentage of people opt out of re-licensing
- Finalize IID recommendation
- Formulate a recommendation re fines and jail times based on the research
- (Matt) interview Muni Prosecutor and PD on their experiences and opinions re revocations

Alaska Court System
DUI/Refusal Convictions
 Cases Closed FY 2015

Case Type	Conviction Type	District	Jurisdiction	2015	
Criminal	Felony Conviction	First District	State of Alaska	13	
		Second District	State of Alaska	3	
		Third District	State of Alaska	166	
		Fourth District	State of Alaska	41	
		Total			223
	Misdemeanor Conviction	First District		City and Borough of Juneau	110
				City and Borough of Sitka	17
				City of Ketchikan	23
				State of Alaska	151
		Second District	State of Alaska	109	
		Third District		Municipality of Anchorage	1101
				State of Alaska	1252
		Fourth District	State of Alaska	608	
		Total			3371
		Total Cases			3594

Note: Cases are categorized in the ACS Annual Report based on the most serious charge at the time of filing. This report is providing a count of cases with a DUI conviction regardless of how the case is categorized for annual statistical reporting.

Thu 8/27/2015 9:21 AM
FROM: Whiteside, Jayson O (DOA) <jayson.whiteside@alaska.gov>

Good morning,

Here are the statistics I agreed to provide after the last Title 28 subgroup meeting. Thanks to Lauren Edades and Audrey O'Brien for collecting and providing these statistics.

Limited Licenses Issued:

2013

Applications Received: 423
Limited Licenses Issued: 325
DUI Limited Licenses: 302

2014

Applications Received: 386
Limited Licenses Issued: 296
DUI Limited Licenses: 278

2015 through July 31

Applications Received: 219
Limited Licenses Issued: 163
DUI Limited License: 150

*DUI Limited Licenses includes Limited Licenses that were for Admin Per Se .08 revocations. Most but not all had a judgment.

Statistic	2012	2013	2014
Total Number Hearings	1273	1084	891
Admin Hearings – DUI (admin per se)	960	816	686
Admin Hearings – Refusal	163	164	136
Total Notice & Orders	4361	3909	3563
DUI – 1st Offense	2634	2372	2144
DUI – 2nd Offense	766	639	591
DUI – 3rd Offense	234	211	197
DUI – 4th Offense	53	44	36
DUI – 5th Offense	15	10	10
Refusal – 1st Offense	359	341	337
Refusal – 2nd Offense	163	161	135
Refusal – 3rd Offense	74	70	56
Refusal – 4th Offense	26	21	10
Refusal – 5th Offense	12	4	3
6th + N&O's	25	36	44

The only numbers that are missing are the total number of DUI and Refusal (criminal offense) offenders. We have requested a query run for those numbers through our IT department, but it takes a little more time to collect that data. I will provide that information to you as soon as it is received.

Please let me know if you have any questions or concerns.

JW

Jayson Whiteside
Hearing Officer
Anchorage Driver Services
DOA/DMV
Phone: (907) 269-3770
Fax: (907) 269-3774

DUI IMPACTS IF JRI RECOMMENDATIONS ARE APPROVED BY LEGISLATURE

Misdemeanor DUI defendants constitute a large number of DOC admissions.

- There were 2,539 post-conviction admissions to DOC for a DUI sentence in FY 2014. This amounted to one-quarter of all of DOC's post-conviction admissions.

Many DUI defendants serve their sentences in DOC hard beds.

- 1,736 of DUI postconviction admissions were assigned to either EM or to a CRC for service of a DUI sentence. The remainder were made to a DOC institution.
- The Alaska Court System reports that statewide 3594 people were convicted of DUI in FY2015.¹ Thus, the number of postconviction admissions underrepresents the number of people who are convicted of DUI. Only 52% of all Alaskan defendants are able to 'bail out' during the pretrial phase of their case. Many DUI defendants are likely to have 'served' their sentence while in pretrial basis.

The less costly alternatives of EM and CRC beds are underutilized.

- Even though EM/CRC sentences are mandated for first DUI offenders and permitted for second and subsequent misdemeanor offenders, the default assignment is often a hard bed.
- Because of Alaska's minimum-mandatory sentencing requirements, 100% of all DUI defendants who are convicted must receive an "active" sentence, meaning that it cannot be suspended sentence.²
- For a first-time offender, that minimum-mandatory sentence is a consecutive 72 hours, meaning that any amount of jail time less than 72 hours straight will not be credited. Additionally, any sentence of 72 hours or less is not eligible for good-time reduction.
- Current law already *requires* DOC to assign 1st time DUI offenders to serve their sentences at a private residence under electronic monitoring (EM) or in a community residential center (CRC). DOC is *permitted* to similarly assign convicted second and subsequent DUI offenders to EM and CRCs.
- Of these three options – prison, CRCs and EM – EM is by far the cheapest at ___ a day. Prison is the most expensive at _____ a day.
- One explanation is the lack of sufficient EM and CRC resources. The current statute allows that if neither is available "imprisonment ... may be served at another appropriate place determined by the commissioner of corrections."
- With respect to subsequent DUI's (2nd through 6th-- all misdemeanors) "Imprisonment required under (b)(1)(B)-(F) of this section may be served at a community residential center or at a private residence if approved by the commissioner of corrections. Imprisonment served at a private residence must include electronic monitoring."
- Nevertheless the EM option – which is the least expensive prison alternative and which frees up both hard beds in the prisons and halfway house beds for higher-risk defendants – remains greatly underutilized.

¹ there were still 3594 convictions for DUI or Refusal in FY2015. 3371 were misdemeanors and 223 were felonies.

² The minimum mandatory sentence for a first-time DUI offender is 72 hours and good time credit is only available if the sentence exceeds 72 hours. AS 33.20.010. If a defendant applies 30 days in advance, and is eligible, DOC may allow the defendant to serve his or her sentence on electronic monitoring. DOC may also designate a halfway house as the place at which a defendant may serve his sentence. At any given time, less than 400 people are on EM and less than 600 people are in CRCs statewide.

Why is EM or some other remote monitoring technology a good option for repeat DUI offenders?

- When dealing with recidivists, the focus of sentencing should shift from deterrence to incapacitation or separation of the offender from the vehicle (Jacobs, 1990; Marques, Voas, and Hodgins, 1998).
- There is a growing body of evidence that sanctions administered on the vehicles of DWI offenders substantially reduce DWI recidivism during the period of implementation (Rauch et al., 2002b; Marques et al., 1998).
- Intensive supervision probation combined with frequent meetings with the judge and close monitoring of compliance with the offender's sanctions (e.g., DWI courts) appear to be effective in dealing with multiple repeat offenders (Jones, Wiliszowski, and Lacey, 1996; Jones and Lacey, 1998).

What are the obstacles

- DOC only provides EM as an option for sentenced defendants; it doesn't offer EM pretrial. Many DUI defendants unable to afford bail, may 'serve' or satisfy their sentences prospectively, on a pretrial basis.

What Percentage of DUI Offenders Are Recidivists?

- DWI recidivism is high, and has been estimated between 33 and 44%. However, 55-66% of first-time DUI offenders will not repeat.

How Long Do DUI Arrestees Stay in Jail Before Their Case is Decided?

- Because 52% of all offenders in Alaska are never released pretrial, it is likely that there are DUI defendants who spend some amount of pretrial time in jail.
- We don't know for how long this particular group - misdemeanor DUI offenders - stay in jail on a pretrial basis. But we know that all nonviolent misdemeanor defendants spent an average of 9 days in jail pretrial in FY 2014.
- We also know that district court cases (like misdemeanor DUIs) take a long time on average to resolve. In FY 2014, the median time to disposition was 53 days, and the mean was 89 days.

What is the Amount of Time Spent in Jail by Misdemeanor Offenders?

- Pew has reported that the average post-conviction length of stay (LOS) for sentenced misdemeanor DUI offenders is 18 days.

What Does the Research say About the Use of Prison Alternatives For Sentencing?

- For a first conviction, electronic monitoring and home confinement is an effective alternative, reducing recidivism by 35%.

Where are the DUI Offenders?

- 34% of all DUI filings statewide were from Anchorage.
- 66% of all DUI filings statewide were from the Third Judicial District.

What Changes Are Proposed to DUI Laws by the JRI Process?

- Consensus recommendations are to substitute mandatory language ("shall") for permissive ("may") language, essentially directing DOC to utilize remote monitoring technologies for first DUI offenders. Instead of spending 3 days in jail

How Many DWLS Convictions Per Year?

- In FY 2015, the state courts reported 1,865 misdemeanor DWLS convictions.

How Many DWLS Offenders Receive A Jail sentence?

- All DWLS offenders whose license revocation was based on a DUI conviction receive jail time to serve. First-time DWLS offenders face a minimum 10 day jail sentence. For a second offense of this type, they receive a 30 day sentence to serve.
- First-time DWLS offenders *whose license revocation was not based on a DUI conviction* receive a minimum-mandatory sentence of 10 days, all suspended, and a requirement of 80 hours of community work service. However, for a second DWLS offense of this type, offenders receive an “active” sentence of 10 days. For a third DWLS offense, the sentence is 30 days to serve.
 - It appears that most DWLS offenders served some amount of jail time (either pretrial or for a sentence) as DOC reported close to 1700 remands for DWLS offenses during FY 2014.
- Pew has reported that the average post-conviction length of stay for sentenced DWLS offenders is 41 days. This statistic most certainly underreports the length of time spent in jail by the convicted defendant because the LOS only computes post-conviction time actually served and does not count any jail time that DWLS offenders may have served while on pretrial status.
- According to the state courts, there were 1,865 misdemeanor DWLS convictions in FY 2015.

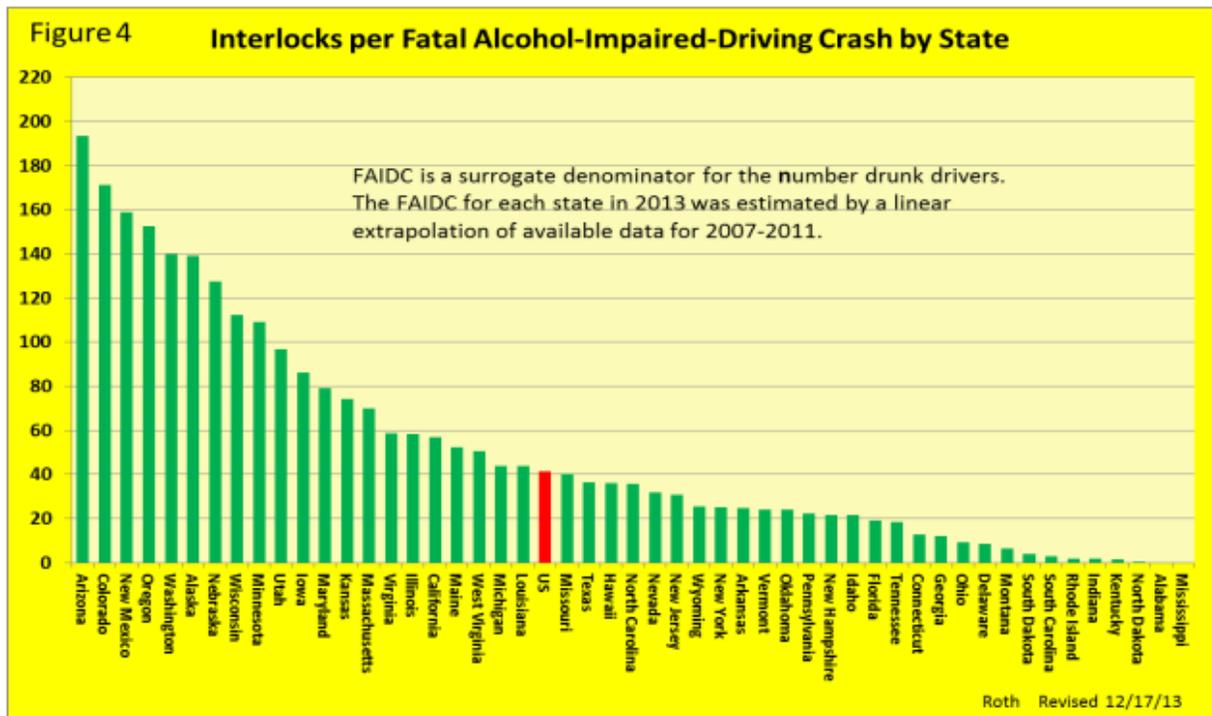
What Percentage of DUI Offenders Are Recidivists?

- See also Rauch et al (peer reviewed), Risk of Alcohol-Impaired Driving Recidivism Among First Offenders and Multiple Offenders,” American Journal of Public Health, May 2010, Vol 100, No. 5, noting an annual recidivism rate of 24.3 per 1000 among first offenders. In 6 year study, there were, on average, 5.4 DUI violations per 1000 Maryland drivers. Among drivers with no prior offenses, there was an average of 3.4 new first-time offenders a year per 1000 drivers. Among drivers with 1, 2, and 3 or more priors, the comparable rates of new offenses were, respectively, 24.3, 35.9, and 50.8. Thus, the magnitude of risk increased substantially as the number of prior offenses increased.

Per Roth,

“[FAIDC is] the estimated number of currently-installed interlocks per fatal alcohol-impaired-driving crash by state. **This is one relative measure of the specific deterrent effect of interlock programs in the states.**” Also, it’s a way to compare states, as Roth says, “**FAIDC is a surrogate denominator for the number of drunk drivers**” (see graph below).

http://www.rothinterlock.org/2013_survey_of_currently_installed_interlocks_in_the_us_revised-12_17_13.pdf, p. 4



DRAFT BACKGROUND PAPER FOR IID RECOMMENDATION - DO NOT DISTRIBUTE

Table of Contents

- Overview
- What is the IID Law in Alaska?
- Which DUI Drivers Are Exempted from Using IIDs?
- How Do IID Requirements Interact with the Issuance of Limited Licenses?
- What Are the Direct Costs to an Offender Resulting from a DUI Conviction?
- What Are the Costs Associated With Obtaining an Interlock-Restricted License After a DUI/Refusal Conviction?
- Is There Any Mechanism By Which Interlock or Related Costs Can Be Reduced?
- How Many Alaskans Are Effected By the Interlock Requirement?
- Is The Required Use Of An Ignition Interlock Device Effective In Reducing Post-Interlock Recidivism Among DUI Offenders?
- How is the Alaska Ignition Interlock Program Structured?
- Has the Alaska Interlock Program Been Reviewed?

Overview

All fifty states have made some provision for ignition interlock use by DUI offenders. An alcohol ignition interlock prevents a vehicle from starting unless the driver provides a breath sample with a BAC lower than a pre-set level.

Approximately thirty-eight states mandate interlocks for repeat DUI/Refusal offenders. Thirty-one states require interlocks for first DUIs with high BACs. Less than half of all states, 23 including Alaska, require interlocks for all first offenders convicted of either DUI or Refusal.

In all remaining states, courts may impose ignition interlocks either as a condition of probation or as a restriction on the issuance of temporary or hardship licenses during a period of license suspension or revocation. Other states also allow Interlock use to shorten the length of license revocation.

What Is the IID Law in Alaska?

Under current Alaska law, any person convicted of a DUI or Refusal¹ whose offense involved the use of alcohol will be ordered to: serve a mandatory sentence, pay a mandatory fine, have their license to drive revoked for a mandatory period, and use an ignition interlock for a mandatory period of time once he or she regains a privilege to drive.²

¹DUI and Refusal are crimes which pertain to driving a motor vehicle or the operating an aircraft or watercraft. AS 28.35.030 and AS 28.35.032. A "motor vehicle" is defined as "a vehicle which is self-propelled except a vehicle moved by human or animal power." AS 28.90.990(a)(17). Thus, the requirement applies to cars, trucks, motorcycles, planes, boats, ATVs and snowmachines if they are not being operated in certain exempted rural communities.

²AS 28.35.030(c)(2)(sentencing court may not suspend the IID requirement).

The IID requirement does not expire. It is a springing requirement, meaning that it becomes effective when the convicted driver regains the privilege to drive. A person regains that privilege after a statutory revocation period ends and when he or she can satisfy various re-licensing requirements e.g. completion of treatment requirements; passing written, vision and road tests; payment of DMV fees). Any license obtained (whether “limited” or not) will be subject to a separate ignition interlock (“C”) restriction.

The court’s judgment specifies the time period an IID must be in use on a driver’s vehicle. The amount of time an IID is required depends on whether the offense is a misdemeanor or a felony, and on how many prior convictions the defendant has had during the ‘lookback’ period.³ See below.

Table 1: Amount of IID Use Required Post Conviction	
# of DUI/Refusal	Mandatory Minimum Period for IID
1st	6 months
2 nd	12 months
3 rd	18 months
4 th	24 months
5 th	30 months
6 th	35 months
Felony (3 rd DUI/Refusal)	60 months

Who Is Exempted from the IID Requirement?

Although Alaska is often described as a mandatory IID state, there are lawful exemptions.

- No IID shall be required for drivers of motor vehicles in listed rural communities not on the state highway system and with a daily traffic volume of less than 499 where motor vehicle registration and mandatory insurance is not required.⁴
- No IID is mandated for a defendant required to drive an employer’s vehicle if a court first determines: (1) it is a condition of employment to drive a vehicle owned or leased by defendant’s employer; (2) the defendant’s driving will not create a substantial danger; and (3) the employer is notified of the defendant’s “probation [sic]” and provides the defendant with a letter authorizing him/her to drive the vehicle.
- No post-revocation IID can be merely administratively mandated; however, as stated elsewhere interlocks will be required for a limited license approved by DMV.

³For misdemeanor penalties, the lookback for a prior DUI or Refusal is fifteen years. For felony (recidivist) penalties, the lookback is two prior convictions within ten years.

⁴AS 28.35.030(t) and AS 28.22.011(b). The list of communities is here: <http://doa.alaska.gov/dmv/faq/manins.htm>

- No IID is required for offenders convicted of a drug-involved DUI. A court may impose an IID requirement as a condition of probation even when the impairment was not alcohol-related.

How Do IID Requirements Interact with The Issuance of Limited Licenses?

There are no pre-adjudication or pretrial ignition-interlock provisions of law. However, a court convicting a misdemeanor DUI offender may approve a limited license to have effect during the period of a license revocation.⁵ Any limited license will be subject to and labelled with the interlock restriction until the requirement is satisfied.

There are no limited interlock licenses permitted by statute for a person convicted of misdemeanor or felony refusal, felony DUI, for driving in violation of the limitations of an interlock-restricted limited license, or for a DUI while on probation for a prior DUI or Refusal.

The actual issuance of the limited license depends upon the person’s installation of an ignition interlock as well as the satisfaction of other requirements.

Limited licenses are issued only after a no-drive period is first observed. The no-drive period (often called the ‘hard’ revocation) is mandatory. Its length depends on prior DUIs/Refusals. (see below)

Table 2: Relationship Between Statutory Minimum Mandatory Periods for Revocation, Limited License and IID Use			
# DUI	Minimum Revocation	When Limited License Allowed for some DUI Offenders	Minimum IID Use
1st	90 days	After first 30 days.	6 months
2 nd	1 year	After first 90 days.	12 months
3 rd	3 years	After first 90 days.	18 months
4 th	5 years	After first 90 days.	24 months
5 th	5 years	After first 90 days.	30 months
6 th	5 years	After first 90 days.	35 months
Felony	Permanent. Termination of revocation is within discretion of DMV after ten years based on statutory criteria. If revocation is terminated, IID use will follow.	None	60 months

Neither a period of driving with a limited license nor the completion of the interlock requirement will shorten the full revocation term.

⁵ See AS 28.15.201(d), and 28.15.181(c). Similarly DMV may approve limited licenses during revocations based on administrative per se DUI determinations. See AS 28.15.201(d) and 28.15.165(c).

What Are the Direct Costs of a DUI Conviction?

An individual convicted a crime is liable for those fines and fees that are usually identified by his or her court judgment. We can call these the direct costs of the conviction. For a first-time DUI/Refusal offender, the direct or judgment-associated costs are between \$2000-2680, exclusive of impoundment fees,⁶ forfeiture related losses, and ASAP-related costs.

DUI/Refusal	Min.-Mand Fine	Surcharge for conviction	Correctional facility surcharge	Cost of Imprisonment or of EM	Forfeiture	Cost of Counsel	ASAP screening, evaluation, and referral
1st	\$1,500	\$75 or \$50 if muni.	\$75	Jail costs are \$330; EM costs are either \$36 or \$78	Possible	Plea \$200; trial \$500; post-conviction \$250	u/k
2 nd	\$3,000	\$75 "	75	\$1,467	"	"	u/k
3rd	\$4,000	\$75 "	75	\$2,000	"	"	u/k
4th	\$5,000	\$75 "	75	\$2,000	"	"	u/k
5th	\$6,000	\$75 "	75	\$2,000	"	"	u/k
6 th	\$7,000	\$75 "	75	\$2,000	"	"	u/k
Felony / 3rd +	\$10,000	\$100	\$100	\$2,000	Mand.	Pre-indictment plea \$250; post-indictment plea with motions \$500; plea with motions and hearing up to time of trial \$1000; trial \$1,500; post-conviction \$250	

What Are the Costs Associated With Obtaining an Interlock-Restricted License after a DUI/Refusal Conviction?

Many more costs are associated with license reinstatement. For a first-DUI offender, the costs would include interlock fees⁷ of about \$700 for the period of 6 months, DMV fees at about \$600-700, and mandatory SR-22 insurance costs.⁸

⁶The State does not have an impoundment program, however the Municipality of Anchorage does have such a program. If a driver has no prior conviction, the vehicle is impounded for a maximum of 30 days; if a person does have a prior conviction of any of the enumerated offenses, the vehicle is forfeited. Costs associated with impoundment in a DUI case when there is no prior conviction are \$1592.50.

⁷ All interlock -related costs – which include installation, removal, monthly servicing, optional insurance to cover the unit, and any vendor charges for IID re-start after a alcohol lock-out - are paid by the offender to a third-party vendor.

⁸ Mandatory SR-22 insurance is by far the highest cost. SR-22 insurance is required not only during the term of an

Table 4: Costs to Defendant Associated with Interlock, Limited License and License Reinstatement				
	1 st DUI/Refusal	2 nd DUI/Refusal	3 rd DUI/Refusal	4 th DUI/Refusal
ASAP fee (show proof)	\$200	\$200	\$200	\$200
Alcohol restricted card if ordered	50	50	50	50
Processing fee	100	100	100	100
Driving Record	10	10	10	10
Road Test	15	15	15	15
Limited License Application	100	100	100	100
Reinstatement after 1st DUI	200	500	500	500
Installation of Interlock	75-350	75-350	75-350	75-350
Interlock servicing costs (ongoing): ranging between \$85-125, estimated here at 100/mo.	600 (6 mo.)	1200 (12 months)	1800 (18 months)	2400 (24 months)
<i>SR-22 insurance (ongoing): vary but estimate from State Farm is 286/mo. I used \$300/mo.</i>	<i>(5 years) \$18,000</i>	<i>(10 years) 36,000⁹</i>	<i>(20 years) 72,000¹⁰</i>	<i>(lifetime)</i>

Is There Any Mechanism By Which Interlock or Related Costs Can Be Reduced?¹¹

Although some states maintain a fund and a mechanism through which indigent drivers may apply for assistance with the costs of IID, the State of Alaska does not provide such assistance.

While the current DUI/Refusal statute does allow a sentencing court “to include” IID costs as part of the fine, see AS 12.55.102(d), courts do not prospectively reduce the minimum-mandatory fine. A defendant may obtain credit for any IID payments against the fine if s/he keeps their receipts and submit them to the court by a deadline specified in the judgment. It has been reported that this deadline presents a problem for some defendants, as well as an administrative headache for the courts who are frequently asked by defendants to reopen closed files so that they can get credit against an outstanding judgment.¹²

interlock-restricted license, but also for a statutory term of years after the full revocation term ends. For example, a first-offender would have to have SR-22 insurance for: (a) the 60 day term of a work-limited license; (b) the 6- month term of an interlock-restricted license; and (c) the 5-year term after the period of license revocation period ends.

⁹Probably underestimated since the cost of SR-22 insurance increases with more convictions.

¹⁰Ibid.

¹¹Costs associated with license reinstatement are most frequently cited as the reason why eligible offenders don’t re-license after a revocation. As reflected in one survey from California, a state which has not yet mandated interlock use, only 54% of the eligible first-offenders and only 35% of the eligible second-offenders had reinstated 3.8-4.8 years later. The cost relating to reinstatement was the most frequently reason given by 79% of the first-offenders and 82% of the second-offenders. N. Rogers, (May 2012).

¹²It is also uncertain whether state law allows a sentencing court to reduce a minimum-mandatory fine based on a defendant’s out-of-pocket costs for substance abuse treatment. AS 28.35.030(b)(2)(a)(ii). Individual state prosecutors have argued successfully against such credit. In contrast, the Anchorage Municipal Prosecutor has no objection to courts crediting treatment costs against the fine.

How Many Alaskans Are Affected By the Interlock Requirement?

While ignition interlock use may have been directed by the courts since 1989 and mandated for some DUI offenders since 2004, it is likely most of the Alaskan drivers impacted by IID mandatory provisions are those convicted of DUI/Refusal crimes since 2008.¹³

No entity currently tracks the number of persons who have failed to install or comply with interlock requirements. Nor does Alaska DMV know the number of DUI/Refusal offenders whose licenses have been reinstated after satisfying interlock requirements. However, the DMV does know that there are still 12,784 *living* drivers with pending – meaning unsatisfied – interlock restrictions. The interlock restriction remains in the DMV driver’s record until the requirement is satisfied.

While it can be reasonably assumed that some of those 12,784 individuals are currently driving on a DMV-issued interlock-restricted license,¹⁴ certainly many are not. It is well known that many DUI/OUI offenders delay or never reinstate their driving privileges. And some DUI offenders may obtain limited licenses with interlocks but then do not complete interlock requirements. Based on the available data, it is difficult to draw definitive conclusions concerning DUI/OUI convictions, license revocations and license reinstatements.

However, the number of interlock-restricted individuals (12,874) can reasonably be expected to increase over time the longer that mandatory IID requirements pertain to all DUI drivers in Alaska. Although the annual number of DUI/Refusal arrests has been trending downward since 2008, there were still 3594 convictions for DUI or Refusal in FY2015. 3371 were misdemeanors and 223 were felonies.

One extrapolation is that as many as 60 percent of offenders may not be reinstating their driving privileges. Alaska “stakeholders” interviewed by TIRF have guessed even lower, according to its 2012 study of the Alaska ignition interlock program. Stakeholders interviewed by TIRF believe that more than 75% of eligible offenders are not participating in the interlock program. Both estimates are consistent with studies indicating that only a small percent of eligible offenders have an interlock installed.

¹³Since 1989, courts have had discretion to require IID use in DUI/Refusal cases specifically and in criminal cases generally. AS 12.55.102, 28.35,.030-.032. In 2004, a new law provision ensured that a court’s requirement for IID use would not expire with the close of probation. See AS 12.55.102. Also mandatory IID provisions were first passed, mandating IID use for high BA cases and limited licenses. AS 28.35.030(s). In 2008, the Legislature imposed the current IID scheme, requiring IID use as a condition of license reinstatement for all DUI and Refusal offenders.

¹⁴ One researcher who extrapolates interlock installation rates for all states has estimated that there are 1,922 presently installed IID devices in Alaska. (cite)

Is the required use of an IID effective in preventing the occurrence of DUI and Refusal?

Interlocks are an effective method for preventing alcohol-impaired driving (DUI) *while they are installed*.¹⁵ Research has repeatedly shown that these devices reduce recidivism among offenders who use them. This includes hardcore offenders (also known as persistent/chronic drinkers and repeat offenders) who repeatedly drive after drinking with extremely high BACs and are resistant to change this behavior. A systematic review of 15 scientific studies conducted by the Centers for Disease Control and Prevention (CDC) found that, while interlocks were installed, the rearrest rate of offenders decreased by 67% compared to groups that did not have the device installed.¹⁶

However, researchers agree that the potential for IID effectiveness to reduce DUI offenses is greatly limited by the relatively small proportion of offenders who have the devices installed. Also drivers who do have the devices installed don't necessarily complete program requirements. In a 2007 study, while 10% of drivers ordered to participate in an interlock program did so, only 40% of those participants thereafter completed program requirements.

Ignition interlocks' effectiveness is also undercut by the inevitable attempts to tamper or otherwise evade detection of alcohol consumption. Newer technologies make it harder, but the far easiest means of evading detection is simply to not operate the vehicle on which the device is installed,¹⁷ but use another.

The reality is that, for many offenders, unlicensed driving may seem like a low-risk/low cost alternative after a suspension or revocation. Many delay reinstatement of driving privileges¹⁸ and remain outside of the driver-control system, making corrective action difficult if their driving continues to be a problem.¹⁹

Is the required use of an ignition interlock device effective in reducing post-interlock recidivism among DUI offenders?

Studies have conclusively shown that after ignition interlocks are removed, any recidivism effect disappeared, with interlock and comparison drivers having similar recidivism rates.²⁰ As a stand-

¹⁵ UNC Highway Safety Research Center, 2011, pp. 1-32-1-33; Marques and Voas, (2010).

¹⁶ Beirness and Marques (2004); Elder et al. (2011).

¹⁷ 13.5% of interlocked drivers monitored in a Washington State pilot study exhibited no, little or minimum vehicle use.

¹⁸ Voas et al. (2010).

¹⁹ Lenton et al. (2010). TIRF has also noted "Between 25% and 75% of offenders who have a driver's license that is suspended or revoked continue to drive, making it likely that they will continue to drink and drive and be a danger on the roadways (McCartt et al. 2003; Ross and Gonzales 1988; Griffin III and De La Zerda 2000)."

²⁰ Insert cites here.

alone measure, interlock requirements do not ‘teach’ an offender to exercise restraint.

How is the Alaska Ignition Interlock Program Structured?

The Alaska Department of Corrections Commissioner is responsible for ignition interlock device certification, which means the Commissioner determines which interlock devices are certified for use in Alaska by vendors. Approved vendors are listed on the DOC website.

The interlock program is bare bones and self-policing. The driver has to keep the device installed for the period of the interlock, have the device calibrated every 90 days by the vendor and maintain a record of up to date record of servicing and calibration which he must produce on request. Vendors are required to recalibrate every 90 days and must maintain records downloaded from the device for three years. Vendors do have to report suspected interlock tampering within 72 hours, but a driver is not sanctioned or even reported for any fails or lock-outs by the device.

Individuals who have an interlock requirement receive instructions from court and DMV agencies how to locate a vendor in their area. They contract with the vendor and bring documentation of the installation into DMV.

Has the Alaska Interlock Program Been Reviewed?

The Traffic Injury Research Foundation (TIRF) has a cooperative agreement with the National Highway Traffic Safety Administration (NHTSA) to provide training and technical assistance to jurisdictions to help them strengthen and improve the delivery of their alcohol interlock program. In 2011, TIRF consultants came to Alaska, examined the existing program and offered recommendations to improve the delivery of interlocks in the state and to increase program participation rates.

Alaska’s program strengths, as noted by TIRF, included

- The DOC approval process for interlock devices;
- The court-based interlock program because courts impose interlocks as a probation condition and monitor compliance;²¹
- The combined requirement of ASAP screening because “research has shown that alcohol interlocks alone should not be expected to change behavior and are most effective in facilitating behavior change when paired with an appropriate treatment program”;²²
- The availability of short hard suspension periods because shorter suspensions can facilitate offenders getting into the interlock program more quickly and shortens the window in which they may learn to drive unlicensed”;²³

²¹ Incorrect.

²² ASAP screening etc are not necessarily contemporaneous with interlock use, under the current scheme.

²³ Interlocks are not available for all drivers; the current law excludes refusal and felony DUI offenders.

- The policy allowing continued participation by individuals who are non-compliant (failed starts or lockouts) ensures that high-risk offenders at least have the opportunity to learn to separate drinking from driving.

Alaska's program weaknesses were "typical to court-based interlock programs and jurisdictions with large rural populations." They included:

- Low program participation rate, with a majority failing to participate (because, reportedly, "few judges consistently adhere to the mandatory requirement to order IID installation");
- The lack of monitoring of offenders for non-compliance by any agency;
- No consequences for failed breath tests;
- State's reliance on a paper-based reporting system (vendor's data downloads are not sent to any supervising agency);
- Lengthy 90-day calibration cycle means that offenders would not face swift and meaningful consequences for reports of non-compliance and subsequently, would be less likely to change their behavior;
- No graduated sanctions or performance-based exit criteria, which can ensure that offenders who pose the greatest risk (based on their demonstrated inability to separate drinking from driving) stay in the interlock program until they come into compliance with program requirements and those who don't need it exit; and
- The challenges with a large rural population in terms of device availability, servicing, and monitoring.

TIRF suggested both short and long term measures to increase interlock program participation. Those measures included:

- "Increase understanding among policymakers of the implications of long hard suspension periods/revocation periods and increase awareness of the availability of the reduced 45-day license suspension. A reduction in the long hard suspension period can get offenders into the program more quickly before they learn that they are able to drive unlicensed. This issue will require a fundamental shift in philosophy from an emphasis on license suspension to an emphasis on keeping offenders in the licensing system so that they can drive legally."
- "Make program information directly available to offenders, and make it available earlier in the process (following arrest or conviction instead of toward the end of hard suspension period.)"
- Reduce insurance premiums.

Substance-Abuse-Related Fatal Crashes ¹						
	Driver Status	2010	2011	2012	2013	2014
Number of Fatal Crashes in Alaska	Alcohol Test Results Positive (BAC<.08)	1	5	0	1	4
	Alcohol Test Results Positive (BAC=.08-.15)	5	7	2	4	4
	Alcohol Test Results Positive (BAC≥.16)	10	11	9	8	15
	TOTAL	16	23	11	13	23
	Drug Test Results Positive (All Types)	19	22	16	14	31
	Alcohol (BAC<.08) and Drug Test Results Positive	1	3	0	1	1
	Alcohol (BAC=.08-.15) and Drug Test Results Positive	2	4	1	2	3
	Alcohol (BAC≥.16) and Drug Test Results Positive	6	7	4	4	6
	TOTAL	9	14	5	7	10

¹ NHTSA, Fatality Analysis Reporting System (FARS), <http://www-fars.nhtsa.dot.gov/QueryTool/QuerySection/SelectYear.aspx>