

Meeting Notes from
ACJC Barriers to Reentry
Subgroup on Title 28

Friday, December 11, 2015 10:00 AM-12:00 PM

Brady Building, 1034 W. 4th Avenue, 5th floor conference room (AG's conference room)

Present: Mary Geddes, Brian Brossmer, Matt Widmer, Karin Thomas, Araceli Valle, Doreen Schenkenberger, Seneca Theno, Susanne DiPietro, Billy Houser, Fred Slone. On the phone: Ralph Andrews, Giulia Kaufman, Amy Erickson, Nancy Meade, Nicole Tham, Audrey O'Brien and Jayson Whiteside.

Next Meeting: Friday, January 15, 2015, , 10:00 AM – 12:00 PM, Attorney General's Office, 1031 W. 4th Ave., Anchorage, 5th floor conference room.

Vehicle Sanctions for DUI and DWLS (Alternatives to Jail or as Additional Punishments)

The larger Subgroup meeting was preceded by a smaller meeting on vehicle sanctions. Giulia and Mary spoke with Seneca and then later reported on their conversation to the group. Giulia will be doing a report on the Muni experience and look at impound and forfeiture practices around the state. . The State doesn't currently include impoundment as part of a sentence.

For Muni cases, however, under city code, there is mandatory impoundment for driving with no insurance, DUI , DWLS, and solicitation of prostitution. There is a 30-day impoundment on the first DUI. Prior to plea/verdict, the vehicle can be 'bailed ' out with a \$250 bond. If driver is convicted he/she can negotiate the timing of the impoundment. Only the registered owner can 'bail out' the car and has to show valid and current title, registration and insurance. Apparently a significant number of impounded vehicles are abandoned. The related fees are: towing (\$200 was the guestimated cost), the administrative fee (between \$180-250) (the only revenue obtained by the municipality), and daily storage fees at \$30 a day. The Muni has contracted with one company for towing DWLS cars and another for towing DUI cars. Giulia will talk to the Muni legal department to find out more. Impoundment has been cited as the sanction that upsets drivers the most, even more than jail. Impoundment of a vehicle takes a lot of the officer's time. S/he have to conduct an inventory search and wait until the tow truck has come. It takes at least an hour.

The next level of penalty is forfeiture for the second DUI. It does seem very harsh, especially given that the look-back for a previous DUI is 15 years. It is mandatory in every DUI case. It involves Muni attorneys in court appearances, sales, vehicle valuation, basically a lot of work. Giulia will talk to Pam Weiss in the Muni Attorney's office for more information. The general impression is that forfeiture is not much of a revenue generator.

We are not sure if Juneau or Fairbanks impound or forfeit vehicles under their MV codes, but Giulia will find out.

Alternative approaches include license plate seizures, which take the officer only a few minutes to do. This avoids inventory searches and waits for two trucks. The idea is that the driver can thereafter apply to

get plates at DMV. Some states issue temporary marked plates to make the driver more visible to law enforcement during the pretrial or probationary period.

Dual Administrative and Criminal License Revocation processes (continuing with past discussion)

Fred Slone asked whether we are spending resources (energy in committee work) where we don't need to, where the question is going to be resolved anyway. He referenced SB91, page 9, line 8. That line says that a person who has been acquitted for DUI or who has had all charges dismissed with prejudice, DMV shall rescind the DL revocation. Fred wondered if this wording will remain the same during this legislative session. Matt Widmer noted that it is rare to ever get a dismissal with prejudice. Fred is wondering about provision's real world value. Assume a January 1 arrest, a typical March 1 date for the administrative revocation action, with final court action rescinding the revocation on August 1. The only impact may be on the SR-22 requirement.

Seneca Theno stated that whether the case was dismissed often has very little to do with whether there was probable cause for the stop. In cases for BA .08 and over, which is when you get an administrative revocation, dismissal usually has to do with officer/witness availability.

Jayson Whiteside from DMV noted that a 8-9% reduction in recidivism has been achieved by the additional measure of administrative license revocations (ALR). He believes that federal transportation funding requirements to Alaska do require ALR, and that there may be reductions as great as a 10% penalty if we were to get rid of it. Every year the Governor has to certify Alaska's compliance with federal ALR drunk driver laws. Jayson cited some United States Code sections. [Mary has attached these to the meeting summary. After this meeting Mary also saw that there were major revisions to one of these statutes approved by Congress on December 4 which substantially change state requirements. These changes are also attached.] Mary will also look for 2015 state certification docs so we see how they read.

Ignition Interlock Questions

Brian Brossmer reported on his study so far of the state's ignition interlock program. He was able to use an extrapolation reported by another researcher to estimate that there were 1900 IIDS ordered installed in Alaska 2013. It was suggested that we could estimate the number of IID orders based on the number of misdemeanor convictions because felony drivers can't get licenses. Brian asked DMV if there is a number (a record) of reinstated licenses. In a discussion of whether the IID installation companies report to DMV, DMV noted that they get notice when drivers are non-compliant, either by removal of the device or by cancellation. Cancellation occurs when either the requirements are met or if the device is removed. DMV (Audrey) thinks we can get the number of reinstatements based upon satisfaction of the IID requirements.

Susanne asked, and Doreen 'seconded,' the idea that one legislative fix could be to require vendors to report the number of persons who have IID installed per court order. There are people who are not ordered to have IIDS installed, but get it anyway because they recognized they need help in controlling their drinking and driving conduct. This is believed to be a very tiny number. Bill Houser noted that from a Probation perspective, IID requirements can be a joke because unlicensed drivers can use other cars.

Previously it was also possible to have cars started by other drivers and drive with an elevated BA but now many IID technologies require random rolling tests as well., so that is less of a problem.

Audrey stated that she can get the number of reinstated licenses following conviction for DUI and refusal. She can also get stats on cancellation of DL based on IID removal.

Brian asked if there are any funds for someone who can get IID's installed if they can't lack money. It was noted that mandatory fines can be reduced by the costs paid for IIDs. Someone said that there is a small but significant number of persons who do not take advantage of this offset.

Matt Widmer noted that it is a criminal offense AS 28.15.291(b)(1)(D) to drive without an IID, although the Muni itself has no such provisions. See also 11.76.140. What is the number of state filings under this statute? There may be a significantly lower number for convictions as it might be a charge which is 'dealt away.'

To Do list:

- Audrey will gather DMV information on the number of reinstatements and cancellations relating to IID
- Mary and Susanne – will see if they can develop a proposal uiring vendors to report numbers of IIDs installed under court orders.