Interlock Problems, Solutions, Myths, and Successes  
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Most states are currently installing interlocks in less than 10% of the vehicles of those arrested for drunk driving. Here are some of the problems, solutions, myths, and successes.

I. Interlock Legislation Problems and Solutions

2. Unrestricted license after revocation without interlock period.
3. No interlock between arrest and adjudication.
4. “No car” or “not driving” excuse.
5. Ineffective Sanction for driving-while-revoked (DWR).
7. Focus on getting interlocks installed.
8. Objective standards for indigent fund.

Self Selection

Given the choice, 90% of those who are arreste d for drunk driving will choose license revocation over interlock. Most of them will continue to drive while revoked and to continue to be re-arrested for drunk driving. Interlocks interfere both with drinking and with driving after drinking. The more an offender drinks, the more of a disincentive there is to install an interlock. Also interlocks cost about $1000 per year more than revocation. So it requires a stick rather than a carrot to get those who need them most to install interlocks. Some possible sticks include: interlocks as a condition of bail, interlocks as a condition of probation for convicted offenders, and no unrestricted license reinstatement without a period of alcohol-free interlocked driving.

Unrestricted License Reinstatement

Given the choice, most offenders choose to wait out revocation periods rather than install an interlock. Most of them continue to drive during their revocation period and they have a much higher re-arrest rate than interlocked offenders. One way to reduce those who would choose to wait out the revocation period is to require a period of interlocked driving as a condition of reinstatement. This seems to be very effective in Arizona and has just become law in New Mexico. One adverse side effect may be that a larger fraction of the worst offenders may choose to never get reinstated.

No Interlock Between Arrest and Adjudication

Between arrest and adjudication DWI offenders are a hazard to the public and a flight risk. Between 2001 and 2005 in New Mexico 9215 of 98,509 arrested offenders had a
subsequent DWI before being adjudicated, and 12,392 absconded and were not adjudicated. One solution is interlock-as-a-condition-of-bond. A second solution is vehicle immobilization or interlock between arrest and adjudication. A third solution is voiding of vehicle registration of vehicles driven by a person arrested for drunk driving.

“No Car” or “Not Driving” Excuse
In New Mexico, only about 50% of convicted offenders are installing interlocks mainly because we have no legislative alternative for those who claim that they do not have access to a vehicle or do not intend to drive during their revocation period. We know that they are driving because they have four times the re-arrest rate of interlocked offenders. One solution that I proposed in the 2009 NM legislature would be to require morning and evening BAC measurements with a home photo breathalyzer. Another possibility would be to assess a fee equivalent to the cost of an interlock for supervised probation of the non-interlocked offender.

Ineffective Sanction For Driving While Revoked
In New Mexico, the combination of 7 days in jail, a $300 fine, 30 days of vehicle impoundment, and an additional year of revocation does not deter offenders from driving while revoked. I proposed vehicle forfeiture as a sanction for DWR that would have a greater general deterrent effect.

Compliance Based Removal
We have good evidence that those who show the most frequent BAC lockouts, are the most likely to be rearrested after interlocks are removed. So it would make sense to require a period of alcohol-free driving as a condition for interlock removal. I suggest minimums of 1 year and 5000 miles of interlocked driving with no recorded BAC>0.05% by anyone who attempts to drive the interlocked vehicle.

Focus on Getting Interlocks Installed
My opinion is that too many resources are being focused on monitoring and sanctioning interlocked offenders rather that just getting the interlocks installed in as many offender vehicles as soon as possible. Interlocks themselves instantly sanction offenders who try to start their vehicles after drinking, and rolling retest violations could trigger a shorter service interval or an extended interlock period. Circumvention attempts should be a separate crime reported immediately by providers. But as long as an offender is driving the vehicle at least 10 times per week and not being locked out, or failing rolling retests, he is learning what we want him to learn. I recommend using the 6 month and 1 year interlock report summaries to automatically triage to more costly and severe sanctions such as extension of revocation period, mandatory treatment, SCRAM, INHOM, and house arrest.

An Objective Standard for Indigency Support
Whereas persons who are innocent-until-proven-guilty have a constitutional right to a public defender if they can’t afford a lawyer, there is no constitutional right to have society pay the fines and fees of a convicted offender. That’s why it is important to have an objective standard for the determination of eligibility for support from an indigent fund for interlock costs. In New Mexico, sentencing judges and probation officials determine eligibility for indigent support and that leads to a lot of inequity. I suggest requiring proof of eligibility for food stamps or income support.
II. Myths about First Offenders

1. First offenders have driven drunk only once before their arrest.
2. First offenders are not problem drinkers or alcoholics.
3. First offenders are a negligible part of the drunk driving problem.
4. First offenders are less likely to be re-arrested than subsequent offenders.
5. First offenders are not responsible for most of DWI fatalities.
6. Interlocks cost too much.
7. Interlocks are not a fair sanction for DWI.
8. Interlocks are not effective for first offenders.
9. Interlocks are too lenient a sanction. Offenders should be revoked.
10. Mandatory interlocks will reduce the income of defense attorneys and bars.

The first myth is that first offenders have driven drunk only once before their arrest. The reality is that first offenders are subsequent offenders, having driven after drinking many times before being arrested. My surveys of convicted drunk drivers at Victim Impact Panels indicate that they have driven after drinking an average of 500 times before their first arrest. Other research gives values from 86 to 2000 drunk driving trips before their first arrest.

The second myth is that first offenders are not problem drinkers or alcoholics. At my Victim Impact Panels about a third of offenders report that alcohol is a problem in their lives and another third report that they consider themselves alcoholics. Most of the first offenders convicted in New Mexico either have a BAC greater than 0.16 or refuse to blow. It would take more than 8 drinks in an hour to raise the BAC of a 160 pound male to above 0.16. These are not casual drinkers.

The third myth is that first offenders are a negligible part of the drunk driving problem. The fact is that 54-91% of drunk drivers are first offenders. It just depends on how far you look back and whether you are talking about first arrests or first convictions. For example in New Mexico in 2008, 54% of those arrested for DWI had no prior arrests in the last 25 years.
At the other end of the spectrum, the National Highway Traffic Safety Association (NHTSA) reported that 91% of Alcohol-Impaired Driver Fatalities in the US involve drivers who have no prior convictions in the previous 3 years. So first offenders are the major part of the drunk driving problem.

The fourth myth is that first offenders are much less likely to be re-arrested than subsequent offenders. The figure below shows that the re-arrest rate of first offenders is almost as high as that of subsequent offenders.

The fifth myth is that subsequent offenders are responsible for most drunk driving fatalities. The fact is that... because there are so many more first offenders than subsequent offenders and because a drunk first offender is just as likely to kill someone as a drunk subsequent offender...first offenders are responsible for most of the death and injury in drunk driving crashes.

The sixth myth is that interlocks cost too much. The fact is that they are cost-effective saving over $3 for every $1 spent by offenders in installing them. The value of lives saved and injuries prevented far exceeds what the offenders pay for interlock devices. Moreover offenders admit to spending more than the cost of an interlock on their drinking. It is true that some offenders are truly indigent but there are a variety of ways in which this genuine need is already being met in many states.

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1. [http://www-nrd.nhtsa.dot.gov/Pubs/810616.PDF](http://www-nrd.nhtsa.dot.gov/Pubs/810616.PDF) pg 5. Only 9% of drivers in fatal crashes with a BAC >0.08 had a prior DWI conviction in the previous 3 years.
3. Offenders report spending an average of $27 per week or alcohol in my surveys of victim impact panel attendees in New Mexico.
The seventh myth is that interlocks are too severe a sanction for first offenders. The fact is that even most of those who are mandated to install interlocks and have to pay for them consider interlocks a fair sanction. In surveys of over 1500 interlocked offenders, 80% agree or strongly agree that interlocks are a fair sanction for DWI offenders, and 72% agree or strongly agree that all convicted DWI offenders should have interlocks.

The eighth myth is that interlocks are not effective for first offenders. New Mexico data shows that interlocked first offenders have 77% less recidivism than those who are revoked and should not be driving at all. The recidivism reduction for first offenders is similar to that achieved for subsequent offenders.

The ninth myth is that allowing convicted offenders to drive legally with an interlock is too lenient a sanction…that it would be better to punish them by revoking their licenses. Well, up to 80% of revoked drivers drive anyway and have four times as many DWI re-arrests as interlocked offenders. The behavior modification aspect of interlocks is much more effective at saving lives and preventing injuries than the punishment of license revocation.

The tenth myth is that defense attorneys, bars, and restaurants will loose money. I doubt it, but by comparison to the lives saved and injuries prevented, it would be a small price to pay.
An Example of What Has Been Achieved in New Mexico
In Spite Of the Loopholes

New Mexico has made substantial progress at reducing DWI by a combination of initiatives in addition to its innovative interlock program. Other initiatives include more enforcement, more anti-DWI advertising, a DWI hotline, forfeiture ordinances in several cities, a DWI czar, and a DWI leadership council.

New Mexico made interlocks mandatory for high BAC first offenders and all subsequent offenders in 2003 and for all DWI offenders in 2005. Also since 2003 all revoked offenders may drive legally with an interlock with no waiting period.

What NM has achieved statewide is shown in the four figures below. Figure 1 shows that alcohol-involved fatalities are down 35%. Figure 2 shows that alcohol-involved injuries are down 39%. Figure 3 shows that alcohol-involved crashes are down 31%. Figure 4 shows that overall DWI recidivism is down 37%.

Summary

Mandatory ignition interlocks for all DWI offenders is an effective, cost-effective, and fair sanction. Interlocks save lives, prevent injuries, and reduce DWI crashes. First offenders must be included because they are almost as likely to be re-arrested as subsequent offenders and there are more first offenders than subsequent offenders.