

An Analysis of Idaho's Kootenai County DUI Court

**AN ALCOHOL TREATMENT PROGRAM
FOR PERSONS ARRESTED FOR THEIR SECOND DUI OFFENSE
OR BAC OF 0.20% OR HIGHER**

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Abstract

The Kootenai County DUI Court is an alcohol treatment program for persons arrested for their second DUI offense within 5 years or BAC of 0.20% or higher. Potential participants are screened to determine the extent of their alcohol problem and eligibility for the program. Persons who are accepted for the program sign a contract for a comprehensive alcohol treatment program lasting a minimum of one year. Included is extensive probation supervision in the office and at the participant's home. Some of the benefits of successfully completing the program are a reduction of the charges, suspension of fines and jail sentence, reduced license suspension and ignition interlock requirements, and hopefully a sober lifestyle.

Results to date show success in completing the comprehensive one-year alcohol treatment program. There were 46 graduates of the program and only 20 persons terminated for a 70% program success rate. Treatment professionals indicate that in Northern Idaho, a 40% to 60% completion rate of treatment from non-court referrals is standard, and consider a 60% rate as very high. Currently there are another 35 persons still in the program.

Since completing the program, only 4% (2 persons) of the 46 graduates have had another DUI, while 25% (5 persons) of the 20 persons in the terminated group had a new DUI. None of the 35 persons still in the program have been arrested for a DUI offense since entry into the program.. A comparison of the graduate group with 100 persons eligible for the program but not participating showed 14% had received a DUI.

This program success in reducing DUI driving and accomplishing alcohol free lifestyle changes has resulted in increasing the number of program participants from a maximum of 40 to 50 participants. Further, the program is now continuing with 100% county funding.

**Sponsored by the
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**And the
Idaho Transportation Department's
Office of Highway Safety**

Table of Contents

Program Description.	1
Why The DUI Court Is Unique	1
Eligibility Criteria	1
Program Requirements	2
How The Program Works	2
Benefits Of Completing The Program	2
Program Staff	2
Program Background	3
Court System Problem	3
Problem Of DUI Drivers In Fatal Crashes	3
DUI Arrest Level	3
Drivers with Prior DUIs in Fatal Crashes	3
Injury Severity in Fatal Crashes with Prior DUI Drivers	4
Economic Impact of Injuries Sustained in Fatal Crashes	4
Use of Occupant Restraint in Fatal Crashes by Prior Drivers	5
DUI Court Results	5
Completing the One Year Alcohol Treatment Program	5
Not Getting Rearrested For DUI	5
Program Cost Vs Effectiveness	6
Program Contacts	7

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Program Description

The Kootenai County DUI Court is an alcohol treatment program primarily for persons receiving their second Driving Under the Influence (DUI) arrest in five years, and/or for high BAC drivers. The program is designed to promote a sober and healthy lifestyle by offering continuous contact with the DUI Court Judge and members of the DUI Court team, brokering community treatment services, and also promoting community traffic safety.

DUI offenders who meet program requirements are offered an opportunity to have their case transferred to DUI Court within a few weeks after their arrest. They are presented with the opportunity to have their sentence and charge reduced if they agree to participate in and successfully complete the program. This includes signing a contract, which lasts for a minimum of one year. The contract requires enrolling in treatment, supervised probation, and regular attendance at DUI Court sessions. The goal of the program is to reduce the recidivism rate of these repeat or high BAC DUI offenders.

There is a maximum of 50 participants in the program at any one time. Originally the program limit was 40, but the success of the program resulted in an increased demand. As persons complete the program and graduate, or are terminated from the program for failure to meet program requirements, new persons are added to the program when eligible and willing to participate.

Why The DUI Court Is Unique

The uniqueness of this program is that it focuses on the substance abuse problem through available community treatment resources and less on punitive court and license sanctions, and at a much earlier point in the driver history of alcohol abuse. It also uses *Lawyer Pro Tem Judges* (which is the first use of these judges in the State of Idaho and was authorized by the Idaho Supreme Court) as judges for DUI Court, which enabled the program to be initiated when no regular judges were available.

Persons successfully completing the program should never drive drunk or impaired again because they are presented with the tools to maintain their sobriety while in the program, and they understand that sobriety is their only option. And because the intervention is at the time of the second DUI and /or BAC of 0.20 or higher, the consequences of future drunk driving would be avoided. And for society, there would be a significant reduction of DUI driving and the related motor vehicle deaths and injuries.

Eligibility Criteria

The following are the major eligibility requirements:

- Must be a Kootenai County resident.
- Current DUI charge must be 2nd offense within 5 years, or
- DUI BAC of 0.20 or more.

The following are the major bars to eligibility:

- Felony DUI's will not be considered at this time
- Must not have prior conviction for a felony crime of violence (which includes sex crimes), and
- Prior criminal history will be reviewed by the DUI Court screening staff

Program Requirements

There are more than 18 specific program requirements in the contract signed by the program participant. Some of the major ones include:

- Must complete a minimum of two days on the Sheriff's Labor Program within the first 30 days, with 14 days of unscheduled jail time suspended if there are no problems during the program period.
- Must attend a minimum of 30 Alcoholics Anonymous (AA) meetings in first 30 days, then at least 2 AA meetings per week during length of program. Some participants attend 60 or 90 meetings in 60 or 90 days.
- Must agree to have an ignition interlock installed on any vehicle they drive for at least two months.
- Must attend a MADD (Mothers Against Drunk Driving) sponsored Victim Impact Panel
- Must attend DUI Court every two weeks for at least the first 6 months, then once per month until program completion.
- Must enroll, pay for, and complete the recommended alcohol treatment (up to one year including aftercare).
- Must make all scheduled visits with probation officer.
- Must be employed full time, or enrolled as a full time student working toward a degree or vocational trade.
- Must abstain from using or possessing any alcohol or illegal drugs.
- May include other criterion that promotes rehabilitation and sobriety.

How The Program Works

Eligible DUI offenders who accept the offer of DUI Court enter the program by signing a contract, which lasts for a minimum of one year. The contract is extended if the participant has a relapse or is still engaged in treatment. The DUI Court staff determines when the participant is ready to graduate.

Participants have on-going contact with multiple entities and the Adult Misdemeanor Probation Office (AMP) monitors their progress. Probation supervision is extensive. At the beginning of the program, AMP sees the participants in their office once a week, and about once a month near the end of the program. Home visits occur about 3 to 5 times during a normal one year program, and up to 3 to 4 times a month for people having problems. Treatment is monitored by both the treatment liaison and AMP. This information about each individual case is presented to the staff of the DUI Court team. An appropriate course of action is identified and implemented during the DUI Court session.

Benefits Of Completing The Program

The following are the major benefits of a person voluntarily enrolling in the program:

- Free alcohol/substance abuse evaluation
- Reduced criminal charge, typically to a 1st offense DUI. (However, the offense stays on the driver record for five years and is considered in the event of a subsequent arrest.)
- Suspended fines and jail sentence
- Reduced license suspension and ignition interlock requirements
- An opportunity to end the cycle of drinking, driving, and going to jail for driving DUI
- Most importantly, a sober and healthier life

Program Staff

The DUI Court staff includes a DUI Court Coordinator, two Pro Tem Judges (and two back-up Pro Tem Judges), a DUI Probation Officer, a Prosecuting Attorney from each jurisdiction (Kootenai County, City of Coeur d'Alene, and City of Post Falls), a Public Defender, a Law Enforcement Representative, a Court Clerk, and a Substance Abuse Evaluator who is also a treatment representative. Pro Tem Judges are used to minimize court costs, and because there are no regular judges available to serve as DUI Court judges.

Program Background

Court System Problem

The Panhandle region of Northwestern Idaho, which includes Kootenai County and the city of Coeur d'Alene, is one of the fastest growing counties in the Pacific Northwest. It has the highest number of alcohol related driving deaths and injuries in the state and Kootenai County has the highest DUI arrest rate of any county in Idaho.

Despite the high level of enforcement, the county court system had not had the success they would like in eliminating DUI offenders' involvement in alcohol related crashes. The focus of the court was on imposing license and court sanctions, and not dealing with the underlying drinking problem. In addition, plea-bargaining, reduced sentences and cases dismissed due to unreasonable court or trial delays, also contributed to the ineffectiveness of the traditional approach. Further, the Court generally did not recognize DUI offenders as out of control drinkers/alcoholics until the 3rd or 4th DUI arrest. Usually the approach for the first or second DUI was to impose license and court sanctions, and possibly an alcohol evaluation with recommended treatment (usually only on a second DUI), but not necessarily supervised probation. As a result, the DUI offenders were back on the streets drinking and driving with only having to face the legal and/or monetary consequences for their actions.

To solve this problem, the Kootenai County DUI Court Program was developed in a cooperative effort by the following groups: Kootenai County First District Court, Kootenai County Adult Misdemeanor Probation Office, various prosecutors' offices, the defense bar, substance abuse professionals in the community, state and local law enforcement, Mother's Against Drunk Driving (MADD), the Idaho Transportation Department's Office of Highway Safety, and the Idaho Supreme Court.

Problem Of DUI Drivers In Fatal Crashes

DUI Arrest Level

Kootenai County has the highest DUI arrest rate in Idaho. In 2002 there were about 83,000 licensed drivers and about 1,200 DUI arrests, which is at about 1.4 % of the licensed driver population. Statewide, the rate is about 1.0%. In addition, the average BAC for a DUI arrest was 0.148, in excess of the legal limit of .08.

Drivers with Prior DUIs in Fatal Crashes

The Fatality Analysis Reporting System (FARS) data for 2001 and 2002 shows that persons with DUI convictions continue to drink and drive, and at BAC levels well above the legal limit. See Table 1.

13% (44 of 341) of all drivers involved in a fatal crash in 2001-02 had a prior DUI conviction, while 87% (297 of 341) of the drivers in 2001-02 fatal crashes where BAC level was known had no prior DUI record.

Of the 44 drivers with a prior conviction, 35 (79%) had been drinking, and 28 (64%) had BACs of .08 or more. Only 9 of the 44 (21%) of those drivers involved with a prior DUI had not been drinking. In addition, 29.5% of all drivers 0.08 or higher had a prior DUI.

The chances of having a prior DUI increase with the BAC of drivers involved in a fatal crash. Of the drivers with 0.0 BAC, only 9 of 219 (4%) had a prior DUI, while 28 of 95 (29.5%) of the drivers with BACs of 0.08 had a prior DUI.

The DUI conviction and the associated court and license sanction did not seem to impact subsequent driving after drinking, and above the legal limit, for the majority of involved prior drivers.

BAC Level	Prior DUI Convictions							Total	% Prior DUI
	None	1	2	3	4	5	1 or More		
0.00	210	7	1	1	0	0	9	219	4.1%
0.01-.07	20	4	2	0	0	1	7	27	25.9%
0.08 +	67	17	5	4	1	1	28	95	29.5%
Positive BAC	87	21	7	4	1	2	35	122	28.7%
Total	297	28	8	5	1	2	44	341	12.9%

FARS 2001-02 data where drivers with prior DUI have known BACs.

Injury Severity in Fatal Crashes with Prior DUI Drivers

Table 2 shows the injury severity of drivers and occupants in year 2002 fatal crashes where there were drivers with prior DUI convictions. Of the 32 drivers with priors, 20 were killed, 5 had serious injuries, 5 had minor injuries, one had complaint of pain, and only one driver had no injury.

Of greater concern may be the number of other drivers and passengers that sustained injuries. There were 15 others killed, 13 with serious injuries, 16 with evident injuries, and 6 with possible injury. Even in a single county like Kootenai, the injuries mount up. In the three fatal crashes in Kootenai County where there were prior drivers, there were 11 injuries, of which 3 were fatal, and 2 were serious injuries.

Injury Severity	IDAHO				Kootenai County			
	Prior Driver	Other Driver	Pass	Total Occupants	Prior Driver	Other Driver	Pass	Total Occupants
No Injury	1	3	1	5	1	2	1	4
Possible Injury	2	3	3	8	0	1	1	2
Evident Injury	4	3	13	20	0	0	0	0
Serious	5	2	11	18	1	0	1	2
Killed	20	5	10	35	1	2	0	3
Total	32	16	38	86	3	5	3	11

FARS 2002. There were 32 fatal crashes, with 48 drivers, 38 passengers, and a total of 86 occupants.

Economic Impact of Injuries Sustained in Fatal Crashes Involving Prior Drivers

The NHTSA estimates that the economic cost of a fatality at about \$1.1 million and a serious injury at \$900,000. Statewide, the cost of the 35 fatalities and the 18 serious injuries is estimated at about \$54.7 million.

For Kootenai County, where there were 3 fatal crashes killing 3 persons and seriously injuring 2 others, it is estimated that the economic impact was about \$5.1 million.

As noted in Table 1, of the 44 drivers with a prior conviction, 35 (79%) had been drinking, and 28 (64%) had BACs of .08 or more. It is easy to see that a rehabilitation program for DUI drivers, which results in less drinking and driving and fewer crash involvements, can easily be cost effective.

Use of Occupant Restraint in Fatal Crashes by Prior Drivers -- Of the 32 drivers with prior DUIs in 2002 fatal crashes, 19 of the 20 drivers killed were unrestrained. Of the 3 drivers in Kootenai County, one was unrestrained and killed, and of the 2 restrained, one was seriously injured and the other had no injury.

Since restraint use is about 50% effective in preventing a fatality, it is clear that restraint use could have significantly reduced the fatalities in these fatal crashes. Perhaps 9 or 10 of these drives could have survived the crash if restrained.

Injury Severity	Restraint Used	Restraint Not Used	Unkn	Total
No Injury	1	0	0	1
Possible Injury	1	1	0	2
Evident Injury	2	2	0	4
Serious	1	3	1	5
Killed	1	19	0	20
Total	6	25	1	32

DUI Court Results

As of October 2003, there were 101 participants. 46 graduated, 20 persons were terminated from the program and 35 more are still in the program. The persons in the terminated group were dropped from the program for failure to meet the rigorous program conditions.

There are two criteria for determining the success of the DUI Court:

- 1) Completing the one year alcohol/drug treatment program, and
- 2) Not getting rearrested for DUI.

Completing the One Year Alcohol Treatment Program

46 of 66 persons (70%) who entered the program graduated and are benefiting from a sober and healthier lifestyle. Only 20 were terminated for failure to meet program requirements. Treatment professionals indicate that in Northern Idaho, a 40% to 60% completion rate of treatment from non-court referrals is standard, and consider a 60% rate as very high. With the program requirements as comprehensive as they

are, this is quite an achievement. Letters from graduates citing the improvement in their life now free from alcohol abuse are significant, since we know from Idaho data that most prior DUI drivers who do not control their drinking will continue to drink and drive.

Not Getting Rearrested For DUI

44 of the 46 Graduates (96%) did not get rearrested for another DUI. Two Graduates (4%) were rearrested for DUI. In contrast, 5 of the 20 persons in the Terminated group (25%) had another DUI. In comparison, a review of records of 100 persons who could have been eligible for the program from June 2001 through April 2002, but did not enter the program, shows 14 subsequent DUI arrests (14%). Seven of the 14 were

arrested on felony DUI arrests, having received their 3rd DUI in five years. While this comparison group is not perfect, it is at least a reasonable one. Also note that 2001-02 fatal crash data show 12.9% of the drivers with prior DUIs (See Table 1 above.), very close to the rearrest rate of the 100 persons in the comparison group.

Although the numbers are small, the results are in line with program expectations. When we compare the proportion that failed in the graduate group with the proportion that failed in the not participating group we find a statistical difference ($p < .05$). The graduate group, which had supposedly stopped drinking for a least a year, had only 2 persons with a new DUI. Knowing the difficulty of changing a life style and controlling a substance abuse problem, the results are quite good. The following table summarizes these results.

Group	Number	New DUI Charge	Percent DUI Charge
Current Participants	35	0	0%
Graduates	46	2	4%
Terminated	20	5	25%
Total Program Participants	101	7	7%
Eligible But Not Participating	100	14	14%

A small survey of DUI Court graduates by the Kootenai County Adult Misdemeanor Probation Office showed that the person or program most helpful in their recovery was the AA Program, DUI Court Counselor (treatment representative in DUI Court), DUI Court Judge, and Treatment Provider.

Program Cost Vs Effectiveness

The cost to run the program now is about \$150,000 per year over and above the normal processing cost for a DUI offender. This covers the cost of the Program Coordinator, a Probation Officer and the pro tem Judges who conduct the DUI Court sessions. The initial funding of the project for the first year of the 3 year grant was NHTSA Section 402 & 410: \$53,416; and local (County share): \$16,184. The second year funding was \$89,130, County share at 50%; and third year funding of \$122,769, with County share of 75%.

The program participants pay \$20 each month to the Court for participating in the program, and \$25 per month to the Probation Office for probation supervision. They also pay all costs associated with their alcohol treatment (unless approved for state treatment funding).

It is easy to see that the avoidance of even one alcohol related fatality, at about \$1.1 million each, or a serious injury, at about \$900,000 each, more than makes the program cost effective. Note that in 2002, Kootenai County actually had one prior DUI driver killed and one seriously injured.

Officials in Kootenai County are well aware of the cost benefit of this program approach and have expanded the program capacity from 40 to 50 persons. Further, the program is now continuing with 100% county funding.

Program Contacts

For further information on this program please contact:

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