

**First Supplement to Memorandum 2024-01
Driving Under the Influence of Alcohol or Drugs and Related Matters
Panelist Materials**

Memorandum 2024-01 gave an overview of driving under the influence of alcohol or drugs and strategies to improve road and public safety while reducing unnecessary incarceration and improving equity. This supplement presents and summarizes written submissions from panelists scheduled to appear before the Committee on March 26, 2024.

Insights from Research

Exhibit

James Fell, Principal Research Scientist, NORC at the University of Chicago.....A
Lauren Knoth-Peterson, Senior Research Scientist,
Washington Public Safety and Policy Research Center..... B

Perspectives from Advocates

Ian Goldstein, Vice President of Public Affairs,
Mothers Against Drunk Driving..... C

Collaborative Courts

Hon. Lawrence Brown, Sacramento County Superior Court..... D

**Discussion Panel 1:
Insights from Research**

James Fell, Principal Research Scientist, NORC at the University of Chicago

Mr. Fell’s submission outlines the empirical research in support of lowering the per se blood alcohol concentration (BAC) limit from 0.08% to 0.05%. In addition to noting the deterrent impact that lowering the per se BAC limit would have on the entire drinking population, Mr. Fell highlights Utah’s recent experience with lowering the per se BAC limit, and research showing that lowering the per se BAC limit in other states would result in significant reductions in fatal and non-fatal crashes.

Lauren Knoth-Peterson, Senior Research Scientist, Washington Public Safety and Policy Research Center

Ms. Knoth-Peterson's submission describes her research on the Accelerated Rehabilitative Disposition (ARD) program — a diversion program for first-time DUI drivers in Pennsylvania. The study compared the recidivism outcomes of people who were granted diversion with those of people who were not granted diversion, and found there were no overall differences in recidivism rates but that the harsher sanctions associated with a DUI conviction had particularly negative effects on women and people of color. The research concluded that an arrest for DUI is a strong enough deterrent to keep people from reoffending, without the need for additional, harsher punishments.

**Discussion Panel 2:
Perspectives from Advocates**

Ian Goldstein, Vice President of Public Affairs, Mothers Against Drunk Driving

Mr. Goldstein's submission presents MADD's recommendations for policies to reduce drunk and impaired driving in California. Among others, the recommendations include requiring ignition interlock devices for all people convicted of DUI, lowering the per se blood alcohol limit from 0.08% to 0.05%, and increasing traffic safety by prioritizing stops for hazardous driving.

**Discussion Panel 4:
Collaborative Courts**

Hon. Lawrence Brown, Sacramento County Superior Court

Judge Brown's submission is the Sacramento County Collaborative Courts' "How to Guide" for entrance into DUI Treatment Court, which has been in operation since November 2017 and is for people charged with a 3rd or 4th DUI. The guide gives an overview of the DUI Treatment Court program, and outlines the eligibility and exclusion criteria, the referral process, and the incentives for completing the program.

Respectfully submitted,

Rick Owen
Senior Staff Counsel

Exhibit A

James Fell

Principal Research Scientist, NORC at the University of Chicago

The Benefits of Lowering the BAC Limit for Driving from .08 to 0.05

Lowering the per se blood alcohol concentration (BAC) level to 0.05 BAC has been a proven strategy supported by numerous studies that show 1) drivers are significantly impaired at a 0.05 BAC with regard to driving performance, and 2) lowering the BAC limit to 0.05 reduces drinking and driving and the related injuries and fatalities. Over 100 countries worldwide, including most industrialized countries, have already lowered their per se BAC levels to 0.05 or lower.

Why Lower the BAC Limit for Driving from 0.08 to 0.05?

Lowering the BAC from 0.08 to 0.05 is a general deterrent to impaired driving and affects all would-be-drinking drivers. Research is clear that lowering the BAC limit from 0.08 to 0.05 is a deterrent to **ALL** those who drink and drive because it sends a message that the government is getting tougher on impaired driving, and society will not tolerate impaired drivers (Fell & Voas, 2014). Such legislation reduces the number of drinking drivers involved in fatal crashes at all BAC levels (BACs>0.01; BACs>0.05; BACs>0.08; BACs>0.15) (Voas et al., 2000; Wagenaar et al., 2007; Hingson et al., 1996; Thomas et al., 2022).

Lowering the illegal per se limit to 0.05 BAC is a proven effective countermeasure that has reduced alcohol-related traffic fatalities in several countries, most notably Australia and Japan (Brooks & Zaal, 1993; Homel, 1994; Nagata et al., 2008). A meta-analysis of international studies on lowering the BAC limit, in general, found an 11.1% decline in fatal alcohol-related crashes from lowering the BAC to 0.05 or lower and estimated that 1,790 lives would be saved each year if all states in the United States adopted a 0.05 BAC limit (Fell & Scherer, 2017).

Virtually all drivers are impaired concerning driving performance at 0.05 BAC. Laboratory and test track research show that the vast majority of drivers, even experienced drinkers who typically reach BACs of 0.15 or greater, are impaired at 0.05 BAC and higher concerning critical driving tasks (e.g., Ferrara et al., 1994; Howat et al., 1991; Moskowitz et al., 2000; Moskowitz & Fiorentino, 2000).

The risk of being involved in a crash increases significantly at 0.05 BAC. The risk of being involved in a crash increases at each positive BAC level. However, it rises rapidly after a driver reaches or exceeds 0.05 BAC compared to drivers with no alcohol in their blood systems (Compton & Berning, 2015, February). Studies indicate that the relative risk of being killed in a single-vehicle crash for drivers with BACs of 0.05 to 0.079 is at least seven times that of drivers at .00 BAC (Voas et al., 2012; Zador et al., 2000).

The success of Utah's 0.05 BAC limit. Utah's fatal crash rate declined by 19.8% in 2019, the first year under the 0.05 BAC limit, compared to the rest of the United States, which had a 5.6%

fatal crash reduction in 2019. More than 22% of Utah drivers who drank alcohol reported changing their drinking and driving behavior once the 0.05 law went into effect. The study also showed that there were no economic declines in alcohol consumption, tourism, and revenues at restaurants and bars in the State (i.e., no economic declines with the change from 0.08 to 0.05 BAC (Berning, 2022, February; Thomas et al., 2022, February). While the Nation experienced an increase in the percent of traffic fatalities involving a driver with a BAC \geq .15 between 2018 (19%) and 2021 (21%), Utah showed a decrease in that percent from 2018 (17%) to 2021 (16%).

0.05 BAC is a reasonable standard to set. A 0.05 BAC is not typically reached with a couple of beers after work, a glass of wine, or two with dinner. It takes at least four drinks for the average 170 lb. male to exceed 0.05 BAC in two hours on an empty stomach (3 drinks for the 137 lb. female) (NHTSA, 1994). Surveys show that the public believes one should not drive after having 2 or 3 drinks within 2 hours (Royal, 2000). That is lower than a 0.05 BAC for most people.

A 0.05 BAC limit will significantly reduce the number of non-fatal crashes and related consequences. Alcohol-related traffic incidents do not always result in fatalities. However, they create numerous other significant consequences and harms affecting drivers, passengers, pedestrians, cyclists, and others sharing the roadways. Non-fatal injuries can require significant medical treatment and hospitalization, temporary and permanent disabilities, loss of work and income to individuals and families, and trauma and mental health problems for crash victims and their families. A meta-analysis of prior studies of the effects of lowering the BAC limit indicated that non-fatal alcohol-related crashes were reduced by 5%, which was significant (Fell & Scherer, 2017).

A 0.05 BAC limit would reduce the economic burden of alcohol-impaired driving to the State, including first responders. A 0.05 BAC would reduce alcohol-impaired driving and crash rates, resulting in lower economic costs and resources for the State. Economic costs include first responder and hospital ER resources to respond to the incidents, associated medical costs, court costs, damages and repairs to roadways, and the loss of work production. And it will not cost anything to the state to lower the per se BAC limit to .05.

Most industrialized nations have set BAC limits at 0.05 BAC or lower. All states in Australia have had a 0.05 BAC limit for over 30 years. France, Austria, Italy, Spain, and Germany lowered their limit to 0.05 BAC, while Sweden, Norway, Japan, and Russia have set their limit at .02 BAC (WHO, 2013).

The following National and International Organizations recommend a BAC Limit of .05
World Medical Association; American Medical Association; British Medical Association;
European Commission; European Transport Safety Council; World Health Organization;
Canadian Medical Association; Centre for Addiction and Mental Health; Centers for Disease
Control and Prevention; National Transportation Safety Board; National Academies of Science,
Engineering and Medicine; Association for the Advancement of Automotive Medicine; AB-
InBev Foundation

Support from the alcohol industry

<https://www.ab-inbev.com/what-we-do/road-safety.html>

AB InBEV Foundation (ABIF)

Making Road Safety a Priority

From the AB-InBEV Foundation website:

“Traditional designated driver programs, ride services, and mass media campaigns are useful to create awareness, but they’re not enough. Effective change also requires legislation and enforcement. That’s why we support measures that have been proven to reduce impaired driving, such as high-visibility enforcement patrols, public education and awareness campaigns, and the use of technologies such as ignition interlocks and alcohol detection systems. We also support the enactment of mandatory BAC limits in every country. We agree with the World Health Organization that a 0.05 BAC limit is generally considered to be the best practice at this time; however, we defer to governments to determine the appropriate mandatory BAC limits in their respective jurisdictions.”

REFERENCES

Arnold, LS and Tefft, BC (2016). *Driving Under the Influence of Alcohol and Marijuana: Beliefs and Behaviors*, United States, 2013-2015. AAA Foundation for Traffic Safety, Washington, DC, May 2016, 1-19.

Berning, A. (2022, February). Evaluation of Utah’s .05 BAC per se law. Traffic Tech Technology Transfer Series, DOT HS 813 234, National Highway Traffic Safety Administration.

Brooks C, Zaal D (1993). Effects of a reduced alcohol limit in driving, in *Alcohol, Drugs and Traffic Safety*, Alcohol, Drugs and Traffic Safety (Utzelmann HD, Berghous G, Kroj G eds), pp 860-865, Verlag TÜV Rheinland, Cologne, Germany.

Compton, R. P. & Berning, A. (2015, February). Drug and alcohol crash risk. (Traffic Safety Facts Research Note, Report No. DOT HS 812 117). Washington, DC: National Highway Traffic Safety Administration.

Dang, Jennifer N. (2008). *Statistical analysis of alcohol-related driving trends, 1982-2005*. (DOT HS 810 942). Washington, DC: National Highway Traffic Safety Administration. Retrieved from <http://www-nrd.nhtsa.dot.gov/Pubs/810942.pdf>.

Fell, J. C., & Voas, Robert B (2014). The effectiveness of a 0.05 blood alcohol concentration (BAC) limit for driving in the United States. *Addiction*, 109; 869-874.

Fell, J. C., Beirness, D. J., Voas, R. B., Smith, G. S., Jonah, B., Maxwell, J. C., Price, J., Hedlund, J. (2016). Can Progress in Reducing Alcohol-Impaired Driving Fatalities be Resumed? Results of a Workshop sponsored by the Transportation Research Board, Alcohol, Other Drugs, and Transportation Committee (ANB50). *Traffic Injury Prevention*, 17(8), 771–781. <http://dx.doi.org/10.1080/15389588.2016.1157592>

Fell, James C., Scherer, Michael (2017). Estimation of the Potential Effectiveness of Lowering the Blood Alcohol Concentration (BAC) Limit for Driving from 0.08 to 0.05 grams per Deciliter in the United States. *Alcoholism: Clinical and Experimental Research*, 41 (12), 2128-2139.

Ferrara, S.D., Zancaner, S., and Georgetti, R. (1994). Low blood alcohol levels and driving impairment. A review of experimental studies and international legislation. *International Journal of Legal Medicine*, 106(4), 169-177.

Hingson, R., Heeren, T., and Winter, M. (1996). Lowering state legal blood alcohol limits to 0.08 percent: The effect on fatal motor vehicle crashes. *American Journal of Public Health*, 86(9), 1297-1299.

Exhibit B

Lauren Knoth-Peterson

Senior Research Scientist, Washington Public Safety and Policy
Research Center

First Time DUI Diversion

Dr. Lauren Knoth-Peterson

Washington State Public Safety Policy and Research Center

Washington State Office of Financial Management



Public Safety Policy & Research Center

Overview

- Evaluation of Pennsylvania's Accelerated Rehabilitative Disposition program
- Discussion of characteristics of individuals convicted for their first DUI vs. individuals with repeat DUI convictions

Accelerated Rehabilitative Disposition (PA)

- Eligibility
 - First-time DUI (or first in 10 years)
 - No individual, other than the defendant, was killed or seriously injured
 - There was no passenger in the vehicle under the age of 14 at the time of the offense.

- Evaluation published: Knoth, L. K., & Ruback, R. B. (2021). Conviction or diversion and the labeling of first-time DUI offenders: An analysis of sentencing and recidivism in Pennsylvania. *Justice Quarterly*, 38(1), 72-100.

ARD Sentence

- License suspension:
 - $<.10\%$ = no suspension
 - $.10\% - <.16\%$ = 30 days
 - $.16+\%$, drug involved, or if accident with bodily injury or damage to minors = 60 days
- Alcohol Highway Safety School
- Probation for 6-12 months
- Full Drug and Alcohol assessment
 - If BAC $\leq .16\%$
 - If screening indicates need for full evaluation
- Drug and Alcohol treatment as indicated by assessment
- Legal financial obligations (fees for programs and evaluation)
- Any other conditions imposed by the court
- Record expunged if successful

Standard Sentence

- License suspension:
 - $<.10\%$ = no suspension
 - $.10\% +$, drug involved, or if accident with bodily injury or damage to minors = 12 months
- Alcohol Highway Safety School
- 6-12 months probation
- Jail:
 - BAC $.10 - <.16$ = 48 hr. to 6 months
 - BAC $.16+$ or drugs = 72 hr to 6 months
- Full Drug and Alcohol assessment
 - If BAC $\leq .16\%$
 - If screening indicates need for full evaluation
- Drug and Alcohol treatment as indicated by assessment
- Legal financial obligations (fees for programs and evaluation AND fine between \$300 - \$5,000)
- Any other conditions imposed by the court

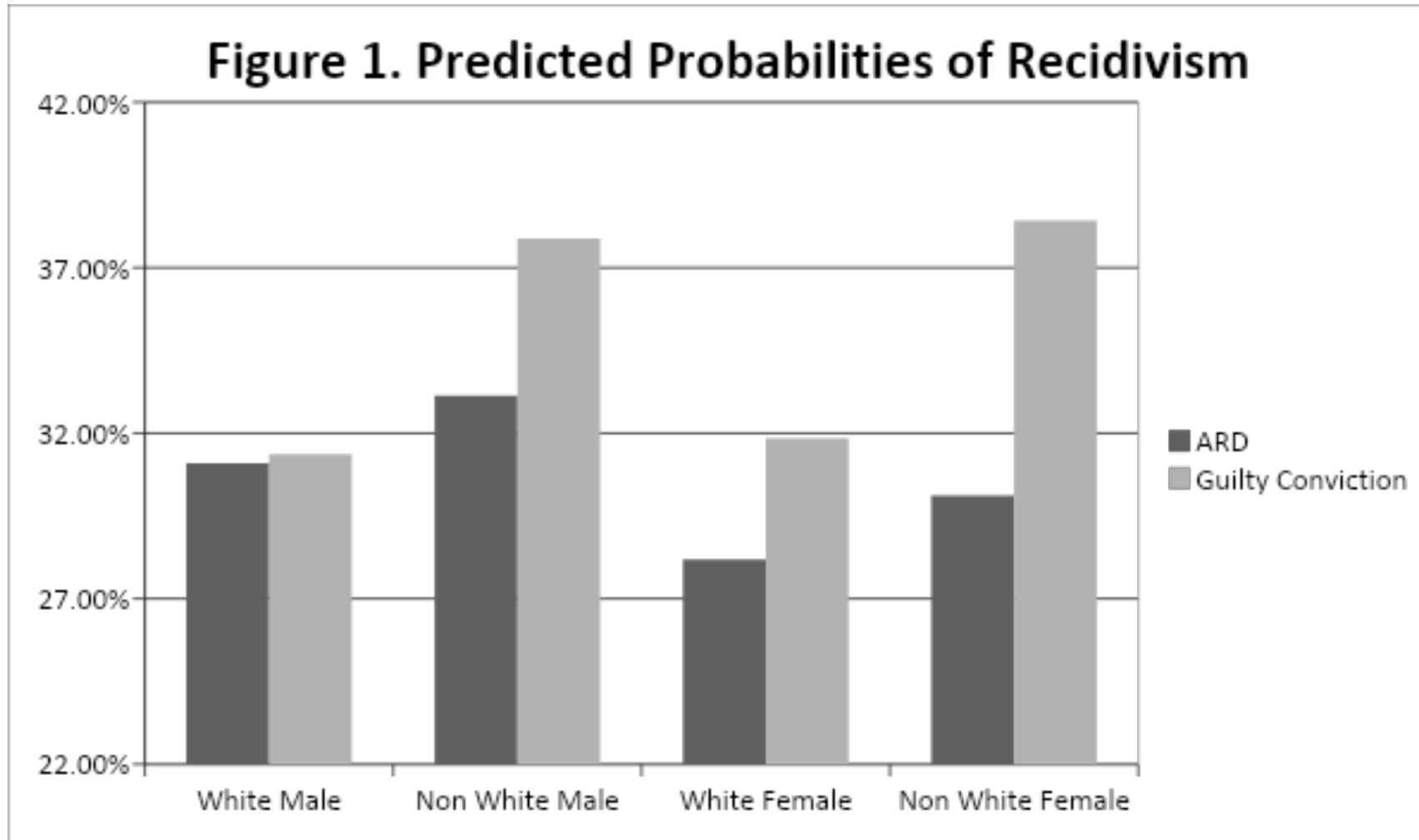
ARD Sentence

- License suspension:
 - $<.10\%$ = no suspension
 - $.10\% - <.16\%$ = 30 days
 - $.16+\%$, drug involved, or if accident with bodily injury or damage to minors = 60 days
- Alcohol Highway Safety School
- Probation for 6-12 months
- Full Drug and Alcohol assessment
 - If BAC $\leq .16\%$
 - If screening indicates need for full evaluation
- Drug and Alcohol treatment as indicated by assessment
- Legal financial obligations (fees for programs and evaluation)
- Any other conditions imposed by the court
- Record expunged if successful

Standard Sentence

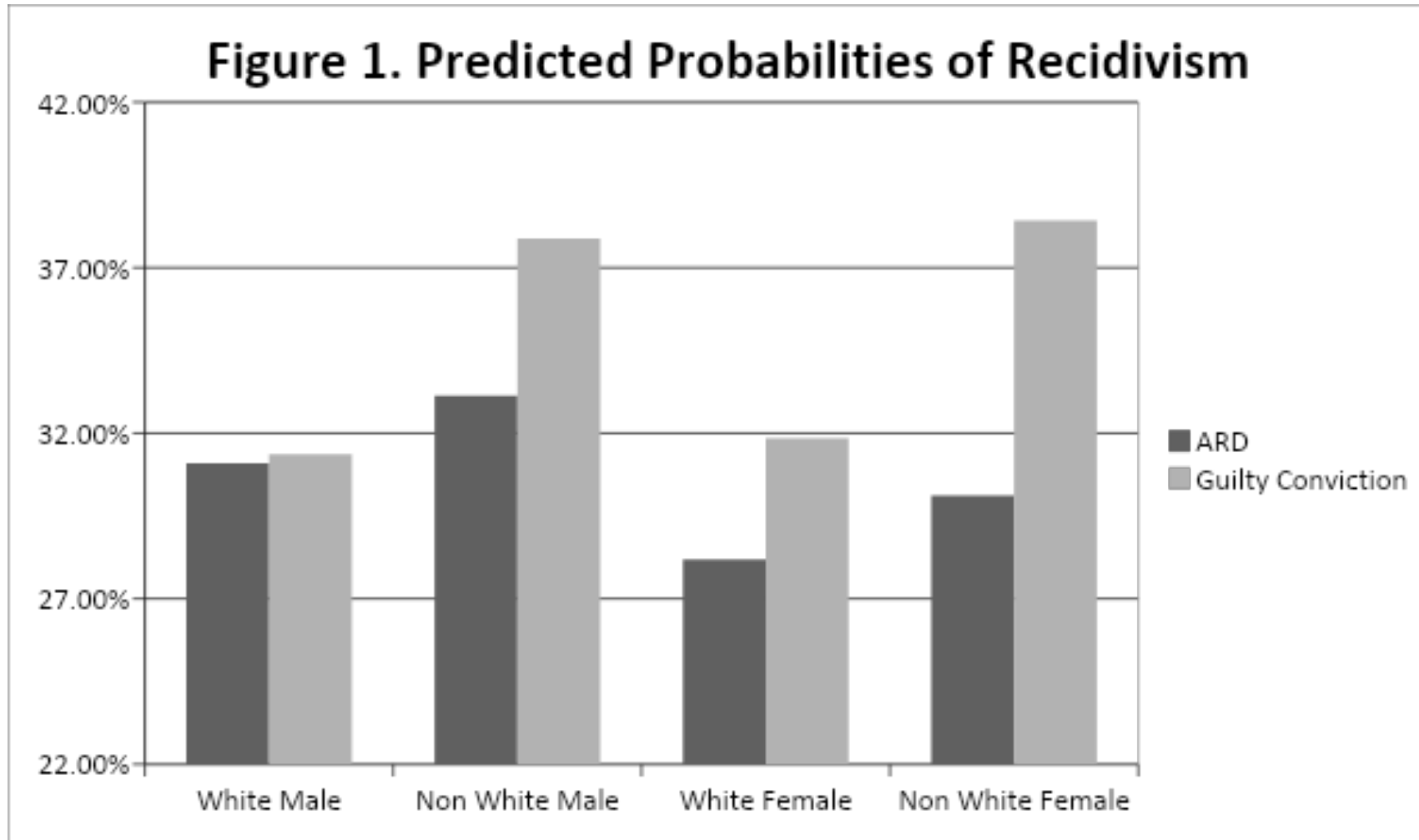
- License suspension:
 - $<.10\%$ = no suspension
 - $.10\% +$, drug involved, or if accident with bodily injury or damage to minors = 12 months
- Alcohol Highway Safety School
- 6-12 months probation
- Jail:
 - BAC $.10 - <.16$ = 48 hr. to 6 months
 - BAC $.16+$ or drugs = 72 hr to 6 months
- Full Drug and Alcohol assessment
 - If BAC $\leq .16\%$
 - If screening indicates need for full evaluation
- Drug and Alcohol treatment as indicated by assessment
- Legal financial obligations (fees for programs and evaluation AND fine between \$300 - \$5,000)
- Any other conditions imposed by the court

Effectiveness of ARD



- 40,915 individuals sentenced in 2006 or 2007.
- Statistical techniques to eliminate systematic differences

Effectiveness of ARD



- In full population, no significant difference in recidivism (4 year follow-up).
- Significant negative effects of conviction for women and people of color.

Study conclusions

- No significant overall difference in ARD vs. Conviction.
 - Indicates no specific deterrent effect of conviction
 - No negative effects of using diversion
 - Potential for increased cooperation with treatment requirements (incentive model)
- Significant negative effect of more harsh sanctions for women and people of color.
 - Permanent label, license suspension, and jail time
 - Increased barriers to reintegration (e.g., employment)
 - Disruption of prosocial bonds (collateral consequences)
- Consistent with prior findings (Taxman and Piquero, 1998)

First-time vs. Repeat DUI Offending

- Recidivism following DUI conviction significantly lower than non-DUI convictions (20-35% vs 65-75%, respectively).
 - Of those who do recidivate, about half recidivate with subsequent DUI offense.
- Small population accounts for majority of repeat DUI offending. Significant difference between 0 prior DUIs and 1 prior DUI, regardless of BAC.
- No strong evidence that BAC is a unique predictor of recidivism.
- Arrest itself is often a strong enough deterrent. DUI offending occurs because perceived odds of identification. Arrest recalibrates those perceived odds.

First-time vs. Repeat DUI Offending

- Three general categories of individuals who engage in DUI
 - **Non-criminal, one-time DUI offenders**
 - Unlikely to engage in offending behavior, no underlying substance use disorder
 - **Problem drinkers who drive**
 - Otherwise unlikely to engage in criminal behavior
 - Theories of criminal behavior generally do not apply
 - In younger ages, may be associated with social drinking, normal age-graded experimentation with alcohol.
 - In older ages, may reflect increase in alcohol consumption for “empty nesters” or coping-mechanism for significant mid-life changes (divorce, layoffs, etc).
 - **Problem drivers/individuals who drink**
 - Greater tendency to engage in anti-social, deviant, or impulsive behaviors
 - More likely to have a criminal record and/or engage in a range of offending including DUI
 - Behaviors better understood by general crime theories

Predicting Recidivism

- Development of DUI Risk Assessment in Pennsylvania (2018)
 - It is difficult to accurately predict likelihood of DUI-specific recidivism due to low rates of DUI recidivism.
 - Criminal history and age were stronger predictors of general and DUI-specific recidivism than BAC.
 - Those with a prior property, prior person, or prior drug conviction more likely to recidivate (non-criminal, one-time DUI vs. problem drinkers/problem individuals)
 - Those with prior DUI conviction less likely to recidivate. If they did recidivate, they were more likely to recidivate with a DUI than those with prior non-DUI convictions (problem drinkers who drive vs. problem individuals who drink).
 - Drug vs. Alcohol DUI matters. Drug-related DUIs had higher association with recidivism.

Summary

- DUI population differs from general offending population.
- Heterogeneity within DUI offending population, may be identified through examination of criminal history.
- Arrest itself is a strong deterrent, with diversion and general sanctions having similar outcomes in general.
- Unique negative effects of stigmatizing sanctions for women and people of color.
- Treatment appears more important than severe punishment.

Questions?

Lauren Knoth-Peterson, PhD

Lauren.knoth-Peterson@ofm.wa.gov

360.790.2015

Washington State Office of Financial Management



Public Safety Policy & Research Center

Exhibit C

Ian Goldstein

VP of Public Affairs, Mothers Against Drunk Driving

Written Submission of Ian Goldstein
VP of Government Affairs for Mothers Against Drunk Driving (MADD)
for California Committee on Revision of the Penal Code
March 26, 2024

Mothers Against Drunk Driving (MADD) appreciates the opportunity to participate in the California Committee on Revision of the Penal Code panel discussion to improve California’s laws in the prosecution of drunk and drugged driving crashes. Every 39 minutes in America, someone is killed by drunk driving.¹

From 2019 – 2021, California drunk driving deaths increased by a staggering 42%.²³ Reductions in DUI arrests in California and across the country, while alcohol-impaired driving fatalities increase, have galvanized MADD to consider ways our organization can help improve enforcement of DUI laws, including in California. Nationally, this 100% preventable crime kills 37 people a day and injures more than 800. Victims and survivors are left to seek justice for what was taken from them.

MADD has recommendations for California, based on successes in other states, to decrease drunk and impaired driving crashes while increasing equitable traffic safety enforcement by prioritizing stops for hazardous driving. MADD supports implementation of all-offender ignition interlock laws, increasing traffic stops for hazardous driving behavior, lowering the illegal blood alcohol content (BAC) level from .08 to .05, and ensuring the rights of victims of drunk and impaired driving crashes are protected.

For drunk and impaired driving offenders, MADD only supports diversion programs that require ignition interlocks, and include guardrails including, but not limited to, excluding such diversion participation for repeat offenders and impaired drivers who cause an injury or death. Currently, 35 states, not including California, have an all-offender ignition interlock law. MADD urges California lawmakers, the Department of Motor Vehicles (DMV), and prosecutors to implement an all-offender ignition interlock program to decrease drunk driving crashes, deaths, and injuries. The California DMV conducted a study of four counties that implemented an all-offender ignition interlock pilot program in 2016. The study found that ignition interlocks are 74% more effective in reducing DUI recidivism than license suspension alone for first-time offenders during the first 180 days following a conviction. For second-time offenders, ignition interlocks are 70% more effective than license suspension alone in preventing repeat offenses. Third-time offenders who only had a suspended license were more than three times more likely to have a fourth DUI conviction or incidence compared to the interlock offender group.⁴ A drunk driver will drive

¹ National Highway Traffic Safety Administration – Drunk Driving Overview <https://www.nhtsa.gov/risky-driving/drunk-driving#:~:text=Every%20day%2C%20about%2037%20people,These%20deaths%20were%20all%20preventable.>

² NHTSA Overview of Motor Vehicle Traffic Crashes in 2021, 2023, pg. 35
<https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/813435>

³ NHTSA Traffic Safety Facts, 2019 Data, July 2021, pg. 8
<https://crashstats.nhtsa.dot.gov/Api/Public/Publication/813120#:~:text=In%202019%20there%20were%2010%2C142%20people%20killed%20in%20alcohol%2Dimpaired,the%20United%20States%20in%202019.>

⁴ California DMV Study of Four-County Ignition Interlock Pilot Program, June 2016.
<https://interlockciim.org/wp-content/uploads/CA-DMV-Study-of-Four-County-IID-Pilot-Program-0616.pdf>

at least 80 times before their first arrest.⁵ Ignition interlocks are a proven effective tool in changing the behavior of a drunk driver. MADD urges California to implement an all-offender ignition interlock program to reduce drunk driving fatalities and injuries. It should be noted that these devices are paid for by the user, not the state. California's interlock law includes a very robust affordability program to ensure people unable to afford the device will have it at a reduced rate. The interlock vendor covers the difference in the cost of the device, not the state. Additionally, it should be noted that California's current ignition interlock law, limited to repeat offenders, expires in a couple of years. MADD is hopeful the California legislature passes a bill that ensures ignition interlocks are in place for all drunk drivers.

MADD works closely with law enforcement officers across the country, supporting enforcement efforts to ensure that our roads are safe. Officers are on the front lines of traffic safety every single day. Without traffic safety enforcement, and the dedication of police officers, traffic fatalities and injuries would increase exponentially. Studies that focus on equity in traffic stops have found disparities decrease when law enforcement focuses on hazardous driving behavior stops rather than other types of traffic stops. Decreasing DUI fatalities and injuries can occur while simultaneously reducing inequities in traffic stops, as demonstrated in Fayetteville, NC. It is possible to achieve both at the same time.⁶

In California, MADD has been made aware of data that shows people of color are overrepresented in DUI arrests. California DMV data found that Hispanic drivers were the largest racial/ethnic group among 2020 DUI arrestees at 53.6% while they represent 37.3% of the population. Black drivers made up 10.3% of DUI arrests, while accounting for 5.8% of the population. White drivers made up 29.1% of DUI arrests while they represent 40% of the population.⁷ MADD will continue to analyze this data with stakeholders and partners to determine the causes for minority over-representation in DUI arrests. Third-party analytics must be done to understand the context of this issue in order to save lives and prevent injuries on California roads. Research shows that both increased traffic safety enforcement of hazardous driving behavior and a reduction in racial/ethnic disparities in traffic stops can be achieved. MADD seeks to ensure robust enforcement of hazardous driving behavior helps California return to pre-COVID levels of traffic safety enforcement.

MADD supports lowering the illegal BAC threshold from .08 to .05. Research shows that impairment and crash risk are significantly elevated at .05 per se and higher. Given that data, MADD will support state legislative efforts that seek to create an illegal BAC limit of .05 per se. An evaluation of the .05 BAC law in Utah showed a 19.8% decrease in the fatal crash rate after the adoption of the .05 law compared to 5.6% fatal crash rate reduction for the rest of the states. There were decreases in numerous measures of alcohol-impaired crashes ranging from 7.8% to 22.9% reductions.⁸ Currently, Utah is the only state to

⁵ CDC "Vital Signs: Alcohol-Impaired Driving Among Adults — United States, 2010."

<http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6039a4.htm>

⁶ https://www.researchgate.net/publication/338692139_Re-prioritizing_traffic_stops_to_reduce_motor_vehicle_crash_outcomes_and_racial_disparities

⁷ Annual Report of the California DUI Management Information System, 2022, Pg. 33.

<https://qr.dmv.ca.gov/portal/uploads/2023/09/2022-DUI-MIS-Report.pdf>

⁸ National Highway Traffic Safety Administration, Evaluation of Utah's .05 BAC Per Se Law, February 2022.

https://rosap.nhtl.bts.gov/view/dot/60428/dot_60428_DS1.pdf

have enacted a .05 BAC law. Nearly 100 countries have laws with an illegal BAC threshold of .05 or lower.⁹

Lastly, MADD seeks to ensure that the rights of victims and survivors of drunk and impaired driving crashes are protected. Drunk and impaired driving offenders who cause fatal or injurious crashes should not be granted leniency or receive reduced sentences or diversion programs due to their illegal choice. Victims and survivors deserve justice for a death or injury due to this one hundred percent preventable crime. MADD urges a thorough review of how impaired drivers who cause death or injury are handled in the adjudication process and after sentencing within the California Department of Corrections and Rehabilitation.

⁹ World Health Organization, Legal BAC Limits by Country, 2018.
<https://apps.who.int/gho/data/view.main.54600>

Exhibit D

Hon. Lawrence Brown

Sacramento County Superior Court

DUI Treatment Court (DUITC)

OVERVIEW

In November 2017, the Sacramento Superior Court and its justice partners implemented a comprehensive DUI Treatment Court program that targets high-risk/need, repeat DUI offenders. The goals of the program are to keep communities safe and to reduce recidivism amongst the DUI repeat offenders that will lead to a decrease in alcohol-related collisions, injuries, and fatalities. The program utilizes the drug court model and strives to change the offenders' thinking and behaviors around substance use and will hold them accountable by offering treatment, supervision, and frequent court appearances.

I. IDENTIFICATION OF OFFENDERS

The attorneys will generally identify eligible offenders at the time of arraignment hearing, in the home courts. An offender may be referred at any time prior to adjudication. The offender must meet the eligibility criteria, be amendable to treatment, and be assessed as having a substance use disorder.

II. TARGET POPULATION AND ELIGIBILITY CRITERIA

The DUITC targets high-risk/needs, repeat DUI offenders who are assessed as having a substance use disorder.

A. Inclusion Criteria:

1. Charged with a 3rd or 4th Vehicle Code section 23152 offense within a 10-year period. (5th DUIs are reviewed on a case-by-case basis);
2. Resident of Sacramento County;
3. Amenable to treatment and voluntarily agrees to participate in the DUITC; and,
4. Meets diagnostic criteria for substance abuse or dependency.

B. Exclusion Criteria:

1. Have 2 prior felony DUI convictions within 10 years,
2. DUI with injury (Vehicle Code section 23153);
3. Gang membership and/or affiliation;
4. Sex crimes and Penal Code sec. 290 registrants;
5. History of violence (presumptive, on case-by-case basis);
6. Strike priors (presumptive, on case-by-case basis); and,
7. In the interest of justice, an offender who may otherwise be ineligible due to factors stated above, may be allowed into DUITC at the discretion of the District Attorney's Office.

III. REFERRAL PROCESS

- A. If the offender is amenable to participating in DUITC and meets the criteria, the defense attorney should request the offender's DUI case(s) be reviewed by the DUITC-DA (currently, Judith Mummert at Mummertj@sacda.org). If the DUITC-DA preliminary approves the offender for DUITC, the defense attorney will need to do the following:
 1. Have the offender fill out a Release of Information (ROI) form. Make sure all highlighted sections on the form are filled out. The expiration date is one year from the date it is signed. Then, email the ROI to both treatment providers and the DUITC Probation Officer.

a. DUITC Treatment Providers:

Ceci Leon celeon@wellspacehealth.org 916 301-8972 cell

Alfonso Edington alfonsoe@bridgesinc.net 916 893-0770 cell

b. DUITC Probation Officer:

Nicole De La Riva delarivan@saccounty.gov (916) 875-1772 or (916) 597-5666 cell

2. Make sure your client contacts one of the treatment providers to do an assessment. If the offender is in custody, please let the treatment provider know and the assessment will be done while the offender is in custody, so long as the offender is not in isolation.
3. Make sure your client contacts the DUITC Deputy Probation Officer to complete pre-orientation. If the offender is in custody, they can call the DPO collect from the jail.
4. Continue the DUI case(s) to a DUITC calendar which are on the second and fourth Fridays at 9:30 in Department 8.

IV. FIRST DUITC HEARING DATE

The DUITC team shall discuss new referrals and determine acceptance into the program. The DUITC team, consisting of DUITC-DA, DUITC-PD (currently David Krypel at krypeld@saccounty.gov), DUITC-PO, Treatment Providers, and the court weigh in on the decision to accept an offender into DUITC. District Attorney's office may decline to accept an offender based on risk to public safety.

A. If accepted into DUITC, the offender must review and sign the applicable probation conditions form for each DUI, prior to coming to court for plea. The Court shall take the offender's plea and immediately impose judgment and sentencing. The offender will be remanded at sentencing to serve any mandatory custody time, if not already completed.

1) Mandatory custody time is as follows:

a. 3rd DUI = 12 days in custody (6 actual days)

b. 4th DUI (or) a Felony 23153 with no felony priors = 60 days (30 actual days)

c. 5th DUI (or) a Felony DUI with one felony prior = 90 days (46 actual days)

B. The Offender's driver's license shall be revoked by statute as follows:

- 1) For a third conviction of violation of VC 23152a, b, d, e or g (alcohol), offender's driving privilege is revoked for a period of three (3) years, pursuant to Section 13352(a)(5) of the California Vehicle Code.
- 2) For a third conviction of violation of 23152c or f (drugs), offender's driving privilege is revoked for a period of three (3) years, pursuant to Section 13352(a)(5) of the California Vehicle Code. Offender is not eligible for a restricted license until after completion of 12 months of the suspension term.
- 3) For a fourth conviction of violation of 23152a, b, d, e or g (alcohol), offender's driving privilege is revoked for a period of four (4) years, pursuant to Section 13352(a)(7) of the California Vehicle Code.
- 4) For a fourth conviction of violation of 23152c or f (drugs), offender's driving privilege is revoked for a period of four (4) years, pursuant to Section 13352(a)(7) of the California

Vehicle Code. Offender is not eligible for a restricted license until after completion of 12 months of the suspension term.








C. If not accepted, the case will be scheduled for a further proceeding hearing back in the assigned home court.

V. PROGRAM PARTICIPATION INCENTIVES

The Court may offer any of the following program incentives:

- Opportunity to permanently stay non-mandated jail time.
- Reduce base fine pursuant to Vehicle Code sec. 23538(a) from \$600 to \$390;
- Stay other fines and fees while participating in the DUITC and permanently stay upon successful completion of the DUITC; and,
- Opportunity to request earlier termination of probation supervision upon completion of the DUITC program, completion of the DMV’s Multiple Offender Program (AKA SB 38), and payment of any restitution, fines and fees.

VI. DOCUMENTS REFERENCED IN THIS SECTION

Release of Information form	 ROI_Revised 12-3-21 DUITC.pdf
DUI Order of Probation – Felony with 1 prior felony	 DUITC FEL with 1 FEL Prior Probation
DUI Order of Probation – Felony (4 th) (with 3 misdemeanor priors)	 DUITC FEL 4th Probation condition
DUI Order of Probation – Misdemeanor (3 rd)	 DUITC MISD 3rd Probation Conditor
DUI Order of Probation – Misdemeanor (2 nd)	 DUITC MISD 2nd Probation Conditor
DUI Order of Probation – Misdemeanor (1st)	 DUITC MISD 1st Probation Conditor
DUITC Participant Handbook	 DUITC_Sacramento County Participant Ma