



Reducing Alcohol-Impaired Driving and Underage Drinking in Montgomery County

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PREFACE

This report is the second in a series of white papers that the Office of Legislative Oversight will produce this year on alcohol-impaired driving and underage drinking.

OLO's first white paper (OLO Report 2001-1) provided a national perspective on the issues of alcohol-impaired driving and underage drinking, and summarized what the published empirical research says about the effectiveness of different strategies being used across the country to address these problems.¹

This second white paper presents facts on alcohol impaired driving and underage drinking in Montgomery County, and summarizes the laws and programs currently in place to address these issues in the County. Based upon this overview, the report then identifies nine crosscutting, inter-agency issues as candidates for further study in the next phase of this project.

Organization of Report

Chapter I, The Facts, presents basic facts about alcohol-impaired driving and underage drinking in Montgomery County.

Chapter II, Three Scenarios, describes the steps in the identification and processing of offenders in Montgomery County for: (1) alcohol-impaired driving; (2) selling alcohol to a person under 21; and (3) underage possession of alcohol.

Chapter III, Strategies, summarizes the laws and programs currently used in Montgomery County to address alcohol-impaired driving and underage drinking. This chapter also lists strategies used in other places that do not exist in Montgomery County.

Chapter IV, Issue Papers, presents nine inter-agency issues as candidates for further study in the next phase of this project. Each paper articulates a program issue, reviews what the research says about effectiveness, summarizes the current practices in Montgomery County, and proposes a series of questions for further research and analysis.

Note to Reader: Unless otherwise indicated, this report uses "DWI" (Driving While Intoxicated) as the generic term for alcohol-impaired driving.

Acknowledgements

OLO thanks the many County and State agency staff who assisted us with the preparation of this report. Given the tight deadlines that we were working under, OLO is especially appreciative of the time taken to provide information and share insights.

¹ The County Council released OLO Report 2001-1 on February 13, 2001. For a copy, contact Teri Busch at 240-777-7987 or teri.busch@co.mo.md.us.

EXECUTIVE SUMMARY

The Facts

- The percent of alcohol-related traffic fatalities in Montgomery County consistently has been less than the percent reported for Maryland and for the country as a whole. In 1999, 24% of the 49 traffic fatalities in Montgomery County were alcohol-related. In comparison, 30% of traffic fatalities in Maryland and 38% in the United States were alcohol-related
- In 1999, law enforcement made more than 4,500 arrests for alcohol-impaired driving in Montgomery County. This represented a 50% increase over the approximately 3,000 arrests made in 1994.
- The percent of Montgomery County adolescents who report consuming alcohol is generally about equal to or less than the percent reported statewide. Nonetheless, a 1998 survey found that about 46% of 12th graders, 35% of 10th graders, 17% of 8th graders, and 4% of 6th graders in the County reported consuming beer within the past 30 days.
- In 1999, law enforcement officers issued more than 2,400 citations for underage possession of alcohol; this was almost 60% higher than the 1,514 citations issued in 1997. Compliance checks conducted by law enforcement during the 2000 holiday season found licensed establishments selling alcohol to persons under 21 about 25% of the time.

The Strategies

Almost all of the strategies used in other communities across the country to reduce alcohol-impaired driving and underage drinking exist at some level in Montgomery County. A majority of the countermeasures implemented in Montgomery County are done so within parameters established by State law. Almost all of the strategies involve multiple County and/or State-funded agencies.

- **DWI enforcement strategies in the County** include sobriety checkpoints, blanket patrols, Administrative License Suspension (pre-trial and post-conviction), and the active identification, charging and prosecution of DWI offenders.
- **Sanctions for DWI offenders in the County** include education and treatment, fines, probation, community service, victim impact panels, ignition interlock, and incarceration. In addition, the County supports a number of diversion programs for juvenile offenders and first-time violators of some alcohol-related laws, e.g., sale of alcohol to person under 21.
- **Alcohol availability and other environmental strategies in the County** include required licensing (and an active inspection program) for establishments that sell alcohol; legal requirements for alcohol awareness training; laws regulating open containers and alcohol consumption in public; and laws against selling alcohol to intoxicated persons. In addition, County organizations use the media to educate the public about DWI and special enforcement efforts.

- **Strategies to reduce underage alcohol use in the County** include active enforcement of minimum drinking age laws e.g., compliance checks, party patrols, and point-of-purchase operations; keg registration laws; graduated driver's licensing; and a wide range of prevention activities including training and education, alternative (non-alcoholic) activities, community mobilization, and problem identification and referral.
- **Strategies used in other places but not in Montgomery County include:** Passive Alcohol Sensors, administrative vehicle impoundment for repeat DWI offenders; Drug Courts, and anti-plea bargaining laws.

Issues for Discussion and Future Study

Adhering to the Council's stated interest in improving the effectiveness of the County's efforts to reduce alcohol-impaired driving and underage drinking, OLO identified nine issues as candidates for study in the next phase of OLO's work. In sum, these issues concern:

1. Prevention activities sponsored by the Department of Health and Human Services, the Police Department, and Montgomery County Public Schools.
2. The enforcement of alcohol-age-of-sale laws by the Board of License Commissioners and the Police Department.
3. The need for a short-term detoxification facility ("drunk tank") for public inebriates and DWI offenders.
4. The pros and cons of re-instituting a program that diverts first-time DWI offenders into treatment.
5. The balance of resources allocated to the Police Department and State's Attorney's Office to maximize the complementary roles of enforcement and prosecution.
6. Trends in case disposition, sentencing, and recidivism of DWI offenders.
7. The effectiveness of the State's Administrative License Suspension program.
8. Whether the County should seek State legislation to permit the Motor Vehicle Administration to administratively impose vehicle-based sanctions for repeat DWI offenders.
9. The effectiveness of the State's Drinking Driver Monitor Program, which supervises DWI offenders on probation.

Council Worksession

A joint Public Safety Committee and Health and Human Services Committee worksession on this report is scheduled for April 5, 2001.

I. FACTS ABOUT ALCOHOL-IMPAIRED DRIVING AND UNDERAGE DRINKING IN MONTGOMERY COUNTY

This chapter introduces some basic facts about alcohol impaired driving and underage drinking in Montgomery County and Maryland. The chapter presents information about the number of alcohol-related fatalities, the prevalence of underage drinking, the number of DWI arrests, the rate of compliance with underage drinking laws, and the volume and disposition of DWI charges in the District Court.

1. How many people are killed each year in traffic crashes in Montgomery County?

From 1996-99, between 40 and 50 people were killed each year as a result of traffic crashes in Montgomery County. During this time, Montgomery County's traffic fatalities represented less than 10% of all traffic fatalities in Maryland.

**TABLE 1
NUMBER OF TRAFFIC FATALITIES, 1996 -1999**

Year	Traffic Fatalities In Maryland	Traffic Fatalities in Montgomery Co.	Mont. Co. Fatalities as Percent of All State Fatalities
1996	608	49	8.0%
1997	608	55	9.0%
1998	606	46	7.6%
1999	590	49	8.3%

Source: NHTSA, Traffic Safety Facts and Metropolitan Washington Council of Governments

2 What percent of the traffic fatalities in Montgomery County are alcohol-related?

From 1996-99, alcohol-related deaths accounted for between 14% and almost 31% of all traffic fatalities each year in Montgomery County. The percent of alcohol-related traffic fatalities in the County has consistently been less than the percent reported for the state of Maryland and the United States.

**TABLE 2
PERCENT OF ALCOHOL-RELATED TRAFFIC FATALITIES 1996 -1999**

	Percentage of Traffic Fatalities that are Alcohol-Related		
	Montgomery County	Maryland	U.S.
1996	14.2%	33.0%	40.9%
1997	30.9%	36.3%	38.6%
1998	17.3%	34.0%	38.0%
1999	24.4%	30.0%	38.0%

Source: Metropolitan Washington Council of Governments and NHTSA

3. What do we know about underage consumption of alcohol in Montgomery County?

Every two years, the Maryland Department of Education surveys 6th, 8th, 10th, and 12th graders throughout the state on their use of alcohol, tobacco, and other drugs. The table below summarizes the substance use reported in the last 30 days for students in Montgomery County as published in the 1998 Maryland Adolescent Survey. (The results of the 2000 survey are due out later this year.) The data show that:

- The number of students who report consuming alcohol rises rapidly with age. For example, in 1998, only 4.2% of 6th graders in Montgomery County reported that they had consumed beer within the last 30 days. This compared to 16.5% of 8th graders, almost 35% of 10th graders, and 46% of 12th graders.
- In 1998, the percent of Montgomery County adolescents who reported consuming alcohol was generally about equal to or less than the percent reported statewide. The exception was that a slightly higher percent of Montgomery County 12th graders reported consuming beer within the past 30 days.

TABLE 3
PERCENT OF STUDENTS REPORTING SUBSTANCE USE IN THE LAST 30 DAYS
1998

	Montgomery County				State of Maryland			
	6 th Grade	8 th Grade	10 th Grade	12 th Grade	6 th Grade	8 th Grade	10 th Grade	12 th Grade
Beer, Wine and Wine Coolers	4.2%	16.5%	34.7%	46.0%	8.3%	24.4%	39.8%	45.2%
Liquor (Rum, Vodka, etc.)	1.8%	9.6%	30.2%	37.2%	4.1%	16.8%	33.1%	37.8%
Five or more drinks on the same occasion	2.9%	7.5%	23.6%	31.3%	3.2%	12.0%	26.4%	33.8%

Source: Maryland Department of Education

*For more detailed results from the Maryland Adolescent Survey, see Table 10 attached at page 7.

When compared to the earlier survey results, the amount of hard liquor (Rum, Whiskey, Vodka, etc) consumed by 8th, 10th and 12th graders in Montgomery County has been increasing since 1992. For example, in 1992, about 23% of 10th graders reported they had consumed liquor within the past 30 days; in 1998, this percent was 30.2%.

Between 1992 and 1998, 6th graders in Montgomery County (and statewide) showed the greatest increase in binge drinking of all age groups surveyed. In 1992, 1.1% of 6th graders in Montgomery County reported they had consumed five or more servings of alcohol at one time within the last 30 days, by 1998 this percent was 2.9%.

4. How many people are arrested each year for impaired driving in Montgomery County?

The 4,599 DWI/DUI arrests in Montgomery County during 1999 represent a 53% increase over the 3,006 arrests in 1994. Between 1994 and 1999, 80-90% of the DWI/DUI arrests in the County were made each year by Montgomery County, City of Rockville, and City of Gaithersburg Police. The balance of the arrests were made by a combination of the State Police, M-NCPPC Park Police, and City of Takoma Park police.

**TABLE 4
IMPAIRED-DRIVING ARRESTS MADE IN MONTGOMERY COUNTY, 1994-1999**

Year	Number of DWI/DUI Arrests Made By Montgomery County, Rockville City, and Gaithersburg City Police (A)	Number of DWI/DUI Arrests by other Law Enforcement Officers, i.e., State Police, Park Police, Takoma Park Police (B)	Total DWI/DUI Arrests in Montgomery County (A+B)
1994	2,608	398	3,006
1995	2,820	587	3,407
1996	3,350	818	4,168
1997	3,495	352	3,847
1998	3,834	611	4,445
1999	3,901	698	4,599

Source: MCPD, March 2001 and COG Report, December 2000

5. What percent of all arrest activity in the County do DWI arrests represent?

Between 1994 and 2000, DWI arrests accounted for an increasing percent of all arrests made by the Montgomery County, City of Rockville, and City of Gaithersburg Police. In 1994, DWI arrests represented 19% of all arrests; in comparison, during the past two years, DWI arrests have accounted for more than 23% of all arrests. (National data indicate that about 10% of all arrests made by law enforcement officers are for drunk driving.)

TABLE 5
ARRESTS FOR DWI AS PERCENT OF ALL ARRESTS IN MONTGOMERY COUNTY*

Year	Total Number of Arrests**	Arrests for DWI	DWI Arrests as Percent of All Arrests
1994	13,836	2,608	19%
1995	15,105	2,820	19%
1996	16,136	3,350	21%
1997	16,198	3,495	22%
1998	16,999	3,834	23%
1999	16,758	3,901	23%
2000	16,249	3,887	24%

*These data represent arrests made by MCPD, City of Rockville, and City of Gaithersburg PD; they do not include arrests made by Maryland State Police, Park Police, or City of Takoma Park Police.

**Includes criminal arrests and miscellaneous traffic offenses arrests.

Source: Montgomery County Police Department, March 2001

6. How many people under 21 are arrested for alcohol-impaired driving in Maryland and Montgomery County?

The number of juveniles arrested for impaired driving (BAC .02 or higher) increased from 23 in 1995 to 58 in 1999. DWI arrests represent an increasing percent of all juvenile arrests. Statewide data show that in 1999 juvenile DWI arrests accounted for 0.72 percent (209 out of 50,277) of all juvenile arrests.

TABLE 6
JUVENILE ARRESTS 1995 – 2000
MONTGOMERY COUNTY

Year	Total Number of Juvenile Arrests	Juvenile DWI/DUI Arrests	
		Number	As Percent of all Juvenile Arrests
1995	2,511	23	.92
1996	2,313	39	1.7
1997	2,265	44	1.9
1998	2,417	63	2.6
1999	2,304	58	2.5

Source: MCPD Records Division and Maryland State Police

7. In Montgomery County, how many citations are issued each year to underage drinkers for possession of alcohol?

Between 1997 and 1999, the Montgomery County Police Department issued an increasing number of citations for underage possession of alcohol. The 2,411 citations issued in 1999 represent a 59% increase over the 1,514 citations issued in 1997. The number of underage parties closed by the MCPD was also substantially higher in 1999 compared to 1997 (141 vs. 87).

**TABLE 7
NUMBER OF UNDER 21 ALCOHOL CITATIONS AND UNDERAGE PARTIES BROKEN UP
1997- 1999**

Year	Citations Issued by MCPD for Underage Possession of Alcohol	Number of Underage Parties Closed
1997	1,514	87
1998	2,099	69
1999	2,411	141

Source: MCPD and Drawing the Line

8. How well do establishments licensed to sell alcohol in Montgomery County comply with the law that prohibits the sale of alcohol to persons under 21?

Last year, between Thanksgiving and New Years Day, the Alcohol Enforcement Holiday Task Force had 35 sales out of 156 attempted buys, resulting in a compliance rate of 78%. During January 2001, the Alcohol Initiatives Section had 27 buys out of 59 attempted underage buys, producing an even lower compliance rate of 54%.

**TABLE 8A
NUMBER AND RESULTS OF RECENT COMPLIANCE CHECKS COORDINATED BY ALCOHOL
INITIATIVES SECTION, MCPD**

	Attempted Buys by Person Under 21	Total Number of Sales	Percent of Compliance
2000 DWI Holiday Task Force	156	35	78%
January 2001	59	27	54%

Source: Montgomery County Police Department, March 2001

In comparison, the table below shows the results of compliance checks conducted under the supervision of Board of License Commissioner inspectors each year since 1996. These data evidence a substantially higher compliance with age-of-age alcohol laws.

**TABLE 8B
NUMBER AND RESULTS OF COMPLIANCE CHECKS BY BOARD STAFF**

Fiscal Year	Attempted Buys by Person Under 21	Total Number of Sales	Percent of Compliance
1996	229	24	89.6%
1997	164	4	97.6%
1998	193	7	96.4%
1999	261	19	92.8%
2000	116	4	96.6%
2001*	46	4	91.8%

Source: Board of License Commissioners, March 2001

*2001 data are results through February 28, 2001.

9. What is the volume of DWI charges in the District Court of Maryland?

The table below presents the number of DWI charges filed in the District Court, as published by the Administrative Office of the Courts for the past five years. The data indicate a significant increase in the number of DWI charges filed both in Montgomery County and across the State. It is important to understand that the total number of DWI charges does not represent the number of individuals arrested for DWI. The arrest data from the police report about 4,500 arrests for calendar year 1999 compared to about 7,300 DWI charges filed in the District Court. **The number of charges exceeds the number of arrests because most DWI offenders receive more than one charge based upon a single incident.**

**TABLE 9
DWI CHARGES IN THE MONTGOMERY COUNTY DISTRICT COURT AND AS A PERCENTAGE OF TOTAL DISTRICT COURT DWI CHARGES.**

Year	Total Statewide District Court DWI Charges	Total Montgomery Co. DWI Charges	
		Number	As Percent of State
1995 – 96	31,898	4,042	12.6%
1996 – 97	33,361	5,317	15.9%
1997 – 98	34,342	6,013	17.5%
1998 – 99	37,658	7,086	18.8%
1999 - 00	38,463	7,329	19.0%

Source: Maryland Judiciary 1999-2000 Annual Statistical Abstract Report

**TABLE 10
MARYLAND ADOLESCENT SURVEY MONTGOMERY COUNTY RESULTS 1992-1998**

		6 th Grade			8 th Grade			10 th Grade			12 th Grade		
		Ever Used	Last 30 Days	Last 12 Months	Ever Used	Last 30 Days	Last 12 Months	Ever Used	Last 30 Days	Last 12 Months	Ever Used	Last 30 Days	Last 12 Months
Beer, Wine or Wine Cooler	1992	30.00	8.5	17.3	49.2	20.5	35.7	67.9	40.7	44.6	80.0	49.1	68.9
	1994	13.10	6.7	8.9	43.3	25.8	38.3	57.9	36.6	51.6	72.7	49.0	66.3
	1996	13.7	6.4	11.8	36.2	20.3	32.7	50.0	32.3	47.0	75.0	51.5	69.7
	1998	8.7	4.2	7.2	29.9	16.5	24.9	54.9	34.7	48.4	67.6	46.0	62.7
Liquor	1992	8.90	2.2	4.7	26.5	8.9	20.30	47.8	22.9	38.2	66.2	29.7	49.7
	1994	5.10	2.5	3.8	31.5	17.9	27.40	38.9	22.6	34.3	60.9	34.0	55.2
	1996	5.1	2.1	4.2	23.8	12.2	22.7	38.1	25.6	35.9	65.2	38.1	50.0
	1998	4.4	1.8	4.0	16.9	9.6	14.8	46.4	30.2	41.3	62.2	37.2	56.3
Five or More servings of alcohol	1992	2.30	1.1	1.9	11.4	4.3	9.90	33.5	17.6	30.5	51.4	29.1	44.9
	1994	4.40	2.1	3.2	18.5	12.9	16.80	30.7	18.6	28.0	49.9	30.4	44.8
	1996	3.7	1.2	2.9	14.2	7.7	11.5	29.0	16.6	26.1	56.2	35.5	58.6
	1998	4.4	2.9	3.1	13.0	7.5	9.7	33.5	23.6	29.8	50.7	31.3	45.7

Source: Maryland Adolescent Survey

II. STEPS IN THE CRIMINAL/CIVIL JUSTICE PROCESSING SYSTEM

This chapter describes the typical steps in the identification and processing of offenders in three different scenarios related to alcohol-impaired driving and underage drinking.

Scenario (1): Identification and Charging of an Alcohol-Impaired Driver (pages 9-17). It is illegal for a person to drive or attempt to drive any vehicle while that person is under the influence of alcohol and/or drugs to such an extent that he/she cannot drive a vehicle safely. Scenario (1) outlines the steps in the identification, arrest, prosecution, and adjudication of a person charged with an alcohol-impaired driving offense in Montgomery County. For purposes of describing the steps, this scenario uses DWI (Driving While Intoxicated) as the generic term for alcohol-impaired driving.

When the police arrest a person for DWI, the police take the offender into custody and transport him/her to a District Police Station for processing. After being processed and formally charged, DWI offenders are not generally detained and do not appear before a District Court Commissioner. If a person charged with DWI fails to appear on his/her assigned court date, the judge issues a bench warrant for his/her arrest.

Scenario (2): Identification and Charging for Selling an Alcoholic Beverage to a Person Under 21 (pages 18-22). It is a criminal offense for a licensee or an employee of a licensee to sell alcohol to a person under 21. Scenario (2) describes the dual charging process that occurs when a law enforcement officer observes the sale of alcohol to an underage person in an establishment that is licensed by the Montgomery County Board of License Commissioners to sell alcoholic beverages.

- The first process involves the police officer going to a District Court Commissioner to apply for a statement of criminal charges against the sales clerk who made the sale to an underage person.
- The second process involves the Board of License Commissioners pursuing administrative action against the licensee of the establishment where the violation occurred.

Scenario (3): Identification and Charging of a Juvenile for Underage Alcohol Possession (pages 23-24). Underage possession of alcohol is a civil offense and no arrest is made. A juvenile (person under 18) charged with alcohol possession receives a civil citation, and is typically released to the custody of a parent or other legal guardian. By law, the disposition of the case is up to the Juvenile Court/Department of Juvenile Justice. Persons between 18 and 21 are issued a civil citation for underage possession of alcohol and are required to appear in the District Court to answer the charge.

SCENARIO (1)
THE IDENTIFICATION AND CHARGING OF AN ALCOHOL-IMPAIRED DRIVER¹

Step 1: DWI Detection and Pre-Arrest Screening

The DWI detection process begins when a police officer first suspects that a DWI violation may be occurring. Law enforcement officers identify three phases of DWI detection. Each phase involves several tasks and one major decision.

Phase	Title	Tasks and Decision
I	Vehicle in Motion	The officer observes the driver operating the vehicle, and decides whether he/she has a basis to stop the vehicle.
II	Personal Contact	The officer observes and interacts with the driver face-to-face, and decides whether he/she should ask the driver to exit the vehicle.
III	Pre-Arrest Screening	The officer evaluates the degree of impairment by administering one or more of the Standardized Field Sobriety Tests, e.g., horizontal gaze nystagmus, walk-and-turn, one-leg stand. This phase may also include asking the driver to submit to a preliminary breath test. ² At the end of the Pre-Arrest Screening phase, the officer decides whether he/she has probable cause to arrest the driver.

In practice, the DWI detection process does not always include all three phases. For example, after talking with the driver, the officer may conclude that the driver is not impaired and simply terminate the interaction. In other cases, the officer may arrive at the scene of a crash without any opportunity to observe the vehicle in motion.

Another fairly common occurrence (especially with repeat DWI offenders) is for the driver to refuse to submit to the field sobriety tests. This refusal has a direct impact on the officer's ability to gather evidence, which in turn limits the information available to the Assistant State's Attorney later assigned to prosecute the case.

¹ This scenario uses Driving While Intoxicated (DWI) as a generic term meaning alcohol-impaired driving.

² Officers must be trained and certified to use a Preliminary Breath Test device. The training is a 6-hour in-service class taught at the Police Academy. MCPD reports that approximately 350 officers are certified PBT operators; however, the Department owns fewer than 200 PBTs.

Step 2: Arrest

If probable cause exists, the officer places the driver under arrest. The police officer also decides whether to leave the driver's vehicle where it is, move it to a nearby, lawful parking area, or arrange for the vehicle to be towed. Alternatively, the officer can release the vehicle to a passenger who is licensed and sober, and who also either has an ownership interest in the vehicle or has the permission of the defendant.

When a vehicle driven by a person arrested for DWI is towed, the vehicle cannot be picked up from the impoundment lot until 12 hours following the arrest. The defendant must pay for towing and impoundment (average cost \$100).

Step 3: Processing of the Defendant

The officer transports the defendant to a District Station for processing. It takes 45 minutes to two hours to process a person arrested for DWI and an officer must complete at least five different forms. The processing time depends on the experience of the arresting officer, the availability of a certified breath test operator, and the cooperation of the defendant. The different parts of processing a DWI offender are summarized below.

The Breath Test. The arresting officer requests that the defendant submit to a chemical test for blood alcohol content (BAC). The officer informs the defendant of his/her right to refuse to take the test, as well as the consequences of taking and refusing the test. (A copy of State form DR-15 that advises the defendant of his/her rights is attached at ©1.) Upon request, the defendant must be permitted a reasonable opportunity to communicate with an attorney before submitting to a chemical test.

If the defendant agrees to submit to a chemical test, the test administered is almost always a breath test. (In a relatively small number of situations, arrangements are made for a blood test.) A certified breath test operator must administer the chemical test in accordance with criteria established by the State. The certified breath test operator cannot be the arresting officer. The results of the breath test are reported on a State form (MSP 33).³

The results of the breath test are significant in terms of the charge(s) that can be brought against the defendant. For more about how the law links BAC levels to different charges and potential penalties, see page 27.

³ The Maryland State Police (MSP) conduct the training for initial certification (40 hours) and annual re-certification (8 hours) for officers to become and remain certified breath testers. The number of certified officers each year is limited by the number of training slots allocated to Montgomery County. As of this writing, there are approximately 70 MCPD officers who are certified as breath testers; MCPD aims to have 1-2 certified officers on duty per shift at each District, with priority given to the midnight shift.

Administrative License Suspension. If the defendant refuses the chemical test, or takes a test that shows a BAC of .10 or higher, then the officer administratively suspends the defendant's driver's license and issues the defendant a 45-day temporary license. At this point in the process, the officer is acting on behalf of the State Motor Vehicle Administration (MVA).

The MVA provides Police Departments throughout the State with envelopes for mailing the defendant's license and notice of the arrest directly to the MVA. Following an administrative license suspension, it is the defendant's responsibility to contact the MVA and schedule a hearing to determine whether and under what conditions the defendant's driving privileges may be restored.

The Citation(s). The arresting officer then completes the appropriate citation for each of the violations committed. A person arrested for drunk driving will often receive multiple citations -- one or more citations for the traffic violation(s) committed, and one or more citations for charge(s) related to driving while impaired. The citations state that the defendant must appear in the District Court to answer the charges, and indicate that the District Court will notify the defendant of his/her trial date.

Other Reports/Forms. As part of routine processing, the arresting officer also researches the defendant's driving record by searching an on-line data base. If the officer finds that the defendant has a previous conviction for an alcohol/drug related driving violation, then the officer fills out and gives the defendant a form that advises him/her that the State has evidence of the defendant's previous conviction and intends to prosecute the defendant as a repeat offender. The officer forwards a copy of the form and the defendant's driving record to the State's Attorney Office. A copy of the form (recently revised) is attached at ©2.

Before the end of his/her shift, the officer must also complete a police report on the arrest and the supplemental report form for DWI violations (MCP 106). A copy of MCP 106 is attached at ©3.

Step 4: Release of a Defendant

Before release, the arresting officer provides the defendant with copies of the citation(s) issued, his/her copy of the Advice of Rights form (DR15), and if applicable, a copy of the breath test results (MSP 33), the repeat offender notice, and two copies of the order of license suspension (DR15A). One copy of the DR15A is for the defendant to keep and the other is to send to the State MVA if the defendant wants to request a hearing.

The Department of Health and Human Services has provided the Police Department with large (9.5 by 12.5 inches) white envelopes to give to defendants to hold all of the above documents. The outside of this envelope contains information about how

and where to find a lawyer and obtain an alcohol evaluation from DHHS' Addiction Services Coordination Unit. These envelopes have been printed in both English and Spanish.⁴

The defendant is released in one of the following ways:

- Picked up by a spouse, relative, or friend;
- Picked up by a taxicab;
- Taken home by an officer;
- Released to walk home. (A supervisor must approve the release of an intoxicated defendant to walk home unescorted.)

MCPD's directives make it clear that officers are not required to take a DWI defendant home after release.

Step 5: Trial Scheduling/Pre-Trial Period

MCPD forwards copies of all DWI citations and accompanying police reports to the District Court and the State's Attorney's Office.

The District Court schedules DWI cases for trial on the Traffic Court docket, which takes place every day of the week except Wednesday. The first trial date for a DWI offender is set for about 45 days from the date of arrest. However, because DWI defendants are not scheduled for a Preliminary Inquiry (an initial court appearance before the first trial date), it is routine for the defendant to show up at his/her first trial date and request a 45-day continuance. A defendant usually requests a first continuance because he/she has just met his/her attorney or does not yet have an attorney.

In most cases, a District Court judge will grant a request for a 45-day continuance. In practice, this means that the trial date for most DWI offenders is at least 90 days after the date of arrest. The State's Attorney's Office estimates that granting a continuance at the first appearance occurs in approximately eight out of every ten DWI cases.

Pre-Trial Case Preparation. The State's Attorney's Office District Court Team prepares all DWI cases for trial. The District Court Team Leader assigns each DWI case to an Assistant State's Attorney, who reviews each case and decides what formal charges the State will bring.

Preparation for trial typically involves interviewing the arresting officer, making sure all of the evidence is together (including the results of the formal chemical breath test if taken), and ensuring that any witnesses have been properly subpoenaed and will be in court. The Assistant State's Attorney must be ready to go to trial on the first trial date

⁴ OLO was not able to discern how consistently these envelopes are available and used.

(45 days from the arrest) even though there is a good chance the defendant will request and the judge will grant a continuance.

In a typical week, a prosecutor who is assigned DWI cases for trial in the District Court prepares 140 to 220 cases for trial. This caseload includes a combination of cases on the Traffic Court and Criminal Court dockets.

During the pre-trial period, consultation often occurs between the prosecutor and the defendant and/or the defendant's attorney (if the defendant has chosen to obtain legal counsel, either from a private attorney or the Public Defender's office.) In some cases, a tentative plea bargain agreement is reached.

Pre-Trial Alcohol Evaluation/Education/Treatment. Between the arrest and the trial, often acting upon advice of legal counsel, the defendant may undergo an alcohol evaluation. (This is also known as an alcohol screening or assessment.) The result of the alcohol evaluation is a written report that indicates the extent of the person's alcohol problem. It may also include a recommended course of alcohol education or treatment.

The State's Attorney's Office estimates that, by the time of sentencing in DWI cases, about three-fourths of all DWI/DUI defendants represented by legal counsel appear in court with the written results of an alcohol evaluation. In many cases, by the time the case is called to trial, the defendant's attorney reports that the defendant is already following a recommended course of alcohol education/treatment.

DHHS' Addiction Services Coordination (ASC) Unit is one of multiple facilities in the County that are certified by the State Department of Health and Mental Hygiene to conduct alcohol evaluations. ASC conducts alcohol evaluations on a walk-in basis at no charge. ASC staff can also arrange for persons to obtain treatment based on a State-approved sliding scale. ASC currently conducts approximately 30 to 40 alcohol evaluations each month for persons arrested for DWI/DUI; about half of these take place during the pre-trial period.

Step 6: First Court Date in the District Court/Continuances

There are typically 40 to 50 cases scheduled on every Traffic Court docket in the District Court. Depending upon the day, up to one-half of all cases on the Traffic Court docket include DWI/DUI charges.

As indicated earlier, in approximately eight out of every ten DWI cases, the first trial date (set for approximately 45 days after arrest) represents the defendant's first court appearance. Because many defendants do not yet have (or have just met) their attorney that day, it is routine at this first court date for the defendant to request and the judge to grant a 45-day continuance.

If a continuance is requested but not granted, then the case proceeds to trial immediately or the defendant exercises his/her constitutional right to request a jury trial. If the defendant requests a jury trial, the case is transferred from the District Court to the Circuit Court, and scheduled for a Pre-Trial docket in the Circuit Court.

Note: The number of requests for jury trials in the Circuit Court has increased significantly in the past several years. The 1,541 jury demands in FY 2000 (all cases) was more than twice the number of jury demands in FY 97. For more on this see pages 92-96.

Step 7: Case Dispositions in the District Court

When a case is called in the District Court and assuming there is no continuance, one of the following happens:

- The case proceeds to trial, i.e., the Assistant State's Attorney presents the State's case and the defendant's attorney presents the defendant's case;
- The Assistant State's Attorney and the defendant's counsel present the results of a proposed plea bargain agreement to the judge;
- The defense counsel requests a jury trial for the defendant in the Circuit Court;
- The Assistant State's Attorney requests that the case be placed on hold for an indefinite period of time (this is known as being placed on the stet docket);
- The Assistant State's Attorney informs the court that the State does not want to prosecute the case (this is known as a nolle prosequere).

Probation Before Judgment. In terms of case disposition, the judge may find the defendant guilty but also grant him/her "probation before judgment". This action is known as a "PBJ" or a "641," which is the short-hand reference to the section of State law that allows for a probation before judgment. In cases where a PBJ is granted, the defendant is placed on supervised or unsupervised probation. It is common for first-offender DWI cases to result in the defendant being granted a PBJ.⁵

The Trial. If the case proceeds to trial, the Assistant State's Attorney's presentation of witnesses and evidence typically includes testimony from the arresting officer and results of the breath test (if taken). Under current state law, the prosecutor cannot bring up the fact that a defendant refused to take a breath test. (As of this writing, it appears State legislation will pass this year that will make a person's refusal of a breath test admissible evidence.)

⁵ A PBJ enables a judge to impose a penalty but also allows the offender to avoid the taint of a criminal conviction. State law prohibits a judge from giving a DWI/DUI offender more than one PBJ within five years.

In DWI cases, the defense may raise questions such as whether the officer had the basis to make the traffic stop in the first place, whether the field sobriety tests were conducted properly, whether the breath test (if administered) was administered properly, and if administered, what the results of the breath test mean.

Step 8: Verdict and Sentencing in the District Court

In the District Court, the judge typically issues a verdict and sentence immediately following the trial. Based on the evidence presented, the judge either finds a defendant guilty or not guilty on each charge in the case. Before sentencing, the defendant's attorney will often present the judge with the results of the defendant's alcohol evaluation, and explain how the defendant is already enrolled in (or plans to enroll in) an alcohol education or alcohol treatment program.

For a first offense, the maximum penalty for a DWI conviction is one-year imprisonment or a fine of \$1,000 or both. For a second offense, the maximum penalty for a DWI conviction is two years imprisonment or a fine of \$2,000 or both. For a third or subsequent offense, the maximum penalty for a DWI conviction is three years imprisonment or a fine of \$3,000 in fines or both.

For a second or subsequent DWI conviction (.10 or more BAC) within three years, offenders are subject to a mandatory minimum penalty of: imprisonment for not less than 48 hours or community service for not less than 80 hours. The law specifies that in this section "imprisonment" includes confinement in an inpatient rehabilitation or treatment center.⁶

When a judge places the person on probation (either before or following judgment), the law states that the court must require the person to participate in an alcohol treatment or education program approved by the State Department of Health and Mental Hygiene. The law requires this to occur unless the court finds and affirmatively states on the record that "the interests of the person and the people of the State do not require the imposition of this condition."

Step 9: Case Dispositions in the Circuit Court

A DWI case travels to the Circuit Court if either: (a) the defendant requests a jury trial before a District Court trial is held; or (b) the defendant appeals a District Court verdict to the Circuit Court.

Once the venue of a case shifts to the Circuit Court, responsibility for prosecuting the case is transferred to one of four prosecutors on the District Court Team who handles

⁶ Table 11 (page 47) shows the maximum penalties for the different impaired driving offenses under current law.

cases in the Circuit Court. With increased numbers of jury demands, the caseload for each prosecutor on this team has increased notably in the past two years.

This team of four prosecutors currently handles 160 cases in an average week. Approximately 60 cases are scheduled for jury trial (20 cases each on Monday, Tuesday, and Wednesday), and another 100 cases are scheduled on the Friday Pre-Trial docket.

Before the hearing of a case on the Pre-Trial docket, the Assistant State's Attorney often consults with the defendant's attorney to see if a settlement can be reached. If a settlement is reached, then the proposed agreement is presented to the judge at the Pre-Trial docket. If the judge concurs, then the case is settled. If there is no proposed agreement, or the judge does not concur with a proposed agreement, then the judge sets the trial date for the case. (At this point in the process, it is the defendant's right to select either a jury or judge trial.)

Preparing cases for a jury trial in the Circuit Court is substantially more time consuming than preparing cases for a trial in the District Court. The State's Attorney's Office estimates that it takes, on average, 15-30 minutes to prepare for a District Court trial. In comparison, it takes a minimum of 3-4 hours to prepare for a jury trial in the Circuit Court.

Verdict and Sentencing. In the Circuit Court, the judge's verdict and sentencing options are the same as they are in the District Court. In the Circuit Court, however, the verdict is reached on one day (either by the jury or the judge) and sentencing is often set for another day.

Step 10: Probation, Incarceration, and Post-Sentencing Violations

Supervised Probation. According to information published by the State, all DWI offenders placed on supervised probation are assigned to the Drinking Driver Monitor Program (DDMP). The DDMP is a specialized probation program operated by the Division of Parole and Probation. The program requires that drivers arrested for DWI offenses participate in substance abuse education or treatment programs, and refrain from further driving while under the influence of alcohol.

If the defendant violates the probation, the probation agent informs the judge of the violation. The agent petitions the Court for a warrant and the Court sets a hearing date. At the hearing, the judge decides whether to continue the offender on probation or revoke the probation and send the offender to jail. The judge may schedule a second hearing to see if the offender will follow through on a promise to change his behavior and comply with the probation conditions.

Detention Center/ PRC/CART. If the defendant is convicted and sentenced to imprisonment for less than 18 months, the defendant is placed under the supervision of the Department of Correction and Rehabilitation (DOCR).

Under DOCR's supervision, a person can serve time either in the Montgomery County Detention Center, the Pre-Release Center (PRC), or under the Community Accountability, Reintegration, and Treatment (CART) program. As a result of recent outreach and education efforts by DOCR, judges are more frequently recommending that offenders (including DWI offenders) serve their time at PRC and/or CART.

- The Pre-Release Center is a residential correctional complex (operated by DOCR). Pre-Release Services staff use a screening process to determine eligibility for inmates to be transferred from the Detention Center to PRC. If an offender meets the PRC eligibility criteria, the sentencing judge must agree to the transfer.
- CART is a home detention program. Individuals in CART must wear an ankle bracelet to monitor their whereabouts, must have a family sponsor, and must agree to have monitoring equipment placed at their home.

SCENARIO (2)
**THE IDENTIFICATION AND CHARGING FOR SELLING ALCOHOL TO A PERSON UNDER
THE AGE OF 21**

In Montgomery County, both the Police Department and the Office of the Board of License Commissioners conduct alcohol age-of-sales compliance checks. This section outlines two different scenarios:

- Scenario (2a) outlines the steps a police officer follows to charge a sales clerk for selling alcohol to a person under 21; and
- Scenario (2b) outlines the steps the Board of License Commissioners follows to pursue an administrative action against the licensee of the establishment where the underage violation occurred.

Scenario (a): A MCPD officer develops probable cause that an employee of an establishment licensed to sell alcoholic beverages (a licensee) has sold alcohol to a person under 21.

Step 1: Identification

The Police Department conducts compliance checks primarily by working with underage interns who are trained to make attempts to purchase alcoholic beverages. Alternatively, an officer can simply observe the sale of alcohol to a person under 21. In either case, the officer must develop probable cause to believe that an employee of an establishment licensed to sell alcoholic beverages sold alcohol to a person under 21.

Step 2: Officer Requests District Court Commissioner to Issue Charging Document

Once a police officer develops probable cause that an underage alcohol sale occurred, it is MCPD's current practice to pursue criminal charges against the store clerk who made the sale. (The officer also has the option of issuing the store clerk a civil citation for furnishing alcohol to a person under 21.)

To pursue criminal charges, the officer who has developed probable cause applies to a District Court Commissioner for a charging document. If the District Court Commissioner agrees with the officer's finding of probable cause, he/she issues a District Court Summons to the sales clerk who is charged as the employee of the licensee. The District Court Summons directs the sales clerk to appear at a date certain in the District Court. The District Court Commissioner sends copies of the charging documents to the District Court and the Office of the State's Attorney.

Step 3: Notice of Violation Sent to Board of License Commissioners

It is standard procedure for the officer to send a copy of the police event report and charging documents to the Executive Director of the Board of License Commissioners. This action sets off a separate administrative action against the licensee. See Scenario (2b) that begins on page 20.

Step 4: Pre-Trial

The case is set to be heard on a Criminal Court docket in the District Court. The trial date is generally set for between 45 and 60 days from the date of the alleged violation.

The State's Attorney's District Court Team is responsible for preparing all cases for trial in the District Court. In an average week, the prosecutor who is assigned a case of illegal underage alcohol sales will be responsible for preparing a total of between 140 and 220 cases (combination of traffic and criminal cases) for trial.

Pre-trial preparation typically includes reviewing the charging documents, interviewing the officer who filed the charges, interviewing other witnesses, and talking with the defendant and his/her attorney (if the defendant has chosen to retain one). In the case of a first offender, it is not uncommon for the State's Attorney's Office to suspend prosecution of the case in exchange for the defendant's agreement to complete 40 to 50 hours of Alternative Community Service.

Step 5: Trial and Sentencing

There are typically 80 to 100 cases scheduled on every Criminal Court docket. When the case is called in the District Court, and assuming there is no continuance, one of the following happens:

- The case proceeds to trial, i.e., the Assistant State's Attorney presents the State's case and the defendant's attorney presents the defendant's case.
- The Assistant State's Attorney and the defendant's counsel present the results of a proposed plea bargain agreement to the judge; or
- The defendant's counsel requests a jury trial in the Circuit Court;
- The Assistant State's Attorney informs the court that the State does not want to pursue prosecution of the case (this is known as a *nolle prosequere*); or
- The Assistant State's Attorney requests that the case be placed on hold for an indefinite period of time (this is known as being placed on the *stet* docket).

In terms of case disposition, the judge may find the defendant guilty, but also grant him/her "probation before judgement." A PBJ allows the judge to place the offender on probation without the taint of a criminal conviction, e.g., employment disqualification, etc. The law outlines circumstances when a judge cannot grant a PBJ.

Sentencing. The maximum sentence for a licensee (or any employee of the licensee) is a fine of not more than \$1,000, imprisonment for not more than two years, or both. As indicated above, it is not uncommon for the State's Attorney's Office to suspend prosecution of a first offender's case in exchange for the defendant's agreement to complete 40 to 50 hours of Alternative Community Service.

Step 6: Defendant Checks in with DOCR to Serve Alternative Community Service

Persons charged with illegal sale of alcohol often serve Alternative Community Service, either as part of a settlement agreement or as part of a sentence imposed by a judge. The Department of Correction and Rehabilitation operates the County's ACS program.

Scenario (b): The Board of License Commissioners takes administrative action against a licensee who is charged with selling alcohol to a person under 21.

State law authorizes the Board of License Commissioners to suspend, and/or revoke a person's license to sell alcoholic beverages for any violation of Art. 2B, or the Board's adopted rules and regulations. In addition to or in lieu of license suspension/revocation, the Board can assess the licensee a monetary fine up to \$20,000 for each violation.

The Board's written rules and regulations largely mirror State law (Article 2B). The current rules and regulations were last amended in 1998.

Step 1: Identifying Violations

The Office of the Board of License Commissioners (the Board) has a staff of inspectors charged with enforcement of all of the alcoholic beverage laws and rules and regulations adopted by the Board. In addition to pursuing administrative action based upon violations reported by the Board's inspectors, the Board's Executive Director reviews police event reports and charging documents that involve violations of alcohol laws by licensed establishments. By law, it is the Board's discretion to pursue or not pursue administrative action against a licensee.

Step 2: (Board's Option) Offer and Compromise

When a violation is brought to the Board's attention, the Board has the option of making what the rules refer to as an "offer and compromise." Under this procedure, the licensee voluntarily waives his/her right to a show cause hearing, admits the violation as charged, and agrees either to pay a monetary fine or elects to have its alcoholic beverage license suspended for a specified period of time as determined by the Board.

The Board's general practice is to make an offer and recommendation of compromise for first-time violations. For most first-time violations (including the sale of alcohol to a person under 21), the Board offers the licensee the option of paying a \$1,000 fine. For second-time violations, the Board's current general practice is to offer the licensee the option of paying a \$2,000 fine; depending upon the circumstances, the Board may also recommend suspension of the licensee's license for a period of time.

Step 3: Notice to Licensee of Show Cause Hearing

A show cause hearing is a formal hearing on the record held before the Board for the purpose of deciding whether to suspend or revoke the license of a licensee, and/or to impose a fine.

When a violation has occurred, the Board always has the option of scheduling the licensee for a show cause hearing. Similarly, a licensee can request a hearing instead of accepting the Board's offer and compromise. Depending upon the Board's workload, a show cause hearing will generally be scheduled 90 to 120 days after the date of the alleged violation.

The Board must notify a licensee at least 10 days before the date of a show cause hearing. The notice must specify the charge or charges against the licensee, and indicate the time and place of hearing. The Board meets two Thursdays a month to conduct all of their business. The Board generally holds show cause hearings on Thursday afternoons in the first floor auditorium of the Council Office Building.

Step 4: The Show Cause Hearing

The Board's hearings are open to the public, but may be closed in accordance with the State's open meetings law. A show cause hearing is conducted like a court trial. Following opening statements, there is presentation of evidence that the violation occurred followed by cross-examination of all witnesses. Then there is presentation of the licensee's response to the charges followed by cross-examination of all witnesses. There is opportunity for additional fact finding, rebuttal, surrebuttal, and then closing arguments.

The Board's decision is made in closed session and must be made on the basis of all evidence of record. The Board's decision is issued in the form of a written resolution that outlines the findings and conclusions, and the vote of each member of the Board on the decision.

As indicated above, the Board can decide to suspend, revoke, and/or fine the licensee. The Board will issue a stop selling order only when the fine has not been paid by the due date.

Step 5: Appeals of the Board's Decision

A licensee can appeal a final decision by the Board to the Circuit Court. The appeal is filed as an administrative appeal and must be filed within 10 days of the Board's decision. It is the Board's discretion whether to stay the effect of its decision, pending outcome of the appeal.

SCENARIO (3)
IDENTIFICATION AND CHARGING A JUVENILE FOR UNDERAGE POSSESSION OF
ALCOHOL

Step 1: Identification

Law enforcement officers use numerous strategies to detect juveniles in possession of alcoholic beverages. Enforcement of the underage alcohol laws is one of the many ongoing responsibilities of all officers on patrol. In addition, MCPD's Alcohol Initiatives Section (AIS) coordinates a number of enforcement efforts that are targeted at identifying violations of the underage alcohol laws, e.g., at private parties, school dances, community events.

To charge a juvenile with underage possession of alcohol, the police officer must have probable cause to believe that the person is under the age of 18, and have probable cause to believe that the person is knowingly and willingly in possession of alcohol. At an underage party, for example, officers build evidence of violations in a number of ways, including surveillance, interviewing party participants and witnesses, taking photos of the scene, and requesting that the juveniles take preliminary breath tests.

Step 2: Charging

Underage (under 21) possession of alcohol is a civil offense, and officers issue civil citations to alleged violators. **No physical arrest may be made for a civil violation.** Attached at ©4 is a sample of a civil citation issued to a juvenile for underage possession of alcohol. For juveniles, instead of specifying a penalty, the law delegates the decision on what to do to the Juvenile Court/Department of Juvenile Justice.

During CY 2000, there were 875 citations issued for underage alcohol violations to persons under 18 years of age.

Step 3: Notification/Release of Juvenile to Parent/Legal Guardian

In almost all cases, juveniles who receive citations for underage possession of alcohol are released to the custody of a parent or other legal guardian. An officer usually remains with the juvenile until a parent or other legal guardian arrives to pick him/her up.

Step 4: Charging Documents Forwarded to Family Services Division, MCPD

In civil cases, the citation itself serves as the charging document, and any citation written to a juvenile is forwarded to the Police Department's Family Services Division. The Family Services Division schedules a face-to-face meeting with the juvenile and his/her parent or other legal guardian.

Step 5: Diversion of First Offenders

Under an agreement between the Department of Juvenile Justice (DJJ) and the Family Services Division, the goal for a first offense is for the juvenile to voluntarily agree to contact DHHS – Substance Abuse Screening for Children and Adolescents (SASCA) for a complete substance abuse screening, and to voluntarily agree to abide by SASCA's recommended course of education/treatment.

If the juvenile submits to SASCA's behavioral and health screening and follows through on the course of education/treatment recommended by SASCA's, then the Family Services Division will generally hold the citation. This action essentially diverts the case out of the criminal/civil justice system. However, the Family Services Division maintains a record of the citation so that repeat offenders can be identified and handled differently the second time around.

MCPD's Family Services Division reports that 614 (70%) out of the 875 juveniles who received citations for underage alcohol offenses in CY 2000 agreed to participate in the MCPD Diversion Program and were sent to the DHHS Substance Abuse Screening for Children and Adolescents (SASCA) program.

Stage 6: For Repeat Offenders, Charging Documents Forwarded to Department of Juvenile Justice

If a juvenile receives a second or subsequent citation for underage possession of alcohol, the Family Services Division generally will not divert the case. Instead, the Family Services Division forwards the citation to the Department of Juvenile Justice for further case processing. DJJ conducts an intake interview and then decides how to handle the case. The course of action could include some combination of education, community service, teen court, or treatment.

III. STRATEGIES

This chapter summarizes the strategies being used in Montgomery County to reduce alcohol-impaired driving and underage drinking. The overview of each strategy contains the State law reference (if one exists), the reference to relevant pages in OLO's first report, a list of the agencies that implement the strategy in Montgomery County, and a summary of local law and practices.¹

Identification and Enforcement includes laws, enforcement programs, and specialized enforcement equipment.

- Per Se Blood Alcohol Concentration (BAC) Limits
- Zero Tolerance Laws
- Implied Consent Laws
- Administrative License Suspension
- Sobriety Checkpoints
- Preliminary Breath Test Devices
- Blanket Patrols

Sentencing and Sanctions includes the relevant laws and penalties related to DWI offenders.

- Mandatory Sentencing Laws
- Incarceration
- Screening, Education and Treatment
- Probation
- Fines
- Alternative Community Service
- Victim Impact Panels
- Ignition Interlock

Adjudicatory Strategies summarizes programs that address how offenders are adjudicated or sanctioned.

- Diversion Programs
- Court Watch Programs

Alcohol Availability and Other Environmental Strategies includes strategies that reduce alcohol availability and decrease the overall consumption of alcohol.

- Minimum Legal Drinking Age
- Server Intervention
- Taxes on Alcoholic Beverages
- Open Container Laws
- Community Based Prevention Programs
- Alcohol Outlet Density

Underage Alcohol Use and Underage Drinking and Driving lists the strategies that target the problems of drinking and impaired driving among young people.

Strategies Not Currently Used in Montgomery County are Passive Alcohol Sensors, in-vehicle videotaping, vehicle based sanctions (administratively managed), Drug Courts, and Anti-Plea Bargaining Laws.

¹ The term Police Departments (plural) is used throughout this chapter to mean the Montgomery County Police Department and other law enforcement agencies operating in the County, e.g., State Police, Rockville City PD, Gaithersburg City PD, Park Police, etc.

A. IDENTIFICATION AND ENFORCEMENT STRATEGIES

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STRATEGY: ILLEGAL PER SE BLOOD ALCOHOL CONCENTRATION (BAC) LIMITS

State law reference(s): Transportation 21-902; 11-127.1

OLO Report 2001-1: Pages 35-37

County/State agencies involved in implementation: District Court, Circuit Court,
State's Attorney, Police Departments

Summary of law/practice in Montgomery County:

A person may not drive or attempt to drive any vehicle in Maryland while he/she is so far under the influence of alcohol and/or drugs that he/she cannot drive a vehicle safely. Current State law makes a distinction between Driving While Intoxicated (.10 or more BAC) and Driving Under the Influence (BAC between .07 and .10). It is expected that State legislation will be enacted this year that modifies this terminology and lowers the illegal per se limit to .08.

Driving While Intoxicated (DWI). State law currently defines "intoxicated per se" as having a blood alcohol concentration of .10 or more. DWI is a criminal (misdemeanor) violation of the Maryland Vehicle Law. The maximum penalties are:

- 1st offense - Not more than 1 year imprisonment or not more than \$1,000 in fines or both;
- 2nd offense - Not more than 2 years imprisonment or not more than \$2,000 in fines or both;
- 3rd and subsequent offenses - Not more than 3 years imprisonment or not more than \$3,000 in fines or both.

For a repeat DWI conviction (.10 or more BAC) within three years, offenders are subject to a mandatory minimum penalty of imprisonment for not less than 48 hours or community service for not less than 80 hours. The law explicitly provides that "imprisonment" in this section can refer to confinement in an inpatient rehabilitation or treatment center.

Driving Under the Influence (DUI) Under current law, if a person has an alcohol concentration of at least .07 but less than .10 at the time of testing, it is considered prima facie evidence that he/she was driving while under the influence of alcohol. DUI is a criminal (misdemeanor) violation of the Maryland Vehicle Law. The maximum penalties are:

- 1st offense - Not more than 2 months imprisonment or not more than \$500 in fines or both;
- Subsequent offenses – Not more than 1 year imprisonment or not more than \$500 in fines or both.

STRATEGY: ZERO TOLERANCE LAWS

State law reference(s): Transportation 16-113(b)(1); 27-101(b); 27-102; Courts and Judicial Proceedings 10-307(e);

OLO Report 2001-1: Pages 38-39a

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Department of Health and Human Services (Drawing the Line), Montgomery County Public Schools

Summary of law/practice in Montgomery County:

All states and the District of Columbia have adopted so-called Zero Tolerance laws, which prohibit the operation of a motor vehicle by anyone younger than 21 if they have any measurable amount of alcohol in their blood or breath. Maryland is one of 39 states that have established a .02 BAC limit for persons under 21. In nine states and D.C., the under-21 BAC limit is .00 and in two states it is .01.

For persons under 21, operating a vehicle with a BAC of .02 or more is a criminal (misdemeanor) violation of the Maryland Vehicle Law. The maximum criminal penalty is a fine of \$500.

Similar to other Zero Tolerance laws around the country, Maryland's law is a combination of an illegal per se and administrative per se laws. In practice, this means that the driver licensing agency (the State Motor Vehicle Agency in Maryland) is authorized to immediately suspend or revoke the license of a driver under 21 if the person is found to have a BAC of .02 or above.

STRATEGY: IMPLIED CONSENT LAW

State law reference(s): Transportation 16-205.1; Courts and Judicial Proceedings 10- 302 through 10-309

OLO Report 2001-1: Pages 40-41

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Motor Vehicle Administration

Summary of law/practice in Montgomery County:

All states (including Maryland) have implied consent laws. In Maryland, the law states that that any person who drives a motor vehicle on any highway or private property that is used by the public is deemed to have consented to take a chemical test (for alcohol, drug, or controlled dangerous substance content) if that person is detained on suspicion of driving while intoxicated or driving under the influence.

In cases of fatal accidents, the BAC level is measured through a blood test. In most other cases, law enforcement relies upon breath testing. A person may not be compelled to take a chemical test, and under current law, Maryland is one of only six states that continue to prohibit the refusal to take a chemical test from being admissible as evidence in court. However, it is expected that State legislation will be enacted this year that permits a defendant's refusal to take a chemical test to be admitted as evidence in court.

In Maryland, similar to practices elsewhere, the punishment for a driver who refuses to comply with a proper police request for a breath test is an immediate suspension of the driver's license. To encourage individuals to cooperate with the test procedure, the administratively imposed license suspension for a refuser is greater than it would be for someone who takes and fails the breath test. (For more about pre-trial license suspension, see page 30.)

In Maryland, there are no criminal sanctions for refusing to take a chemical test. Although this continues to be the prevailing practice across the country, in nine states, a test refusal is a criminal offense under certain conditions.

The Breath Test. If a person is arrested for DWI/DUI in Montgomery County, the arresting officer transports the defendant to a District Station for processing. There, the arresting officer provides the defendant with a copy of the "DR-15 form, Advice of Rights to Chemical Test," which informs the defendant of his/her rights and outlines the consequences of taking and refusing a chemical test for blood alcohol content.

If the defendant agrees to submit to a chemical test, the test administered is almost always a breath test. A certified breath test operator must administer the chemical test in accordance with criteria established by the State. The certified breath test operator cannot be the arresting officer. The results of the breath test are reported on a State form (MSP 33).

The Maryland State Police (MSP) conducts the training for initial certification (40 hours) and annual re-certification (8 hours) for officers to become and remain certified breath testers. The number of certified officers each year is limited by the number of training slots allocated to Montgomery County. As of this writing there are approximately 70 MCPD officers who are certified as breath testers; MCPD aims to have 1-2 certified officers on duty per shift at each District, with priority given to the midnight shift.

STRATEGY: ADMINISTRATIVE LICENSE SUSPENSION (PRE-DWI CONVICTION)

State law reference(s): Courts and Judicial Proceedings 10-307(a)(2) and Transportation 16-205.1

OLO Report 2001-1: Pages 42-46b

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Motor Vehicle Administration

Summary of law/practice in Montgomery County:

In Maryland, if a defendant refuses to take the implied consent chemical test or takes the test and the results are .10 or higher, the defendant is subject to immediate administrative licensing sanctions. In practice, the arresting officer seizes the defendant's driver's license and issues the defendant a 45-day temporary driver's license. (This document is referenced by its State form number - DR-15A.) The MVA provides Police Departments throughout the State with envelopes for mailing the defendant's license and notice of the arrest directly to MVA.¹

Maryland law stipulates a 45-day suspension for a first DWI offense and 90 days for a second or subsequent offense. The law stipulates a 120-day license suspension for the first chemical test refusal and one year for second refusal.²

Maryland, like most other states, permits the restoration of limited driving privileges under certain conditions. In comparison, eight states impose what is known as a "hard suspension," which means that there is no opportunity for reinstatement of driving privileges.

If a person arrested for DWI/DUI in Maryland wants to appeal the suspension, it is his/her responsibility to contact the MVA to schedule a hearing to determine whether and under what conditions the defendant's driving privileges may be restored. State law provides that MVA may modify a driver's license suspension if:

- The licensee did not refuse to take a chemical test;
- The licensee has not had a license suspended for an alcohol-related offense during the past five years;
- The licensee has not been convicted for an alcohol-related offense during the past five years; and
- The licensee is required to drive a motor vehicle in the course of employment;
- The license is required for the purpose of attending an alcohol prevention or treatment program; or
- The licensee has no alternative means of transportation to and from his/her place of employment.

¹ Officers are limited to confiscating drivers' licenses issued by the State of Maryland. With out of state drivers, the officer issues a DR-15A, but does not confiscate the driver's license.

² For comparisons to the length of suspension in other states, see OLO Report 01-1, page 46a.

As part of modifying a licensee's suspension, the MVA can require the licensee to participate in the ignition interlock program. The law outlines the following parameters:

- For a first DWI conviction, a person can install an interlock device for up to 5 months and have his/her license suspension period reduced to a minimum of 15 days;
- For a second DWI conviction within five years (or a third DWI conviction), a person can install an interlock device for up to 12 months and have his/her license suspension period reduced to a minimum of 45 days; and
- For a fourth or subsequent DWI conviction, a person can install an interlock device for up to 24 months and have his/her license suspension period reduced to a minimum of 6 months.

For more on the use of ignition interlocks in Maryland, see page 45.

**STRATEGY: ADMINISTRATIVE LICENSE SUSPENSION
(POST-DWI CONVICTION)**

State law reference(s): Transportation 16-205 and 21-902

OLO Report 2001-1: Pages 42-46b

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Motor Vehicle Administration

Summary of law/practice in Montgomery County:

In Maryland, after conviction of an individual for a traffic law violation, the Motor Vehicle Administration (MVA) assesses points against a person's driving record. The number of points for the different offenses are outlined in state law, and the points remain on a driver's record for two years. The MVA issues a notice of suspension after a person accumulates eight points; it issues a notice of revocation after a person accumulates 12 points. Conviction of a DUI results in eight points; and conviction of a DWI results in 12 points.

In addition, with respect to alcohol-impaired driving, the law states that:

- The MVA shall revoke the license of any person convicted of homicide by a motor vehicle while intoxicated or under the influence of alcohol or drugs, and in such situations may not issue a temporary license.
- The MVA may revoke the license of any person who is convicted of DWI or who is convicted of two alcohol-related driving violations within a three-year period.

- The MVA may suspend/revoke the license of any person convicted of DUI as follows: 1st offense- may suspend for up to 60 days; 2nd offense (within three years) - may suspend for up to 120 days.

The law explicitly states that the MVA retains the authority to issue a restrictive license or modify a suspension imposed under this subsection of law.

STRATEGY: SOBRIETY CHECKPOINTS

State law reference(s): None

OLO Report 2001-1: Pages 47-51

County/State agencies involved in implementation: Police Departments, Sheriff's Office, Department of Health and Human Services (Highway Safety Traffic Project, Drawing the Line)

Summary of law/practice in Montgomery County:

While law enforcement agencies in Maryland can conduct "properly conducted" sobriety checkpoints, the Maryland Court of Appeals has held that drivers must be provided with the opportunity to avoid the checkpoint altogether.³ In practice, this means that throughout the state, checkpoints must be set up in such a way that drivers are given ample warning about the location of the checkpoint and given an opportunity to select an alternate route (or to safely do a U-turn) to avoid the sobriety checkpoint.

In Montgomery County, the Montgomery County Police Department's Alcohol Initiatives Section (AIS) organizes periodic sobriety checkpoints in the County. AIS' general practice has been to set up checkpoint operations around holidays and special events, e.g., New Year's Eve, prom season, 4th of July. Whenever MCPD plans a sobriety checkpoint, a media advisory is sent out and additional efforts are made to attract media coverage. (This practice is consistent with the research that indicates the effectiveness of sobriety checkpoints as a deterrent to alcohol-impaired driving requires extensive publicity about their use.)

Since 1994, the County Police Department has played a lead role in organizing the annual DWI Holiday Task Force, which is a coordinated effort among multiple local law enforcement agencies to strictly enforce alcohol-related violations from Thanksgiving through New Year's Day. Task Force activities often include sobriety checkpoints. Task Force participants have included the State Police, the Sheriff's Office, the Park Police, and the municipal police.

In contrast to some other states, law enforcement officers in Maryland are not currently allowed to conduct evidentiary breath testing at the site of the checkpoint. Officers can use Preliminary Breath Testing devices at sobriety checkpoints, but PBT

³ For more details about what constitutes a "properly conducted" sobriety checkpoint, see OLO Report 2001-01, page 47.

results cannot be used as evidence in court. The equipment that is certified by the State toxicologist in Maryland for conducting evidentiary breath tests must be operated at the District Stations.

Another practice increasingly being used at sobriety checkpoints in other jurisdictions is Passive Alcohol Sensors (PAS). For more about the advantages and potential problems with the use of PAS devices, see OLO Report 2001-1, page 52-55.

STRATEGY: PRELIMINARY BREATH TEST (PBT) DEVICES

State law reference(s): Transportation 16-205.2

OLO Report 2001-1: Page 56

County/State agencies involved in implementation: Police Departments, State Office of the Chief Medical Examiner

Summary of law/practice in Montgomery County:

In Maryland, similar to other states, the results of the Preliminary Breath Test (PBT) guide a police officer who must decide whether an arrest should be made. The law provides that an officer who has reasonable grounds to believe that an individual has been driving while intoxicated or under the influence can request that the individual submit to a PBT. The request may be made before the issuance of a citation and without making an arrest.

There are no penalties for refusing to submit to a PBT. The results of a PBT may not be used as evidence by the State in any court action, but can be used as evidence by a defendant. The officer must explain this and advise the individual that neither taking nor refusing to take the test prevents or requires a subsequent chemical test.

MCPD's directive governing the use of PBTs indicates that the results of the PBT will be provided to:

- The driver suspected of drinking, who is released without arrest, before the driver's release; and
- The driver who is arrested after submission to or refusal of an evidentiary blood or breath test.

The PBT device approved for use in Montgomery County (approval is required from the State Toxicologist, State Office of the Chief Medical Examiner) is the Alco-Sensor. This device is reusable and pocket sized. MCPD's Alcohol Initiatives Section routinely uses PBT devices when processing youth at underage drinking parties.

Officers must be trained and certified to use a Preliminary Breath Test device. The training is a 6-hour in-service class taught at the Police Academy. MCPD reports that approximately 350 officers are certified PBT operators; however, the Department owns fewer than 200 PBTs.

STRATEGY: BLANKET PATROLS

State law reference(s): None

OLO Report 2001-1: Page 57

County/State agencies involved in implementation: Police Departments, Highway Safety Traffic Project (DHHS)

Summary of law/practice in Montgomery County:

Montgomery County police officers use the term "saturation patrol" to refer to a situation where officers are assigned to conduct patrols with a special focus on looking for driving behaviors that indicate a driver may be impaired by alcohol.

Similar to sobriety checkpoints, MCPD's Alcohol Initiatives Section (AIS) organizes periodic saturation patrols usually around holidays and special events. At times, MCPD conducts saturation patrols in cooperation with other law enforcement agencies, e.g., State Police, Park Police, municipal police.

When plans are being made to conduct a saturation patrol, the Police Department makes a concerted effort to get media coverage. This is consistent with the research that shows the effectiveness of saturation patrols benefit greatly from publicity campaigns that increase driver perception that drinking drivers will be detected and arrested.

B. SENTENCING AND SANCTIONS

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STRATEGY: MANDATORY SENTENCING LAWS

State law reference(s): Transportation 27-101(j)

OLO Report 2001-1: Pages 64-66

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Department of Correction and Rehabilitation

Summary of law/practice in Montgomery County:

Maryland is among the 47 states where the law establishes mandatory minimum sentences for repeat DWI offenders. Maryland is not one of the 13 states with laws that impose mandatory prison terms for first-time DWI offenders.

In Maryland, the mandatory minimum sentence applies to persons who are convicted for a second or subsequent DWI offense (.10 or more BAC) within three years. Specifically, the law states that these repeat offenders are subject to a mandatory minimum penalty of:

- Imprisonment for not less than 48 hours; or
- Community service for not less than 80 hours.

The law explicitly provides that "imprisonment" in this section can refer to confinement in an inpatient rehabilitation or treatment center.

STRATEGY: INCARCERATION

State law reference(s): Transportation 21-902; Article 27

OLO Report 2001-1: Pages 67-69

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Department of Correction and Rehabilitation, State Department of Public Safety and Correctional Services

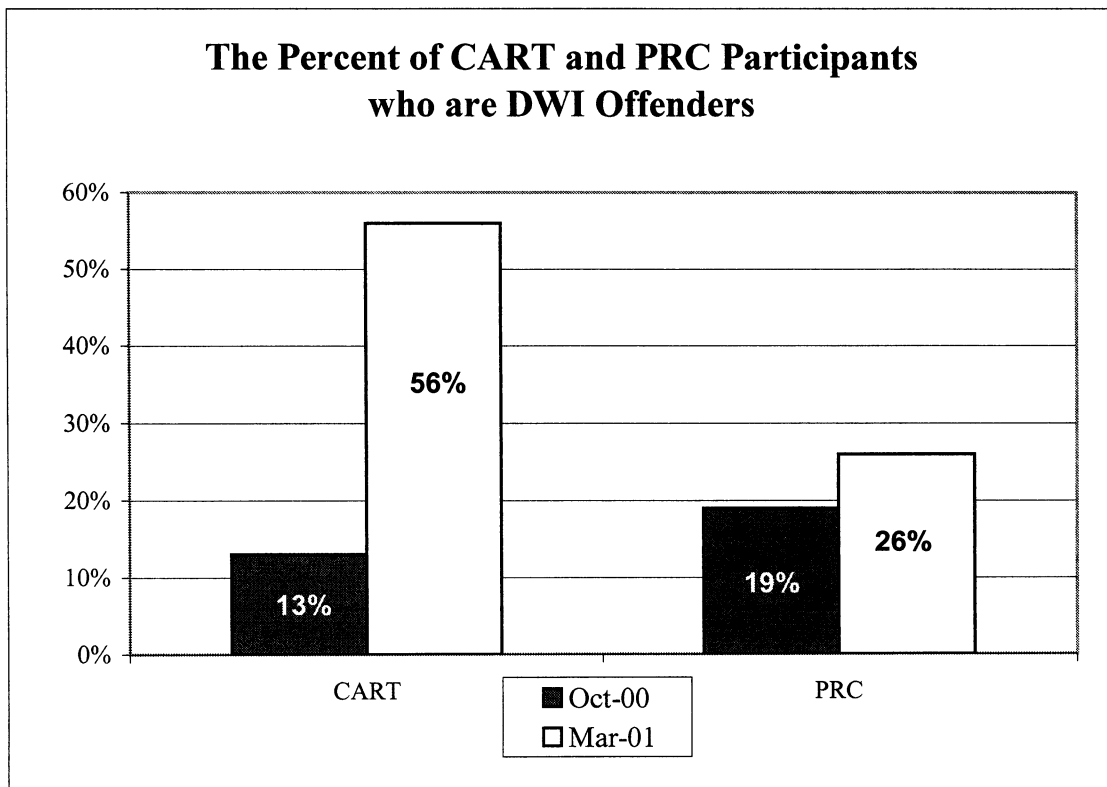
Summary of law/practice in Montgomery County

State law establishes whether an offense is subject to a civil and/or criminal penalty. For offenses subject to a criminal penalty, the law generally establishes the maximum fine and the maximum time of imprisonment that a judge can impose upon a person who is convicted for that offense.

Table 11 (page 47) lists the maximum fine and/or time of imprisonment associated with the alcohol-impaired driving offenses of DWI and DUI; and the alcohol sales offenses of sales to an underage person, sales to an intoxicated person, etc. Table 12 (page 48) lists other alcohol-related offenses that are subject to fines but not jail time.

If the defendant is sentenced to more than 18 months of imprisonment, he/she will most likely serve his/her time in State prison under supervision of the Department of Public Safety and Correctional Services. If the defendant is sentenced to imprisonment for less than 18 months, the defendant is placed under the supervision of the Department of Correction and Rehabilitation (DOCR). Under DOCR's supervision, a person can serve time either in the Montgomery County Detention Center, the Pre-Release Center (PRC), or under the Community Accountability, Reintegration and Treatment (CART) program.

As a result of recent outreach and education efforts by DOCR, judges more frequently recommend that DWI offenders serve their time at PRC and/or CART. The graph below shows the proportion of PRC and CART clients that are DWI offenders. In October 2000, 26 of the 136 PRC participants (19%) and 5 of the 38 CART participants (13%) were DWI/DUI offenders. In March 2001, 36 of the 139 PRC participants (26%) and 28 of the 50 CART participants (56%) are DWI/DUI offenders. For additional information about PRC and CART see page 40.



Source: Department of Correction and Rehabilitation, March 2001.

STRATEGY: ALCOHOL ADDICTION SCREENING, EDUCATION AND TREATMENT PROGRAMS

State law reference(s): Health – General 8-401 to 405,
Transportation 16-212, 16-212.1
Article 27 641(a)(1) (ii) (1)

OLO Report 2001-1: Pages 70-76

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Department of Health and Human Services, Department of Correction and Rehabilitation, State Motor Vehicle Administration, State Department of Health and Mental Hygiene

Summary of law/practice in Montgomery County

A number of State laws address alcohol screening, education and treatment programs. An alcohol screening, evaluation, or assessment determines whether an individual is an alcohol or other drug abuser, and often recommends an appropriate course of education and/or treatment to address the problem. Treatment and education programs attempt to help individuals understand their addiction and change their behavior.

In terms of sanctions, an offender may be required to attend a driver improvement or an alcohol education program as a condition of reinstatement of their driving privilege. Alcohol education and or treatment can also be required as a condition of probation. Many individuals arrested on a DWI/DUI charge, either on their own initiative or at their lawyer's recommendation, obtain an alcohol screening and participate in education and/or treatment before their trial.

The public sector (combination of State and County agencies) conducts screenings/assessments, certifies alcohol education/treatment providers, makes referrals to outside providers, and provides alcohol education and treatment.

The Motor Vehicle Administration's Alcohol Education Program. By law, the MVA is authorized to conduct a driver improvement program and an alcohol education program. A court, probation officer, or health department officer can require an individual to attend an MVA-sponsored driver improvement or alcohol education program. Alternatively, the MVA can require attendance as a condition of reinstatement of a driver's license. The law authorizes MVA to charge a reasonable fee for the programs it offers.

The MVA may waive attendance at an MVA-sponsored alcohol education program if an individual attends a private alcohol education program that is approved by the Alcohol and Drug Abuse Administration and MVA. The MVA is required to establish criteria for approving private providers of alcohol education.

Alcohol and Drug Abuse Administration. State law (Health General 8-401) directs the State Alcohol and Drug Abuse Administration (ADAA) to promote, develop, establish, conduct, certify and monitor programs for the prevention, treatment, and rehabilitation related to the misuse of alcohol and drugs. In addition, ADAA (in cooperation with the Motor Vehicle Administration, courts, police and other agencies) is charged with approving appropriate programs of alcohol and drug abuse screening, education or treatment for individuals convicted for DWI or DUI.

State law (Health General 8-402) indicates that the State ADAA may establish or identify facilities and services to determine if an individual is an alcohol abuser or is dependent on alcohol. ADAA Certified facilities use an Addiction Severity Index to assess the DWI/DUI offender as a social drinker, problem drinker, or drug involved driver. ADAA defines social drinkers as those not appearing to have a serious problem with alcohol other than the immediate DWI/DUI offense. ADAA defines problem drinkers as those appearing to have a serious enough problem to warrant a recommendation for alcoholism treatment. Drug involved drinker is reserved for persons whose DWI/DUI citations were based on either illicit drug impairment, or alcohol based with a concurrent drug arrest.

Based on the results of the assessment, the court or MVA require enrollment in an appropriate addiction education or treatment program operated by a provider certified by ADAA. There are currently 35 certified DWI treatment/education providers/facilities in Montgomery County. Most DWI offenders participate in a 26 week outpatient addiction treatment programs that involves weekly group counseling and regular breathalyzer testing. In some cases, judges also require attendance at Alcoholics Anonymous meetings.

Montgomery County Department of Health and Human Services (DHHS). DHHS' Addiction Services Coordination serves as the entry point into substance abuse services in the County. ASC staff screen, assess, and refer County residents to appropriate substance abuse treatment services for free. Approximately 50% of their clients come from the criminal justice system. Between 30 and 40 DWI/DUI offenders report to ASC monthly for an assessment. Anyone arrested in Montgomery County can receive a substance abuse screening and referral from Addiction Services Coordination.

Addiction Services Coordination staff refer most DWI offenders to outpatient addiction treatment. DHHS contracts with Thomas Comprehensive Counseling, Counseling Plus, Inc, and Suburban Hospital for outpatient treatment and education services.¹ DHHS contracts with additional providers for residential substance abuse treatment services.

DHHS also provides treatment in the Montgomery County Detention Center through the Jail Addiction Services (JAS) program. JAS provides substance abuse treatment for inmates that volunteer to participate. Participants live in a separate JAS unit in MCDC. They receive addiction education, participate in self-help groups, and receive referrals to community-based treatment services. JAS staff report that few of the JAS participants are sentenced for DWI/DUI offenses.

Department of Correction and Rehabilitation. The Department of Correction and Rehabilitation is involved in screening and treatment for offenders sentenced to incarceration. At intake to the Montgomery County Detention Center, DOCR staff ask all new inmates if they have used drugs or alcohol within the last three days and if they are having any withdrawal symptoms. They use the information to determine if the inmate needs medical attention. They also inform inmates about the Jail Addiction Services program.

Judges may request that DWI/DUI offenders sentenced to incarceration participate in the DOCR Pre-Release Center (PRC) or Community Accountability, Reintegration and Treatment (CART) program. DOCR staff screen all new clients to assess their addiction problem and develop an appropriate treatment plan. Clients undergo alcohol testing three times daily and drug testing three times per week.

Pre-Release Center (PRC) clients live at a DOCR facility in the community under close supervision and monitoring. PRC staff provide treatment on-site and help inmates access community based treatment services that will help them reintegrate into the community. On-site treatment includes a two week Basic Recovery class that involves life skills and substance abuse education; substance abuse counseling; and an introduction to 12 step programs. PRC's Relapse Prevention program targets offenders that have been in and out of treatment and have tried at some point to stay sober. The treatment focuses on identifying the factors that cause them to return to drinking and criminal behavior.

The Community Accountability, Reintegration and Treatment (CART) program provides intensive pre-release services to clients living at home, monitored by caseworker visits and electronic monitoring equipment. They participate in highly structured community activities and treatment services. CART counselors meet with the clients several times per week, and verify attendance at work, community service, and counseling. CART counselors also provide significant support for clients' family members.

¹ DHHS provides intensive outpatient addiction services directly through the Outpatient Addiction Services program, but that program is not certified to serve DWI offenders. Outpatient Addiction Services treats substance abusers with multiple issues, such as mental illness, homelessness, and unemployment.

STRATEGY: PROBATION

State law reference(s): Article 27 641; 641A; 643A

OLO Report 2001-1: Pages 77-81

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Division of Parole and Probation, Department of Correction and Rehabilitation, Department of Health and Human Services

Summary of law/practice in Montgomery County:

Probation is the disposition of a case by a court that allows the court to impose conditions on an offender in addition to the sanctions provided in the law. Judges have broad authority to impose conditions tailored to each case, provided that the "conditions are reasonable and have a rationale basis."² If an offender is alleged to have violated a condition of probation, then the offender can be returned to court for a violation of probation hearing. If the court finds that a violation occurred, then the court can revoke the probation and impose the sentence allowed by law.

In Maryland, similar to other places, a usual condition of probation is that the offender not engage in any further criminal activity. Other conditions may require an offender to remain alcohol and drug free, pay a fines or fees, attend alcohol education, attend alcohol treatment, perform community service, and/or participate in the ignition interlock program. State law provides that probation can be either before judgement (PBJ) or following judgement.

Probation before Judgement (PBJ) requires a finding of guilt by a judge after either a trial or after a guilty plea by the defendant. A PBJ allows the judge to punish a defendant without the defendant having the taint of a conviction or criminal history, e.g., employment disqualification. If a defendant successfully completes his/her period of probation, then the court expunges the person's criminal record. For motor vehicle offenses, a PBJ allows the imposition of a penalty without the defendant being given the points for the offense, which could result in license suspension/revocation.

A common condition of probation for DWI offenders is alcohol addiction education, alcohol addiction treatment, and/or attendance at Alcoholics Anonymous meetings. Probation agents refer the offenders to State certified education or treatment providers, and monitor compliance with the conditions of probation.

Maryland's so-called "first time offender" statute allows a judge to impose a PBJ for defendants without a previous conviction. Offenders can receive only one PBJ for a drunk driving arrest every five years.

² Source: Legislative Handbook Series, Volume IX, 1998, *Maryland's Criminal and Juvenile Justice Process*.

Probation following Judgement allows the court to impose any sentence provided by law and impose conditions on an offender once the sentence is completed. Probation following judgment requires the court to enter a judgement of conviction. The court may then either suspend the imposition of the sentence and place the offender on probation, or impose a term of imprisonment followed by a term of probation. A "split sentence" is where a court requires the offender to serve part of the sentence (with part of it suspended) followed by a term of probation.

State law (Article 27, Section 641) also requires that when a court convicts a person for DWI or DUI and places the person on probation, the court must (as a condition of the suspension of the sentence) require that the person participate in an alcohol treatment or education program approved by the State Department of Health and Mental Hygiene.

Supervised vs. Unsupervised Probation. If a court imposes probation, the court has the option of ordering the offender's probation be supervised or unsupervised. For DWI/DUI offenders, a judge can also specify that an offender be placed under supervision of the Drinking Driver Monitor Program.

The Drinking Driver Monitor Program (DDMP) is a specialized intensive probation program operated by the Division of Parole and Probation. Since 1991, the state began assigning all drunk driving offenders placed on supervised probation to the DDMP. Offenders can also be assigned to participate in the DDMP by the Motor Vehicle Administration, as a condition for reinstating a driver's license after it has been suspended or revoked.

Persons assigned to DDMP are required to report within 72 hours of sentencing. Offenders are formally notified of the condition of probation and assigned a frequency and location of reporting. Most DWI offenders are required to report to a probation agent, or "monitor" on a weekly or bi-weekly basis.

The program requires that drivers arrested for DWI offenses participate in substance abuse education or treatment programs, and refrain from further driving while under the influence of alcohol. The monitors verify the offender's compliance with these and other probation conditions in different ways including: breath testing, periodic checking of criminal and motor vehicle records, and written verification of attendance at Alcoholics Anonymous meetings, education/treatment sessions, and the Alternative Community Services program. In addition, the probation officers ensure that the offender is paying any court-ordered fines or restitution.

If an offender does not report for his/her regularly scheduled meeting with his/her monitor, violates the conditions of probation, or displays "unlawful conduct," then the monitor informs the sentencing court or the Motor Vehicle Administration of the violation. (DDMP's rules indicate that the monitor is to make this notification within 10 days.)

The monitor can also petition the sentencing court for a warrant and the court sets a hearing date. At the hearing, the judge decides whether to continue the offender on probation or revoke the probation and send the offender to jail. The judge may schedule a second hearing to see if the offender will follow through on a promise to change his behavior and comply with the probation conditions.

STRATEGY: FINES

State law reference(s): See Tables 11 and 12 (pages 47-48)

OLO Report 2001-1: Pages 82-83

County/State agencies involved in implementation: District Court, Circuit Court, Juvenile Court, State's Attorney, Police Departments, Board of License Commissioners

Summary of Law/Practice in Montgomery County:

State law outlines the maximum fines that can be assessed for civil and criminal offenses. All revenue collected from these fines accrues to the State of Maryland.

Table 12 (page 48) lists the maximum fines related to alcohol-related violations for which a law enforcement officer can issue either civil or criminal citations. For example:

- The maximum fine for underage possession of alcohol (a civil offense) is \$500 for a first offense and \$1,000 for a repeat offense;
- The maximum fine for drinking alcohol in the parking lot of a shopping center (a criminal offense) is \$100.

Table 11 (page 47) lists the maximum fines (and time of imprisonment) related to other alcohol-related criminal offenses. For example, with DWI and DUI offenses, the law lists both a maximum fine and a maximum time of imprisonment. A judge can sentence an offender with either one or both of these penalties.

Fines Assessed by the Board of License Commissioners. State law authorizes the Board of License Commissioners to suspend and/or revoke a person's license to sell alcoholic beverages for any violation of Article 2B or the Board's adopted rules and regulations. In lieu of license suspension/revocation, the Board is authorized to assess the licensee a monetary fine up to \$20,000 for each violation.

During the past five years, the Board of License Commissioners assessed approximately \$275,000 in fines. The fines paid by the licensees accrue to the County's General Fund.

STRATEGY: ALTERNATIVE COMMUNITY SERVICE

State law reference(s): None

OLO Report 2001-1: Pages 84-86

County/State agencies involved in implementation: District Court, Circuit Court, Juvenile Court, State's Attorney, Montgomery County Police Department, Department of Correction and Rehabilitation, Division of Parole and Probation, Department of Juvenile Justice

Summary of law/practice in Montgomery County:

Persons charged with alcohol-related offenses in Montgomery County frequently find themselves participating in the County's Alternative Community Service (ACS) program, that is staffed and managed by the Department of Correction and Rehabilitation. The ACS program provides community service placement and supervision for pre-trial and sentenced adult and juvenile offenders. In some situations, offenders who successfully complete their assigned hours of community service with ACS avoid trial and may have their criminal records expunged.

Individuals charged with alcohol-related offenses (criminal and/or civil) may be referred to ACS from numerous sources, including:

- The Courts - District, Circuit, or Juvenile;
- The Maryland Division of Parole and Probation - including the Drinking Driving Monitor Program;
- The State's Attorney's Office;
- The Police Department's Family Services Division;
- The Department of Juvenile Justice; and
- Teen Court.

Participants in the ACS program serve their assigned hours as a member of a work crew. The work crews provide a range of services to the County Government, other local agencies, and nonprofit groups. The work crews are supervised by correctional officers (DOCR employees). The fees paid by the public agencies and nonprofit organizations that receive services offset the operating costs of the program.

STRATEGY: VICTIM IMPACT PANELS

State law reference(s): None

OLO Report 2001-1: Pages 87-88

County/State agencies involved in implementation: District Court, Circuit Court,
Division of Parole and Probation

Summary of law/practice in Montgomery County:

As a condition of probation, a judge may order a DWI/DUI offender to attend a Victim Impact Panel. In Montgomery County, Victim Impact Panels are periodically convened by Mothers Against Drunk Driving (MADD). The Victim Impact Panels are held in the Red Brick Courthouse and MADD charges the offender a fee to attend.

STRATEGY: IGNITION INTERLOCK

State law reference(s): Transportation 16-404.1

OLO Report 2001-1: Pages 89 - 91

County/State agencies involved in implementation: District Court, Circuit Court,
Police Department, State Motor Vehicle Administration

Summary of law/practice in Montgomery County

Maryland is among the 39 states that permit the use of ignition interlocks. In Maryland, ignition interlock devices may be used as a judicial sanction or an administrative remedy.

The State Motor Vehicle Administration (MVA) is, by law, assigned administrative responsibility for the ignition interlock program. The law authorizes MVA to certify private companies in different location around the state to service, install, monitor, and calibrate ignition interlock devices.

State law authorizes MVA (under certain conditions) to permit drivers to enter into an interlock program in exchange for either a reduction in a license suspension period, or as a condition of re-licensing. The law explicitly provides that MVA can offer a person the option of participating in the ignition interlock program if:

- The individual's license is suspended or revoked as the result of a DWI/DUI conviction, or the accumulation of points;
- The individual is court-ordered ordered to participate in the ignition interlock program; and/or
- The individual's driver's license has an alcohol restriction placed on it.

Repeat DWI offenders are eligible for an ignition interlock only after completing a period of license suspension and undergoing treatment for alcohol-related problems. After completion of the treatment and suspension, offenders are evaluated by the state Medical Advisory Board, which may recommend to the state MVA that the driver's license be reinstated. The MVA will reinstate the licenses of drivers who agree to abide by license restrictions including interlocks and agree to additional recommended treatment or support activities.

TABLE 11
ALCOHOL-RELATED CRIMINAL VIOLATIONS¹

Violation	State Law Reference	Maximum Fine	Maximum Imprisonment
Driving While Intoxicated First offense	Trans. 21-902 (a) and 27-101 (k)	\$1,000	1 year
Second offense ²	Trans. 21-902 (a) and 27-101 (k)	\$2,000	2 years
Third or subsequent offense	Trans. 21-902 (a) and 27-101 (k)	\$3,000	3 years
Driving Under the Influence First offense	Trans. 21-902 (b) and 27-101 (c)	\$500	2 months
Second or subsequent offense	Trans. 21-902 (b) and 27-101 (f)	\$500	1 year
Under 21 BAC .02 or More- First offense	Trans. 16-113 (b) (1) 27 –101 (b) and C&JP 10-307	\$500	None
Second or subsequent offense	Trans. 16-113 (b) (1) 27 –101 (b) and C&JP 10-307	\$500	None
Licensee (or licensee's employee) selling alcohol to a person under 21	Art 2B Section 12-108 and 16-503	\$1,000	2 years
Failure to have person on site with alcohol awareness certification First offense	Art 2B Section 13-101	\$100	None
Second or subsequent offense	Art 2B Section 13-101	\$500	None
Licensee selling alcohol to intoxicated person	Art 2B Section 12-108 (a) (ii) and 16-503	\$1,000	2 years

¹ The law does not permit a law enforcement officer to issue a criminal citation for these offenses.

² If a person is convicted for second or subsequent DWI offense (.10 or more BAC) within three years, the law establishes a mandatory minimum penalty of: imprisonment for not less than 48 hours, or community service for not less than 80 hours. The law explicitly provides that "imprisonment" in these cases can refer to confinement in an inpatient rehabilitation or treatment center.

TABLE 12
ALCOHOL-RELATED VIOLATIONS FOR WHICH CRIMINAL OR CIVIL CITATION CAN BE ISSUED

Violation	Charging Section	Maximum Criminal Penalty¹	Must Appear Violation	Maximum Civil Penalty (For offenders who are at least 18 years old)¹
Possession of alcohol by person under 21	Art 27 Section 400A		Yes	\$500 first offense; \$1000 repeat offense
Furnish alcohol to a person under 21	Art 27 Section 401A		Yes	\$500 first offense; \$1000 repeat offense
Possess keg without registration	Art 27 Section 401B (a)(1)			\$500 first offense; \$1000 repeat offense
Remove/alter keg form	Art 27 Section 401B (a)(2)			\$500 first offense; \$1000 repeat offense
Allow person under 21 to drink from a keg	Art 27 Section 401B (b)			\$500 first offense; \$1000 repeat offense
Misrepresent age to obtain alcoholic beverage from licensed seller	Art 27 Section 400		Yes	\$500 first offense; \$1000 repeat offense
Possession of false age ID by person under 21	Art 27 Section 400B		Yes	\$500 first offense; \$1000 repeat offense
Obtaining alcohol for person under 21	Art 27 Section 401		Yes	\$500 first offense; \$1000 repeat offense
Possession of alcohol on school property	Ed. Article 26-103(a)1			\$500
Alcohol disturbance at school sponsored athletic event	Ed. Article 26-103(a)2			\$500
Drinking after hours at a bar	Art 2B Section 11-304(q)	\$50		
Drinking on public property	Art 2B Section 19-202(a)(1)	\$100		
Drinking in public in a parking lot of a shopping center	Art 2B Section 19-202(a)(2)	\$100		
Drinking in public in a parking lot of a retail store	Art 2B Section 19-202(a)(3)	\$100		
Drinking in public in a parked vehicle, at any of the above locations	Art 2B Section 19-202(a)(4)	\$100		

¹ The penalty for a person under 18 years old is within the jurisdiction of the Juvenile Court/Department of Juvenile Justice.

TABLE 12 CONT.
ALCOHOL-RELATED VIOLATIONS FOR WHICH CRIMINAL OR CIVIL CITATION CAN BE ISSUED

Violation	Charging Section	Maximum Criminal Penalty¹	Must Appear Violation	Maximum Civil Penalty (For offenders who are at least 18 years old)¹
Failure to furnish proof of identification/age(for person being issued citation for alcohol violation of Art 27 400-403 and Ed. Article 26-103)	Art 27 Section 403A	\$50		\$500 first offense; \$1000 repeat offense
Possession of alcohol in an open container while in a shopping center parking lot	Art 2B Section 19-301(b)(1)	\$100		
Possession of alcohol in an open container while in a retail parking lot	Art 2B Section 19-301(b)(2)	\$100		
Possession of alcohol in an open container while parked in a parking lot	Art 2B Section 19-301(b)(3)	\$100		
Disorderly intoxication -	Art 2B 19-101	\$100; 90 days		

Source: Montgomery County Department of Police, Citation Manual, March 2000

² The penalty for a person under 18 years old is within the jurisdiction of the Juvenile Court/Department of Juvenile Justice.

C. ADJUDICATORY STRATEGIES

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Diversion Programs	51
Court Watch Programs.....	52

STRATEGY: DIVERSION PROGRAMS

State law reference(s): None

OLO Report 2001-1: Pages 100-102

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Montgomery County Police Department, Department of Correction and Rehabilitation

Summary of law/practice in Montgomery County:

As defined in OLO's earlier report, diversion is an alternative to formal processing, adjudication, and sanctions. It is designed to hold offenders accountable for their actions while keeping them out of the criminal justice system. The key difference between a diversion program and a sentence is that under a diversion program, an individual voluntarily agrees to comply with the conditions of diversion. Under a sentence, an individual is required to comply with the conditions of probation.

There are a number of diversion programs currently operating in Montgomery County that are used in some cases of alcohol-related violations.

Pre-trial diversion for first-time offenders under 18 years old. The juvenile justice system in Maryland is structured largely to divert first-time juvenile offenders. If, for example, a juvenile is cited for underage alcohol possession, the case is typically diverted if the juvenile agrees to submit to behavioral and health screening and follows through on the course of education/treatment recommended.¹

Alternative Community Service. For some relatively minor alcohol-related violations (e.g., underage possession of alcohol, furnishing alcohol to an underage person, keg registration violation) a plea bargain is reached between the prosecutor and a defendant in which the prosecutor agrees to nolle prosequere the case in return for the defendant's agreement to perform a certain number (e.g., 40-50) hours of community service.²

Teen Court. In Montgomery County, Teen Court is a community partnership, administered by the State's Attorney's Office. It serves as a diversion program run by teens for teens who have committed a non-violent minor crime. In some cases that come to Teen Court, the offense committed was alcohol-related.

Cases are referred to Teen Court by the Police Department and Department of Juvenile Justice. In Teen Court, volunteers perform the roles of the prosecuting and defense attorneys, bailiff, clerk, and jury. The judge is the sole adult directly involved in

¹ The steps in identification and processing of a juvenile charged with underage possession of alcohol is explained in Scenario (3), page 23.

² For additional information on Alternative Community Service see pages 44.

the court proceedings. The teen jury decides upon the "sentence," which typically includes a minimum number of community service hours and/or service on other teen juries. It may also include participation in educational programs, essays, or apology letters.

Rehabilitation and Education of Drunk Driving Offenders (REDDO)

Program. Between 1991-1997, Montgomery County provided diversion to some first-time DWI/DUI offenders through the Rehabilitation and Education of Drunk Driving Offenders (REDDO) program. The program diverted first-time DWI/DUI offenders arrested in Montgomery County (who met certain program eligibility requirements) from the criminal justice system to alcohol treatment and/or alcohol education. In 1997, for example, between 25% and 30% of all first time DWI offenders were diverted to REDDO.

During participation in REDDO's alcohol education/treatment programs, the State's Attorney placed REDDO clients' cases on the court's stet docket. If participants successfully completed REDDO and were not arrested for DWI charges for one year, their cases were dropped. REDDO was discontinued in 1997. For more about the operations of REDDO, see pages 87-91.

STRATEGY: COURT WATCH

State law reference(s): None

OLO Report 2001-1: Page 103

County/State agencies involved in implementation: A court watch is generally conducted by a non-governmental organization.

Summary of Law/Practice in Montgomery County:

Court watch programs that aim to monitor the adjudication and outcomes of DWI cases in court are almost always conducted by community advocacy groups such as MADD. The approach to and products of court watch programs vary significantly.

In the mid-1990's, there was the Drawing the Line on Underage Alcohol Use Court Watch. This effort, funded by private donations, focused on gathering information in the District Court about cases involving underage drinking. Between July 1995 and March 1996, 14 volunteers observed 213 cases on 21 different days. The observers recorded information (a mix of objective data and subjective evaluation) on different factors including the offender, judge, prosecutor, police officer, charge, plea, prior conviction, verdict, and sentence. A written report of conclusions and recommendations was produced based upon the information gathered.

OLO understands that the Governor's Office of Crime Control and Prevention recently awarded a grant to the Montgomery County Community Partnership (contingent upon participation from Drawing the Line staff) to conduct two court watches (6-10 months apart) in the District Court and the Circuit Court in Montgomery County. The court watches will involve community members recording what happens in court for underage alcohol possession and alcohol-related traffic offenses. In between the time of the first and second court watch, there will be an education campaign targeted at the judges and the prosecutors. Drawing the Line staff expects that the court watch will somehow be expanded to include the work of the Board of License Commissioners.

D. ALCOHOL AVAILABILITY AND OTHER ENVIRONMENTAL STRATEGIES

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E. STRATEGIES TO REDUCE UNDERAGE DRINKING/DRIVING 61

STRATEGY: MINIMUM LEGAL DRINKING AGE

State law reference(s): Article 2B, 12-108; 16-503; Article 2B 12-108, Article 27 400, 400A and 403A; Article 2B, 12-108 (d), 12-302 (a) (1)

OLO Report 2001-1: Pages 108 - 109

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Board of License Commissioners

Summary of law/practice in Montgomery County:

State law provides that the only exceptions to the minimum drinking age law are cases where the alcoholic beverage is being served by members of the immediate family in a private residence or served as part of a religious ceremony. In all other situations, it is a criminal (misdemeanor) offense to sell, furnish, or serve alcoholic beverages to persons under the age of 21. Violators are subject to a maximum fine of \$1,000 and/or imprisonment of up to two years. In Montgomery County, both the Department of Police and the Board of License Commissioners conduct checks for compliance with age-of-sales laws.

In addition to the State's Attorney pursuing criminal charges against a licensee's employee for selling alcohol to a person under 21, the Board of License Commissioners can proceed administratively against the licensee.¹ In Montgomery County, the Board of License Commissioners is authorized to suspend or revoke an establishment's license, or assess a fine of up to \$20,000 for every violation.

It is a civil offense in Maryland for a person under the age of 21 to attempt to purchase or possess alcohol.² It is a separate civil offense to possess or use fake identification. Adult violators (over 18 years of age but under 21) must appear in the District Court to answer the charges; the maximum penalty is fine of \$500 for a first offense, and \$1,000 for a repeat offense. The law delegates the Juvenile Court/Department of Juvenile Justice the authority to determine the appropriate consequence for a juvenile (person under 18), who is charged with underage possession of alcohol.

¹ No establishment can sell alcohol in Montgomery County without a license issued by the Montgomery County Board of License Commissioners.

² The law provides an exception for a person under 21 who is an employee of an establishment that holds a license to sell alcohol and is in possession of alcohol in the course of employment, i.e., clearing tables, washing dishes.

STRATEGY: SERVER INTERVENTION

State law reference(s): Article 2B Section 13-101

OLO Report 2001-1: Pages 110 -112

County/State agencies involved in implementation: District Court, Circuit Court, State's Attorney, Police Departments, Department of Health and Human Services (Drawing the Line, Highway Traffic Safety Project), Board of License Commissioners, State Comptroller

Summary of law/practice in Montgomery County:

Maryland uses the term "alcoholic awareness" training to refer to programs that educate bartenders, waiters/waitresses, cashiers, managers and others about how to avoid serving or selling alcoholic beverages to underage persons or to customers who are already intoxicated. The training includes education about how to recognize false identification and how to implement so-called responsible serving practices, such as eliminating happy hours or the practice of serving beer by the pitcher.

Maryland is one of 11 states that include alcohol awareness training as a condition of licensure. The general State law requires that an holder of any class of a retail alcoholic beverage license shall complete training in an approved alcohol awareness program. The training is valid for four years.

In Montgomery County, there is a further requirement that either the licensee or a supervisory employee designated by the licensee who has completed alcohol awareness training, must be on the licensed premises whenever the establishment is selling alcohol. (Note: Maryland's law on server training is considered "weak" because it does not mandate alcohol awareness training for all persons who sell/serve alcohol.)

State law requires that organizations must be certified by the State Comptroller to offer alcohol awareness training. The cost is approximately \$25-50 to attend a class. Most organizations that offer alcohol awareness training will go on-site and train all of the licensee's employees at one time. The Board of License Commissioners budgets funds (\$7-8,000) each year to assist licensed facilities with the cost of providing alcohol awareness training courses to their employees.

Both the Police Department and Board of License Commissioners are involved with enforcement of this law. It is a criminal (misdemeanor) offense in Maryland for an establishment to sell or serve alcohol unless one person on the premises who has taken alcohol awareness training. In practice, officers write criminal citations for violations of

the alcohol awareness provisions of the law. The maximum criminal penalty is a \$100 fine for a first offense, and a \$500 fine for a second or subsequent offense. In addition, the Board of License Commissioners can take administrative action against the licensee of establishment where the violation occurred.

STRATEGY: TAXES ON ALCOHOLIC BEVERAGES

State law reference(s): Tax-General, Article 5, Alcoholic Beverage Tax

OLO Report 2001-1: Page 109

County/State agencies involved in implementation: Comptroller, Department of Liquor Control

Summary of law/practice in Montgomery County:

All states tax alcohol. Maryland has an excise tax on alcohol that is based upon the quantity of alcohol sold. (In some states, the tax is calculated as a percent of the selling price.)

Alcohol taxes in Maryland are set by State law. All of the revenue from alcohol taxes accrues to the State. State law (Tax-General, Section 5-102) explicitly prohibits a county, municipal corporation, special taxing district, or other political subdivision of the State from imposing a tax on any alcoholic beverage.³

A recent (November 2000) study by the Alcohol Epidemiology Program at the University of Minnesota looked at the tax trends set on the sale of alcoholic beverages - beer, spirits, and wine - for consumption off premises (i.e., off-sale or take-out) between 1968 and 2000. The study concluded that average state-level beer taxes have "eroded dramatically over the past three decades." After adjusting for inflation, the study found that the average state beer tax in 2000 is only around one-third the value of the average state beer tax in 1968. Maryland ranked in the middle tier of states, with tax erosion in the 25-49% range. An excerpt from the report that graphs the trend in Maryland alcohol beverage tax data is attached at ©5.

³ The law provides for one exception to this, which is a tax on beer sold or delivered in Garrett County.

STRATEGY: OPEN CONTAINER LAWS/ANTI-CONSUMPTION LAWS

State law reference(s): Article 2B, 19-301, 19-202, and 19-104;
Transportation 21-903

OLO Report 2001-1: Pages 114-116

County/State agencies involved in implementation: District Court, Circuit Court,
Police Departments

Summary of law/practice in Montgomery County:

In general, open container laws prohibit the possession of any open alcoholic beverage container and/or the consumption of alcoholic beverage in a motor vehicle. Some State laws (including Maryland) limit the open container prohibition to certain places and/or only apply the no-consumption restriction to the driver. Legislation to amend Maryland's open container law was introduced but defeated this year.

Under current Maryland law, it is a misdemeanor for a person to:

- Possess an open container of an alcoholic beverage in the parking areas adjacent to retail establishment where the general public is invited for business purposes.
- Drink any alcohol beverage on public property or property where the general public is invited for business purposes (unless authorized by the owner).
- Consume an alcoholic beverage while driving a motor vehicle on a highway in the state of Maryland.

In Montgomery County, the Police Departments' general practice is to issue criminal citations for violations of these laws. In such cases, the violator is not taken into custody, but is issued a citation that requires him/her to appear in the District Court. The maximum penalty is a \$100 fine.

In 1998, federal legislation was adopted that ties the adoption of open container laws (by October 1, 2000) to receipt of Federal-aid highway construction funds. Specifically, Section 154 of the Transportation Equity Act for the 21st Century Restoration Act (TEA-21) requires that states without an open container law that meets certain criteria (listed below) will have portion of their Federal-aid highway construction funds redirected into the State's Section 402 highway safety program to be used for anti-drunk driving programs, enforcement of anti-drunk driving laws, or to the state's hazard elimination program.

The redirection amount for States not in compliance will be 1.5% of certain state Federal aid highway construction funds in FY 01 and FY 02, and 3% in FY 03 and future years. To comply with the federal legislation, a state's open container law must do the following:

- Prohibit both possession of any open alcoholic beverage container and consumption of any alcoholic beverage;
- Cover the passenger area of any motor vehicle, including all areas that are readily accessible to the driver or passengers while in their sitting positions;
- Apply to all alcoholic beverage container and all alcoholic beverages that contain one half of one percent or more of alcohol by volume (including 3.2% beer)
- Apply to all vehicle occupants except for passengers of vehicles designed and maintained primarily for the transportation of persons for compensation (e.g., buses, taxi cabs, limousines);
- Apply to vehicles on a public highway or on the right of way (includes the shoulder) of a public highway; and
- Require primary enforcement of the law, rather than requiring probable cause that another violation had been committed before allowing enforcement of the open container law.

STRATEGY: COMMUNITY BASED PREVENTION PROGRAMS

State law reference(s): None

OLO Report 2001-1: Pages 118 - 121

County/State agencies involved in implementation: Police Departments, Drawing the Line, Department of Health and Human Services

Summary of law/practice in Montgomery County:

Montgomery County's Drawing the Line on Under 21 Alcohol Use (DTL), established in 1992, is a community coalition that focuses on prevention of underage drinking. A DTL program history and update written in 1998 describes the program as "a multi-agency, public private comprehensive, county-wide program aimed at creating community consensus that underage drinking is unhealthy, illegal, and unacceptable." A more detailed description of Drawing the Line is included in the summary of the County's efforts to reduce underage drinking; see page 68. Staff support for DTL is provided through the Department of Health and Human Services.

The County's Traffic Safety Task Force is another example of a community coalition. Required by the Maryland Highway Safety Office under the National Highway Traffic Safety Administration's 402-grant program, the Traffic Safety Task Force consists of health care practitioners, law enforcement, fire and rescue, and traffic personnel, and representatives from community-based organizations such as Mothers Against Drunk Driving. Consistent with the grant guidelines, the Traffic Safety Task Force's focus is on six priority areas for the reduction and prevention of motor vehicle fatalities and injuries in Montgomery County. One of the six priority areas is impaired driving. (The other five priority areas are: occupant protection, aggressive driving, young driver safety, bicycle safety, and pedestrian safety.) Staff support for the Highway Safety Task Force is provided through the Department of Health and Human Services.

In addition, the Alcohol and Other Drug Abuse Advisory Council brings together representatives from multiple public sector agencies and the community. By law (County Code, Section 24-41), the Council consists of 16 voting members appointed by the County Executive and confirmed by the Council; and nine ex officio members designated by various County departments. One of the stated purposes of this Advisory Council is to identify alcohol and other drug abuse program needs, and assist in the development of an annual County alcohol and other drug abuse plan. Staff support for the Alcohol and Other Drug Abuse Advisory Council is provided through the Department of Health and Human Services.

STRATEGY: ALCOHOL OUTLET DENSITY

State law reference(s): Art 2B, Section 9-201,

OLO Report 2001-1: Page 113

County/State agencies involved in implementation: Board of License Commissioners

Summary of law/practice in Montgomery County:

No establishment can sell alcohol in Montgomery County without a license issued by the Montgomery County Board of License Commissioners. State law provides wide discretion to local boards of license commissioners to issue alcoholic beverage licenses.

With respect to alcohol outlet density, Article 2B, Section 9-201(a) grants the Board of License Commissioners full power and authority to "limit and restrict, in accordance with a definite standard the number of licenses which they shall consider sufficient for any neighborhood." To date, the Board's rules and regulations have not included any "standards" that would be considered a "sufficient number."

STRATEGY: UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

State law reference(s): Sections in Article 2B, Article 27, Transportation Article and Courts and Judicial Proceedings Article

OLO Report 2001-1: Pages 122 - 131

County/State agencies involved in implementation: District Court, Juvenile Court/Department of Juvenile Justice, Police Departments, State's Attorney, Department of Health and Human Services, Montgomery County Public Schools, Board of License Commissioners, Department of Correction and Rehabilitation, Sheriff's Office, Motor Vehicle Administration

Summary of law/practice in Montgomery County

In Montgomery County, similar to many other jurisdictions across the country, the strategies aimed at reducing underage alcohol use (in general) and underage drinking and driving parallel strategies aimed at reducing DWI behavior among adults. Some other countermeasures are uniquely tailored to persons under the age of 21.

The chart on the following pages lists the key laws, enforcement practices, prevention/education programs, and adjudication/diversion practices frequently cited in the literature as strategies for addressing the problem of under alcohol use, including underage drinking and driving. The chart indicates whether the strategy is currently being used in Montgomery County and briefly summarizes the current law/practice in the County.

To eliminate duplicating information, cross references are provided to other relevant sections in the report. In addition, more detailed information is provided (following the chart) on:

- The Montgomery County Police Department's approach to underage drinking parties (page 67);
- Montgomery County's Drawing the Line on Underage Alcohol Use (a community coalition that focuses on the prevention of underage drinking) (page 68); and
- Maryland's graduated licensing program for new licensees (Attachment ©6).

TABLE 13
STRATEGIES FOR REDUCING UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

Key Laws for Reducing Underage Drinking	Strategy used in Montgomery County?	Comments
Minimum drinking age laws	Yes	There are a number of different State laws that make it illegal for a person under 21 years old to purchase, possess, or consume alcoholic beverages or to misrepresent his/her age to obtain alcoholic beverages. In Montgomery County, both the Police Departments and Board of License Commissioners actively enforce the underage alcohol laws. (For more information, see Table 12, page 48 for a list of laws and related criminal/civil penalties.)
Zero tolerance laws	Yes	For persons under 21, operating a vehicle with a blood alcohol concentration (BAC) of .02 or more is a criminal violation of the Maryland Vehicle Law. Police Departments in the County actively enforce this law. Underage persons are arrested and processed for a BAC of .02 or more in the same way that adults are arrested and processed for DWI/DUI.
Adult responsibility laws	Yes	It is a civil offense under State law for an adult to knowingly and willfully allow an individual under 21 years of age to actually possess or consume an alcoholic beverage at the adult's residence. Law enforcement officers can issue civil citations for violations of this law, and adult violators must appear in District Court to answer the charges. For example, this type of citation might be issued to the adult(s) at an underage drinking party. The maximum penalty for a first offense is a \$500 fine.
Server training	Yes	In order to be licensed to sell alcoholic beverages in Maryland, a licensee must complete training in an approved alcohol awareness program. The training is good for four years at a time. It is a misdemeanor offense under State law for a licensee to sell alcohol without a person who has passed the training on the premises. Both the Police Department and Board of License Commissioners actively enforce this law. (For more information, see page 56.)

TABLE 13
STRATEGIES FOR REDUCING UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

Key Laws for Reducing Underage Drinking	Strategy used in Montgomery County?	Comments
Keg registration laws	Yes	Any establishment licensed to sell alcohol must abide by the State's keg registration law, which requires special record keeping for the sale of any container that holds four or more gallons of beer; the licensee must affix a uniquely numbered keg registration form to the keg. State law also makes it a civil offense to: possess a keg of an alcoholic beverage that is not registered; to remove/alter a keg registration sticker; or to allow a person under 21 to drink from a keg. In Montgomery County, both the Police Departments and the Board of License Commissioners actively enforce keg registration laws. The maximum civil penalty for an adult is a \$500 fine for a first offense.
Anti-consumption laws	Yes	Under State law, it is a misdemeanor for a person to drink any alcoholic beverage on public property or property where the general public is invited for business purposes, unless authorized by the owner. Law enforcement officers can issue criminal citations for violations of this law; the penalty is a \$100 fine. Under State law, it is a civil offense to drink or possess any alcoholic beverage on the premises of any public school. The maximum penalty for an adult is a \$500 fine for a first offense.
Distinctive licenses for drivers under age 21	Yes	The State MVA issues distinctive licenses for drivers under the age of 21 in Maryland. The purpose is to make it easier for sellers of alcohol to identify underage persons and to make it more difficult to develop false licenses.
Graduated licensing laws	Yes	Maryland was one of the first states to adopt graduated licensing laws. (For more information about Maryland's program, see ©6.)

TABLE 13
STRATEGIES FOR REDUCING UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

Enforcement Practices for Reducing Underage Drinking	Strategy used in Montgomery County?	Comments
Underage decoy operations	Yes	In Montgomery County, the Police Department (primarily MCPD's Alcohol Initiatives Section) and the Board of License Commissioners conduct "compliance checks" for alcohol age-of-sale laws. Both operate programs where underage persons are trained to attempt to purchase alcohol from alcohol serving and alcohol selling establishments. For more information, see pages 79-84
Point of purchase operations	Yes	MCPD's Alcohol Initiatives Section occasionally conducts point of purchase operations. Most recently, as part of this year's Holiday Task Force, plainclothes officers checked IDs at the entrances to establishments that served liquor. These operations are organized in cooperation with the restaurant management.
Surveillance operations	Yes	In Montgomery County, the Police Department (primarily MCPS's Alcohol Initiatives Section) conducts strategically placed surveillance operations outside of establishments that sell alcohol. When a sale of alcohol to a minor is observed and completed, the police can bring charges against the minor for underage possession of alcohol, and against the seller for selling alcohol to an underage person.
Monitoring of special events/party patrols	Yes	In Montgomery County, the Police Department (primarily MCPD's Alcohol Initiatives Section) closely monitors selected athletic events and other student gatherings in order to deter underage drinking and demonstrate strict enforcement of underage drinking laws. With underage parties, the AIS employs a strategy known as "Controlled Dispersal." (For more information, see page 67)
Saturation patrols	Yes	MCPD's Alcohol Initiative Section (AIS) organizes periodic saturation patrols in Montgomery County, usually around holidays and special events. During a saturation patrol, a group of officers are assigned to conduct patrols with a special focus on looking for underage drinking and driving behaviors that indicate a driver may be impaired by alcohol. At times (e.g., Holiday Task Force), MCPD conducts saturation patrols in cooperation with other law enforcement agencies in the County, i.e., State Police, Park Police, municipal police.

TABLE 13
STRATEGIES FOR REDUCING UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

Education/Community Based Prevention Programs	Strategy used in Montgomery County?	Comments
Community Coalitions	Yes	Established in 1992, Montgomery County's Drawing the Line on Under 21 Alcohol Use (DTL) is a multi-agency, public/private community coalition that focuses on prevention of underage drinking. DTL's activities include educational programs for adults and young people through schools, the media and community groups; alcohol-free activities; advocacy for new laws, policies, and practices to make it more difficult for young people to drink. (For more information about how DTL operates, see page 67 and a list of DTL's membership is attached at ©8.)
Media advocacy/public awareness activities	Yes	Agencies and organizations focused on reducing underage drinking in Montgomery County (including MCPD, DHHS, MCPS and other Drawing the Line members) proactively seek and promote media coverage of the problems associated with underage drinking. Particular effort is made to publicize special enforcement campaigns, such as sobriety checkpoints and compliance checks.
In-school programs	Yes	In Montgomery County, the school system, Department of Health and Human Services, and Police Departments (MCPD and municipal police) all sponsor school-based prevention programs focused on educating young people about the dangers of alcohol and other drug use, along with strengthening other related skills, such as the ability to resist peer pressure. (For more information about programs, see pages 72-78)
Alternative non-alcoholic special events for youth	Yes	The Recreation Department, individual school PTAs, and other organizations sponsor many events for young people in the County that do not involve alcohol. Through a mini-grant program, the County's DHHS Substance Abuse Prevention Program supports alcohol-free after-prom activities.
Court licensing ceremonies	No	

TABLE 13
STRATEGIES FOR REDUCING UNDERAGE ALCOHOL USE AND UNDERAGE DRINKING AND DRIVING

Other		
Arrest and process all juveniles for impaired driving violations	Yes	Juveniles who are found with a BAC of .02 or above are arrested and processed in a way that is similar to adults arrested for DWI/DUI.
Pre-trial diversion for juveniles (civil offenses)	Yes	Working with the Department of Juvenile Justice and the Department of Health and Human Services, MCPD's Family Services Division coordinates a diversion program for first-time juvenile offenders who meet certain criteria. (For more information, see Scenario 3, pages 23-24.)
Teen courts	Yes	In Montgomery County, Teen Court is a community partnership, administered by the State's Attorney's Office. It serves as a diversion program run by teens for teens who have committed a non-violent minor crime. In some cases that come to Teen Court, the offense committed was alcohol-related. (For more information, see page 51)

THE CONTROLLED DISPERSAL PROGRAM¹

Controlled dispersal is a “systematic operational plan using the concepts of zero-tolerance and education to safely and efficiently close an underage-drinking party.” The goal is to close down the party, contain the party participants, enforce the underage drinking laws, and ensure that the party attendees get a safe ride home. Law enforcement agencies implement controlled dispersal in different ways. Below is a summary of basic steps in controlled dispersal of underage parties:

- 1. Receipt of Complaint** - Complaints of possible underage drinking parties are referred to the alcohol enforcement unit or a specifically trained officer known as an alcohol enforcement specialist. This includes complaints from citizens calling the dispatcher and officers discovering an underage party.
- 2. Initial Response** - Officers do not directly respond to a party, but rather initiate surveillance to monitor alcohol use, drug use, noise, and other violations. They also monitor traffic leaving the party for any violations, but do not reveal their knowledge of the party.
- 3. Briefing** - The supervisor selects a briefing area away from the party site and holds a briefing to review current department policy and develop a tactical plan. Officers organize equipment, such as Polaroid cameras, breath tester, citations, etc.
- 4. Deployment** - Teams of officers establish parameters. The outer parameter blocks vehicles from leaving the area. The inner parameter prevents partygoers from leaving the party area.
- 5. Scene Security** - Officers gather partygoers into a secure area. The officers also conduct a search for anyone who is hiding, sick or unconscious.
- 6. Processing** - Processing occurs in three stages: a) administration of a preliminary breath test, b) processing citations if issued, c) arranging safe transportation from the party for all attendees.

¹ Summary adapted from “Preventing and Dispensing Underage Drinking Parties,” Office of Juvenile Justice and Delinquency Prevention, Office of Justice Programs, Washington D.C., 1998.

DRAWING THE LINE ON UNDERAGE ALCOHOL USE PROGRAM

The Drawing the Line on Underage Alcohol Use Program, launched in 1992, is a public-private partnership to prevent underage alcohol use in Montgomery County. The goals of Drawing the Line include:

- Educating youth, parents and other community members that alcohol use by minors is unhealthy and illegal;
- Helping to strengthen the underage drinking prevention effort of local communities and law enforcement agencies; and
- Expanding alcohol-free activities for youth under twenty-one.

Program Organization

The Department of Health and Human Services (DHHS) contracts with the Montgomery Community Partnership to implement the program. A part-time project coordinator staffs the program for the Montgomery Community Partnership. The duties of the coordinator include:

- Coordinating project activities;
- Surveying literature to collect information on current trends and research;
- Creating educational materials and
- Assisting DTL members with prevention activities.

A Coordinating Committee consisting of representatives from Montgomery County agencies and community groups meets monthly to strategize and plan Drawing the Line activities. The monthly meetings also serve as a platform for communication and information sharing between agencies working together to prevent underage alcohol use. According to DTL documents, 12 out of the 30 representatives attend the monthly meetings, on average. The current list of Coordinating Committee members is attached at ©8.

Drawing the Line is funded through a combination of County funds and public and private grant funds. County funding for coordination and on-going activities comes from the budgets of the Department of Health Human Services and Department of Recreation. In FY 2000, DHHS contributed \$75,000. DTL staff could not quantify the FY 2000 funds received from the Department of Recreation. Grant funds and donations supplement DTL's short-term activities and expenses. DTL staff estimate that the program received between \$133,000 and \$288,000 in grant and donation funds in FY 2000.

Program Activities

Drawing the Line supports and sponsors a variety of activities to prevent underage drinking. DTL staff and Committee members help enforce underage drinking laws, lobby for changes in law, educate youth and adults about the physical and legal consequences of underage drinking, support alcohol-free events for persons under 21, and collect Montgomery County underage drinking data. Drawing the Line supported or participated in the following specific activities in FY 2000:

- Collected underage alcohol-use data from various state and local agencies and organizations, including underage drinking citation and arrest data, intoximeter records of alcohol-related arrests, alcohol-related crash data, substance abuse cases, and records of compliance checks by the Office of the Board of License Commissioners.
- Sponsored and publicized after- game parties and other under 21 alcohol free activities, such as after-prom and graduation events.
- Helped support and publicize under 21 alcohol free events sponsored by the Montgomery County Students against Drunk Driving, the Youth Advisory Committee, and the County Recreation Department.
- Provided outreach and training to community and civic groups through lectures and presentations. They presented information about the effects of alcohol, laws regarding underage alcohol use, and strategies to deal with the problem to students, the media, law enforcement, fire and rescue recruits, and community leaders.
- Provided technical assistance to organizations planning under 21 activities and groups addressing crime, juvenile delinquency or other comprehensive programs, such as HotSpots, Comprehensive Strategy for Juvenile Justice, and school groups implementing environmental change strategies.

STRATEGIES NOT CURRENTLY USED IN MONTGOMERY COUNTY

Strategy	OLO Report 2001-01, Page Reference	Comments
Passive Alcohol Sensors	Pages 52-55	Law enforcement officers in Montgomery County do not currently use passive Alcohol Sensors (PAS). Until recently, it appeared as though the State Toxicologist's approval was needed before local law enforcement agencies could begin using PAS. However, this no longer seems to be an obstacle.
In-vehicle videotaping	Page 58	The Montgomery County Police Department is in the process of working through the details of implementing a pilot program for the use of in-vehicle video cameras by patrol officers in the Silver Spring Police District.
Vehicle-based sanctions for DWI offenders	Pages 92-96	Maryland law authorizes the court but not the Motor Vehicle Administration to impound a vehicle owned by a driver who is arrested for driving on a suspended license because of a previous DWI charge. This provision is not actively used in Montgomery County. In addition, Maryland law does not authorize vehicle forfeiture or license plate impoundment for DWI offenders.
Drug Court	Pages 97-99	Montgomery County does not operate a Drug Court.
Anti-Plea Bargaining Laws	Pages 104-106	Maryland law does not prohibit judges or prosecutors from reaching plea-bargain agreements in DWI cases.

IV. ISSUE PAPERS

This chapter contains nine issue papers. Each paper articulates an issue, reviews what the research says about effectiveness, summarizes the current practice in Montgomery County, and proposes a series of questions as candidates for OLO's work in the next phase of this project.

Issue #1: Prevention Activities. Are County-sponsored underage drinking prevention efforts well coordinated, both logistically and programmatically, in order to collectively be as effective as possible? (Begins on page 72)

Issue #2: Enforcement of Alcohol Age-of-Sale Laws. Are the County's efforts to enforce alcohol age-of-sale laws well coordinated and sufficiently resourced to be "effective"? (Begins on page 79)

Issue #3: Need for Short-term Detoxification Facility. Is there a need for a short-term detoxification facility in Montgomery County? If so, how should it be structured and how much would it cost to operate? (Begins on page 85)

Issue #4: A Program to Divert First-time DWI Offenders into Treatment. Should the County consider re-instituting some type of program for first-time DWI offenders that provides an opportunity for pre-trial diversion from the criminal justice system to alcohol addiction education and treatment? (Begins on page 87)

Issue #5: The Balance of Resources for Enforcement and Prosecution. Are County resources allocated to the Police Department and State's Attorney's Office balanced to maximize the complementary roles of enforcement and prosecution? (Begins on page 92)

Issue #6: Trends in Case Disposition, Sentencing, and Recidivism of DWI Offenders. What are the trends in case disposition and sentencing practices for DWI cases brought before the District Court in Montgomery County? Is there a correlation between sentencing and re-arrest for DWI offenders? (Begins on page 97)

Issue #7: Administrative License Suspension/Revocation for DWI Offenders. Does the State Motor Vehicle Administration efficiently and effectively perform its administrative licensing suspension/revocation functions as they relate to DWI/DUI offenders? (Begins on page 100)

Issue #8: Vehicle-based Sanctions for Repeat DWI Offenders. Should Montgomery County seek State legislation to permit the Motor Vehicle Administration (or other agency) to administratively impound vehicles of repeat DWI offenders? (Begins on page 103)

Issue #9: The Drinking Driver Monitor Program. In practice, how does the State's specialized probation program for drunk driving offenders (the Drinking Driver Monitor Program) work in Montgomery County? What is known about the results of offenders' participation in this probation program? (Begins on page 106)

ISSUE #1

Are County-sponsored underage drinking prevention efforts well coordinated, both logistically and programmatically, in order to collectively be as effective as possible?

THE RESEARCH

A recurring theme in the research literature on school-based prevention programs is that programs rarely achieve their stated goals. There is little quantitative data that documents a direct link between investments in prevention programs and a reduction in the incidence of underage drinking behavior or the onset of drinking alcohol.¹

Each school district in the U.S. receives an average of \$8.50 per student from the federal government for prevention activities. A 1997 study conducted for the federal Department of Education on school-based prevention programs found that:

- Some drug prevention programs improved student outcomes, but effects were small;
- Few schools employed program approaches that have been found effective in previous research;
- Student outcomes were better in schools that had stable programs that offered extra components, such as student support services;
- Fewer than half the school districts surveyed used formal evaluations to help them decide how to choose or alter their prevention programs; and
- Programs were delivered without consistency in terms of amount and content, even within schools.

The most widely published (and controversial) research in recent years concerns the Drug Abuse Resistance Education (DARE) program. DARE is the largest school-based drug education program in the United States, operating in about 70% of school districts across the country. DARE is a cooperative venture between law enforcement agencies and schools, and involves the use of trained, uniformed police officers in the classroom to teach an alcohol, tobacco, and other drug use prevention curriculum. The core DARE curriculum concentrates on children in the last years of elementary school.

¹ The onset refers to the age at which a young person first got drunk and/or the age that he/she started having a drink at least once a month.

A major research study published in 1998 reported the results of a longitudinal, randomized experiment that tested the short and long-term effects of the DARE program on students' attitudes, beliefs, social skills, and drug use behavior. The researchers (Rosenbaum and Hanson) followed over 1,700 students from the 6th to 12th grades, and concluded that:

- DARE did have immediate and short-term positive effects (up to two years) on such variables as resistance skills and attitudes towards drugs, but these effects dissipated over time;
- DARE had no long-term effects on drug use or mediating measures (e.g., students' attitudes, beliefs and social skills relating to drug use) except that students in DARE were more likely than students in the control group to report awareness of media efforts to make beer appear attractive; and
- DARE had no significant effects on the onset of drinking alcohol.

As a result of this report and other similar research, the DARE program is in the midst of a major revision.

Note: A national evaluation of a program does not necessarily reflect the effectiveness of a specific local program. OLO is not aware that a formal evaluation of Montgomery County's DARE program has been conducted, so we really don't know whether the DARE program in our community has had short-term and/or long-term effect on alcohol, tobacco, or drug use.

In the course of conducting research on prevention strategies, OLO came across information about a number of community based prevention programs that were introduced with either the explicit goal of reducing alcohol-impaired driving and/or preventing/reducing drinking and driving-related problems among underage persons. All of the community-based prevention efforts reported real effects, although few impacts were found to meet tests of statistical significance. (See OLO Report 01-1, pages 118-121.)

The Different Categories of Prevention Strategies. The Maryland Association of Prevention Professionals and Advocates identifies the following categories of prevention strategies as "effective," and argues that a comprehensive prevention program should incorporate all of them:²

Information Dissemination: This strategy provides awareness and knowledge of the nature and extent of alcohol, tobacco, and other drug (ATOD) use, abuse, and addiction and their effects on individuals, families, and communities. It also

² The source of these categories and definitions is a December 2000 publication from the Maryland Association of Prevention Professionals and Advocates titled, "What is Prevention?"

provides information to increase perception of risk associated with ATOD use, and provides knowledge of prevention policies, programs, and services. It helps set and reinforce norms.

Training and Education: This strategy aims to affect critical life and social skills, including decision making, refusal skills, critical analysis, and judgement abilities. Skill building is a fundamental component in programs for youth.

Alternatives: This strategy provides for the participation of targeted populations in activities that exclude alcohol, tobacco, and other drugs. Alternative programs offer constructive and healthy choices to offset the attraction to, or otherwise meet the needs sometimes filled by ATOD use. Alternative activities often include mentoring and stress reduction.

Community Mobilization: This strategy aims to enhance the ability of the community to provide effective prevention and treatment services for ATOD abuse. Activities include organizing, planning, enhancing efficiency and effectiveness of services, implementation, interagency collaboration, coalition building, and networking.

Social Policy, Norm, and Environmental Change: This strategy sets up or changes written and unwritten community standards, codes, and attitudes that influence the incidence of ATOD problems in the general population. Included are laws to restrict availability and access, price increases, and community-wide actions. Examples would be reducing the number of liquor outlets in certain areas, changing views or perceptions on underage drinking.

Problem Identification and Referral: This strategy calls for the identification, education, and counseling for those youth who have engaged in alcohol, tobacco, or other drug use. Activities under this strategy would include referral for intervention or treatment.

Based upon policies established by the Center for Substance Abuse Prevention and U.S. Department of Education, the Maryland Association of Prevention Professionals also identifies a number of prevention strategies as "ineffective." Included among the strategies deemed "ineffective" are:

Scare/Shock tactics: Examples of programs using scare/shock tactics are "Reefer Madness" and "Scared Straight." The Association holds that the effects of this type of programming wear off very quickly.

Single issue/facts and information only: In a comprehensive program, all drugs of abuse must be addressed and not just alcohol or tobacco or marijuana. In addition, an emphasis on statistical information and pharmacology does not necessarily translate into reduced use.

Using recovering addicts to speak to the general school population: Research has shown that the majority of young people enrolled in prevention education programs are not involved with illicit drugs nor are they recovering users. It is felt that testimony from recovering addicts may communicate the unintended message that the speaker used drugs and survived very well, instead of the intended message of "Don't do as I did."

One time events/single agency approach: Effective prevention programming should be comprehensive and long term; and result from a collaboration among agencies, organizations, and individuals in a community.

DISCUSSION

The Council appropriates funds to multiple agencies in the County to support a wide range of activities that are aimed at preventing alcohol, tobacco, and other drug use (ATOD). The funding sources for the County-supported ATOD prevention activities is a combination of County tax dollars and grant funds.

Using the terminology adopted by the Maryland Association of Prevention Professionals and Advocates, Table 14 (pages 77-78) represents OLO's preliminary attempt to list the underage drinking prevention activities currently undertaken by the different programs/offices in the County Government and Montgomery County Public Schools. An investment of additional time would be required to prepare a comprehensive table that included fiscal information (cost and source of funding) and more details about the scope of the different activities.

PROPOSED SCOPE OF OLO WORK

From OLO's initial research, it appears unrealistic to separately evaluate underage drinking prevention activities apart from other drug prevention activities. Therefore, OLO recommends that further study of this issue in the County be expanded to include prevention activities related to alcohol, tobacco, and other drug (ATOD) use.

To further examine whether public-sector sponsored ATOD prevention activities are well coordinated in the County (both logistically and programmatically), OLO proposes convening a limited series of facilitated meetings that include key representatives from the County-funded agencies currently engaged in ATOD prevention activities.

The primary purposes of the series of meetings among the agencies would be:

1. To develop a comprehensive list that accurately describes the scope, cost, and source of funding for the ATOD prevention activities that the Council currently appropriates funds for; and
2. To have a full and candid exchange of views about the perceived strengths of the County's current prevention efforts and identify areas in need of improvement.

Specific areas of inquiry and group discussion would include, for example:

- Is there consensus among the agencies as to what prevention strategies “work” and what prevention strategies “don't work”? Do any disagreements on this issue get in the way of the collective effectiveness of prevention efforts?
- Is there agreement among the agencies with respect to which prevention activities should be the highest priority ones to implement in Montgomery County? If not, does the difference of opinion create any problems with program service delivery?
- Is there adequate coordination of efforts among the agencies involved with prevention? If not, what types of additional coordination would be constructive and how could it be accomplished?

Based upon the results of the meetings and supplemented with additional fact-finding, OLO would prepare a report back to the Council that compiles logistic, programmatic, and fiscal information about current ATOD prevention efforts; and identifies the strengths of the collective efforts and opportunities for improvement.

TABLE 14
PRELIMINARY LIST OF UNDERAGE DRINKING PREVENTION ACTIVITIES FOR WHICH FUNDS ARE
APPROPRIATED BY THE COUNTY COUNCIL¹

Agency/ Department	Program/Office	Types of Prevention Activities
Department of Health and Human Services	Health Promotion and Prevention (programs include: Drawing the Line, Comprehensive Traffic Safety Program, The Prevention Center, mini-grant program, and Substance Abuse Policy Leadership Team)	<ul style="list-style-type: none"> • Information dissemination • Training and education • Alternative activities • Community mobilization (e.g., Drawing the Line, Traffic Safety Task Force) • Promoting environmental changes • Problem identification and referral
	School Health Services	<ul style="list-style-type: none"> • Information dissemination • Training and education • Problem identification and referral
Department of Police	Alcohol Initiatives Section	<ul style="list-style-type: none"> • Information dissemination • Training and education • Alternative Activities
	Drug Abuse Resistance Education (DARE); Community Outreach Program (COPs)	<ul style="list-style-type: none"> • Information dissemination • Training and education
	Community Services, Community Policing Sections	<ul style="list-style-type: none"> • Information dissemination • Training and education • Community mobilization
	Other Youth Programs - e.g., Police Athletic League (PAL); Mentoring Programs	<ul style="list-style-type: none"> • Information dissemination • Training and education • Alternative activities
Department of Recreation	Community Recreation Service Centers	<ul style="list-style-type: none"> • Alternative activities
	Teen Programs - e.g., Montgomery County SADD, Youth Advisory Committee	<ul style="list-style-type: none"> • Training and Education • Alternative activities • Problem identification and referral
Community Use of Public Facilities	After-school Activities	<ul style="list-style-type: none"> • Alternative activities

¹ As indicated in the text, this table represents OLO's preliminary attempt to compile a list of prevention activities that receive either County dollars and/or grant funds appropriated by the County Council. Additional research is needed to complete this table and include fiscal information.

TABLE 14 CONT.
PRELIMINARY LIST OF UNDERAGE DRINKING PREVENTION ACTIVITIES FOR WHICH FUNDS ARE APPROPRIATED BY THE COUNTY COUNCIL¹

Agency/Department	Program/Office	Types of Prevention Activities
Montgomery County Public Schools	Health Education ² : <ul style="list-style-type: none"> • Curriculum Planning (Division of Arts, Health, and Physical Education); and • Instructional Program - elementary, middle, and high schools 	<ul style="list-style-type: none"> • Information dissemination • Training and education • Problem identification and referral
Montgomery County Public Schools	Safe and Drug Free Schools Project (Division of Arts, Health, and Physical Education)	<ul style="list-style-type: none"> • Information dissemination • Training and Education • Community mobilization • Problem identification and referral
Montgomery County Public Schools	Head Start Unit ³ (Division of Early Childhood programs and Services)	<ul style="list-style-type: none"> • Information dissemination • Problem identification and referral
Montgomery County Public Schools	Alternative Programs, e.g., Phoenix, Kingsley Wilderness Project	<ul style="list-style-type: none"> • Information dissemination • Training and Education • Problem identification and referral • Alternative activities

¹ As indicated in the text, this table represents OLO's preliminary attempt to compile a list of prevention activities that receive either County dollars and/or grant funds appropriated by the County Council. Additional research is needed to complete this table and include fiscal information.

² Maryland high school graduation requirements include one half credit in health education. In health education, Maryland regulations require annual instruction in seven health topics, including

³ Funds to support the prevention activities in Head Start come through DHHS' Health Promotion and Prevention Office.

ISSUE #2

Are the County's efforts to enforce alcohol age-of-sale laws well coordinated and sufficiently resourced to be "effective"?

THE RESEARCH

Across the country, while many alcohol establishments act responsibly and refuse sales to underage buyers, the research shows that a significant number continue to sell alcohol to persons under the legal drinking age of 21. One national estimate is that buyers who appear to be younger than 21 can successfully purchase alcohol without showing age identification more than half of the time. A 1997 survey found that 75% of 8th graders and 89% of 10th graders report that alcohol is "fairly easy" or "very easy" to obtain, either through direct purchase or other means. (Forster et al, 1994 cited in NHTSA and NIAAA, 1999)

Studies also show that the underage drinking laws are not consistently enforced across the country. It is estimated that only five of every 100,000 youth drinking occasions result in a sanction against an alcohol outlet. (Wagenaar and Wolfson, 1994 cited in NIAAA, 2000)

A 1999 U.S. Department of Justice report, *Strategies to Reduce Underage Alcohol Use*, advises that, "In order to be maximally effective, communities should place primary emphasis on the vigorous enforcement of the laws prohibiting sales to minors." The report recommends that enforcement should include: vigorous use of compliance checks; education of merchants regarding responsibilities; application of appropriate sanctions to violating merchants, and development of community support for enforcement. (Stewart, June 1999)

The research shows that conducting regular compliance checks of establishments that sell or serve alcoholic beverages decreases the sales of alcohol to underage youth. A recent study by the University of Minnesota examined the relationship between the frequency of compliance checks and average underage buy rates. The research (summarized in the table below) evidenced that the cities with more frequent compliance checks had significantly lower average buy rates.

TABLE 15
THE FREQUENCY OF COMPLIANCE CHECKS AND BUY RATES

Number of Cities	Frequency of Compliance Checks	Average Underage Buy Rate
12	2 to 6 waves annually	15%
8	1/2 to 1 wave annually	28%
6	1 wave every 3-5 years	34%
44	1 time	62%

Source: Alcohol Epidemiology Program, Alcohol Compliance checks: A procedures manual for enforcing alcohol age-of-sale laws. Minneapolis, University of Minnesota, 2000.

The above findings are consistent with other empirical research, which has found that the effects of enhanced enforcement efforts are real but relatively short-term. For example, one study found that active enforcement of laws that prohibit serving alcohol to intoxicated persons increased server refusal from 18% to 54% directly following the enforcement effort. The rate of service refusal declined again several months later. (McNIGHT and STREFF 1994, cited in NIAAA, 2000)

DISCUSSION

By law, both the Montgomery County Board of License Commissioners and the Montgomery County Police Department (MCPD) are authorized to enforce the provisions of the State's underage alcohol age-of-sales laws. Both conduct compliance checks of licensed establishments, primarily by using "underage decoys," who are underage persons trained to attempt alcohol purchases. (The Office of the Board of License Commissioners hires underage persons on an hourly basis to work with BLC inspectors in making attempted buys; MCPD uses volunteers.)

The Role of the Board of License Commissioners. State law delegates the power to regulate and control the sale of alcoholic beverages to the locally appointed Boards of License Commissioners. In Montgomery County, the Board of License Commissioners consists of five members, appointed by the County Executive and subject to confirmation by the County Council.

The Office of the Board of License Commissioners provides the Board itself with operational and administrative support. The Executive Director of the Office of the Board reports directly to the Chief Administrative Officer and County Executive. The Office of the County Attorney serves as legal advisor to the Board.

The Board of License Commissioner's primary functions are:

- To process, hear, and make final decisions on applications for licenses to sell alcoholic beverages in Montgomery County;
- To inspect licensed facilities for compliance with alcoholic beverage laws and regulations;
- To conduct show cause hearings for violations of alcoholic beverage laws and determine appropriate disciplinary action; and
- To inspect and enforce the laws and regulations related to tobacco distribution, including the sale of tobacco products to minors and tobacco display placement.

When the Board finds that a licensed establishment has violated the alcoholic beverage law/regulations, the Board can suspend or revoke an establishment's license to sell alcoholic beverages. Alternatively the Board can assess fines up to \$20,000 per violation.

Table 16 shows the number of liquor licenses issued/renewed by the Board of License Commissioners each year since 1997. The total number of liquor licenses in 2001 is 831, a 5% increase from the 791 licenses in 1997.

**TABLE 16
NUMBER OF LIQUOR LICENSES IN MONTGOMERY COUNTY**

Year	Number of Liquor Licenses Issued/Renewed
1997	791
1998	803
1999	805
2000	815
2001	831

Source: Board of License Commissioners, March 2001

Table 17 shows the number of compliance checks conducted by Board staff each year since 1996, and the percent of compliance reported. In addition to conducting their own compliance checks, the Board of License Commissioners follows-up on police reports of alcohol laws violations. (This process is further discussed below.)

**TABLE 17
NUMBER AND RESULTS OF COMPLIANCE CHECKS BY BOARD STAFF**

Fiscal Year	Attempted Buys by Person Under 21	Total Number of Sales	Percent of Compliance
1996	229	24	89.6%
1997	164	4	97.6%
1998	193	7	96.4%
1999	261	19	92.8%
2000	116	4	96.6%
2001*	46	4	91.8%

*2001 data are results through February 28, 2001.

Source: Board of License Commissioners, March 2001

It is important to keep in mind that underage alcohol sales are only one type of compliance checks that the Office of the Board of License Commissioners conducts. Between FY 96 and FY 2000, the Board collected \$276,980 in fine revenue, issued decisions to suspended licenses for 428 days, and revoked two licenses.

The steps involved in the Board's taking action against a licensee for an alleged violation of the underage age-of-sales laws is outlined in Chapter II (see pages 20-22). According to the Executive Director of the Board of License Commissioners, first-time violators of the underage alcohol age-of-sales laws often pay a \$1,000 fine (as part of an "offer and compromise"), and second-time violators often pay a \$2,000 fine. With second time violators, the Board may also suspend the establishment's license to sell alcohol for a brief period of time in lieu of a fine.

When establishments are charged for a third or subsequent time with violating the alcohol age-of-sales laws, the Board will almost certainly hold a show cause hearing. As a result of the hearing, the Board can assess a fine up to \$20,000 or suspend/revoke the establishment's license to sell alcohol.

The Role of the Montgomery County Police Department. The Police Department's approach to staffing alcohol enforcement has varied over the years. The current staffing arrangement is a hybrid of centralized and decentralized staffing.

Some officers are assigned to the Alcohol Initiatives Section to work full-time on alcohol-related enforcement. In addition, based upon the view that alcohol enforcement is a primary duty for all patrol officers, the Department expects patrol officers in all District Stations to routinely enforce DWI and underage drinking laws in their own areas of patrol.

The Alcohol Initiatives Section (AIS) organizes and conducts a combination of specialized prevention, education, and enforcement activities.¹ A sample year of activities scheduled for 2001 is attached at ©12. As the calendar indicates, conducting compliance checks for underage sales has been one of the multiple alcohol-enforcement activities organized by the AIS. At times, the Department has received grant money explicitly for conducting underage compliance checks. In addition, the Board of License Commissioners has supported MCPD's efforts in this area by providing occasional "buy" money. (This year, the Board provided MCPD with approximately \$100 every three months.)

When alcohol-related activities require the assistance of additional officers (e.g., a concentrated effort to conduct compliance checks, sobriety checkpoints, party dispersal), the Alcohol Initiatives Section asks for help from other patrol officers who are certified as Alcohol Enforcement Specialists (AES). An AES officer has successfully completed

¹ As of this writing, staffing for the Alcohol Initiatives Section consists of a Coordinator (a sergeant position structurally assigned to the Special Operations Division in the Investigative Services Bureau) assisted on a full-time basis by five patrol officers, one appointed by each of the District Commanders to serve as District Alcohol Initiatives Coordinators. In addition, an officer assigned to the Alcohol Initiatives Section is the County's representative to the Maryland State Police's Chemical Test for Alcohol Unit (CTAU). The CTAU is responsible for maintenance, repair, and calibration of the County's chemical breath testing equipment; in addition, the CTAU coordinates all breath test operators.

a three-day Alcohol Enforcement Specialist School, which involves becoming certified in DWI detection, preliminary breath testing, and administering the standard field sobriety tests. MCPD currently has approximately 210 AES officers.

In recent months, the Alcohol Initiatives Section has increased its focus on conducting compliance checks. The table below summarizes the results from compliance checks conducted under the auspices of the AIS between Thanksgiving and New Years day (the 2000 DWI Holiday Task Force) and during the month of January 2001.

**TABLE 18
NUMBER AND RESULTS OF RECENT COMPLIANCE CHECKS COORDINATED BY
ALCOHOL INITIATIVES SECTION, MCPD**

	Attempted Buys by Person Under 21	Total Number of Sales	Percent of Compliance
2000 DWI Holiday Task Force	156	35	78%
January 2001	59	27	54%

Source: Montgomery County Police Department, March 2001

The DWI Holiday Task Force is a coordinated effort among local law enforcement agencies to strictly enforce alcohol-related violations from Thanksgiving through New Year's Day. The Holiday Task Force has typically involved officers, interns, and volunteers from the MCPD, the Park Police, Maryland State Police, Montgomery County Sheriff's Department, Gaithersburg City Police Department, and Rockville City Police Department. In recent years, Highway Traffic Safety Grant funds has contributed some financial support to the DWI Holiday Task Force.

As explained in Chapter II (see Scenario 2), whenever the police identify an alcohol-law violation, it is standard procedure to send a copy of the police event report to the Office of the Board of License Commissioners. The Board reviews the police report and in most cases will proceed with administrative licensing action against the licensee of the establishment where the violation was found. Depending on the situation, the Board may also conduct its own inspection for compliance.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To examine the issue of whether the County's efforts to enforce alcohol age-of-sale laws are well coordinated and sufficiently resourced to be "effective," OLO would pursue answers to the following questions:

1. Why do the enforcement activities of the Office of the Board of License Commissioners and the Montgomery County Police Department indicate such a disparity in compliance rates with alcohol age-of-sale laws?
2. What would be the most efficient and effective way to structure a compliance check program in Montgomery County that accomplishes the multiple waves of enforcement that the research evidences is needed to reduce alcohol sales to minors?
3. What are the case/sentencing outcomes in the District Court for persons cited within the past year for violations of alcohol age-of-sales laws? How about repeat vs. first offenders?
4. Is the recent increase in police compliance activity creating a workload problem for the Board of License Commissioners? In what time frame is the Board able to follow up on the police reports of alcohol age-of-sale violations?
5. What is the record of fines and other disciplinary actions taken by the Board of License Commissioners against licensed establishments found to violate alcohol age-of-sales laws? How about repeat offenders?
6. Are there non-County sources of funding available to support a more comprehensive program of compliance checks in the County?

ISSUE #3

Is there a need for a short-term detoxification facility in Montgomery County? If so, how should it be structured and how much would it cost to operate?

THE RESEARCH

Short-term detoxification facilities (also known as sobering up facilities or drunk tanks) are primarily used in communities across the country as a form of prearrest diversion for public inebriates. In most places with such facilities, police officers take public inebriates to detoxification centers instead of arresting them and detaining them in the local jail. Traditional shelters will typically not admit persons who need to recover from the acute, short-term effects of alcohol and/or drugs.

One such program is found in San Diego County where the Alcoholism and Drug Services Center operates the "Inebriate Reception Center." The police take publicly intoxicated individuals to the Center, which is open 24 hours a day, 7 days a week. The Center offers detoxification services and a basic needs assessment. Clients who agree to stay for a minimum of four hours are not arrested. San Diego County reports success in relieving jail crowding through this process.

Another example is found in the Seattle-King County area. There the Dutch Shisler Sobering Center (opened in 1998) provides a 60-bed facility designed specifically to address the needs of chronic public inebriates. The components of the Shisler Center include: van service for outreach; triage and medical assessment for determining need for medical treatment; a safe, warm and secure place to sleep and recover from the effects of acute intoxication; and intensive case management. Similar to San Diego, law enforcement officers in Seattle-King County can bring public inebriates to the center instead of arresting them.

DISCUSSION

OLO's initial report on strategies for reducing impaired driving/underage drinking did not include research on short-term detoxification facilities. The need for and potential role of such a facility in Montgomery County emerged during OLO's recent discussions with staff from County agencies about the County's current practices surrounding alcohol-impaired driving and underage drinking.

If a law enforcement officer in Montgomery County finds a person who is so intoxicated that his/her life is in danger, then the officer can arrange for that person to be transported to the emergency room at a hospital. However, the gap identified by representatives from both the criminal justice and health and humans services systems is that the County currently lacks a safe, warm, and secure place where individuals who are intoxicated (but not in a life or death situation) can be taken to recover from the effects of acute intoxication. Traditional shelters are not equipped to handle such individuals, and it is not appropriate for the Detention Center to be the shelter of last resort.

Potential users of a short-term detoxification facility include:

- Public inebriates who otherwise would be arrested and brought to the Detention Center;
- Persons who were arrested for DWI/DUI and who, after processing, are in need of supervision for their own safety or for the safety of others¹; and
- Persons who are found intoxicated and sleeping in their car. While these individuals are not technically driving while intoxicated, there is a high probability they will attempt to drive before becoming sober.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To further examine the need for and feasibility of a short-term detoxification facility in Montgomery County, OLO would:

1. Seek out more detailed information from a sample of communities with experience operating a short-term detoxification facility. Specific issues to explore would include: services provided; facility rules; start-up and ongoing costs; approach to management and funding; capacity, location and physical layout; client eligibility criteria; legal obstacles; and data on the effectiveness of the facility as a strategy for getting persons into treatment and reducing recidivism.
2. Interview key representatives from the sample communities (e.g., health and human services officials, police officers, corrections officials, elected officials) to learn more about both the positive aspects and potential problems created by the short-term detoxification facility.
3. Working with criminal justice and health and human services staff in Montgomery County, develop an educated estimate of the number and characteristics (i.e., age, gender, location) of persons in the County each year who would be likely candidates for spending time at a short-term detox facility.
4. Identify specific legal questions that would need to be answered. For example: Could persons who are picked up by a law enforcement officer be given the choice of being arrested or taken to the detoxification center? Could unidentified persons be taken to the detoxification facility?

Based upon this additional research, OLO would return to the Council with a recommendation on whether, and if so how, to further pursue establishing a short-term detoxification facility in Montgomery County.

¹ Under current law, there is no authority to detain these individuals after processing.

ISSUE #4

Should the County consider re-instituting some type of program for first-time DWI offenders that provides an opportunity for pre-trial diversion from the criminal justice system to alcohol addiction education and treatment?

THE RESEARCH

Courts generally define diversion as an alternative to formal processing, adjudication, and sanctions. In concept, diversion programs are designed to hold offenders accountable for their actions while keeping them out of the justice system. Most diversion programs for DWI offenders divert them to alcohol addiction education or treatment. Although a program can be structured to divert offenders at one of many decision points in the criminal justice system, diversion commonly takes place before formal charges are filed, before trial, or after a verdict but before judgment or sentencing.

Research evaluating the effectiveness of diversion programs for DWI offenders is inconclusive. Advocates for diversion programs for DWI offenders argue that:

- Diversion programs provide a valid strategy to change the behavior of a DWI offender by requiring the offender to take responsibility for admitting and identifying his/her problem, and assisting the offender with developing an effective rehabilitation strategy.
- Dismissing a charge in exchange for successful completion of a DWI treatment program is an effective incentive because it has compelling consequences for the offender.
- Diversion programs for DWI offenders can help judges and prosecutors achieve efficiencies in the criminal justice system.

Opponents to diversion programs for DWI offenders cite the following drawbacks:

- It gives individuals who elect to participate in a diversion program another chance to offend.
- Dismissing a charge sends the wrong message to potential DWI offenders, namely that the criminal justice system does not hold offenders accountable.
- Dismissing a charge may make it difficult for a victim to receive restitution.
- Expunging the record of a DWI offense minimizes the seriousness of the charge.

- The practice of segregating or expunging the record of a DWI offense creates several administrative problems, including making it difficult to track and identify repeat offenders.

DISCUSSION

Between 1991 and 1997, Montgomery County diverted some first-time DWI/DUI offenders through the Rehabilitation and Education of Drunk Driving Offenders (REDDO) program. REDDO diverted eligible first-time DWI/DUI offenders arrested in Montgomery County from the criminal justice system to treatment and/or education.

Table 19 (page 90) lists the eligibility criteria established for participation in the REDDO program. An evaluation of REDDO reported that between 25% and 30% of all first time DWI offenders were diverted to REDDO.

All DWI offenders received written information about the program at the time of arrest. The information recommended that offenders learn if they qualify for this diversion program by attending a free orientation session, as soon after arrest as possible. REDDO orientation sessions were held on Tuesdays and Thursdays at 7:00 p.m.

After the orientation, eligible offenders met with Department of Health and Human Services (DHHS) staff for an evaluation or assessment of their alcohol problem. DHHS referred offenders to DHHS contractors for alcohol addiction treatment. Arrestees evaluated and classified as ‘social drinkers’ participated in a six-week education program. Arrestees evaluated and classified as “problem drinkers” participated in a 26-week treatment program.

While a person arrested for DWI was participating in the REDDO program, the State’s Attorney’s Office placed the person’s case on the court’s stet docket for 12 months. As long as the conditions of the program were met, the State’s Attorney’s Office dismissed the drunk driving charges when the stet period of time ended. The Department of Health and Human Services reported (in 1995) that 89% of REDDO participants successfully completed the program and had their charges dismissed.

In 1997, State’s Attorney Robert Dean discontinued the REDDO program. He argued that obtaining convictions in court for DWI charges by a guilty plea or through trial is a better policy than diverting offenders out of the criminal justice system. The then State’s Attorney noted that, in the absence of REDDO, judges could still compel treatment, education, payment of fines, community service, and other terms of probation as part of the sentence.

Preliminary OLO research identified multiple advantages and disadvantages of REDDO. Reported advantages of REDDO included:

- **Low recidivism rates.** A first year evaluation completed by the Criminal Justice Coordinating Commission and the Institute for Law and Justice found that less than 1% of the participants were rearrested for impaired driving during the first year of REDDO.
- **Less lag time between arrest for a DWI offense and alcohol screening and treatment.** REDDO proponents argue that offenders take the DWI offense more seriously and are more likely to seek help and change their behavior immediately after the arrest. Under REDDO, offenders usually received an alcohol assessment within a month of their arrest date and began treatment within 45 days. Currently, it can take up to 90 days from the arrest for an offender to receive a screening.
- **Less lag time between arrest and court disposition.** The REDDO evaluation reported that the average length of time between arrest and court disposition under REDDO was 104 days¹, compared to 137 days for a Probation Before Judgement disposition, and 157 days for a guilty verdict. This reduction in time between arrest and court disposition under diversion also reduced the delay in beginning treatment.
- **Consistency in alcohol screening/assessment and treatment.** DHHS staff and contractors completed all of the REDDO clients' alcohol assessment and treatment. REDDO advocates believed this created an important element of consistency and quality control.
- **Reduced court workload.** The first year evaluation of REDDO reported that REDDO diverted over 1,000 cases from the judicial system.

Reported problems with or disadvantages of the structure and implementation of REDDO include:

- **Inability to identify individuals with multiple DWI offenses.** After an individual participated in REDDO for a first offense, their driving record did not reflect the DWI offense. State law regarding documentation of stet dispositions did not allow the Motor Vehicle Administration to note REDDO participation on the non-public portion of a driver's record. Therefore, the County could not assure that participants were first-time offenders and had not been arrested previously for a DWI offense in another jurisdiction.

¹ Under REDDO, the State's Attorney asked the judge to put the offenders' case on the stet docket. Defendants were required to appear in court to receive notification of the stet.

- **“Creamed” offenders with less severe alcohol addiction problems.** Opponents suspect that REDDO’s design encouraged participation of those with less severe drinking and driving problems. Therefore the low reported recidivism rate may not accurately reflect the results of the program.
- **Limited reduction in court workload.** Most DWI cases outside of the REDDO program are guilty pleas and do not take a lot of court time.
- **Limited outcome and results data.** Opponents argue that the REDDO evaluations were limited and may not present an accurate picture of the results and effectiveness of the program. For example, REDDO recidivism data only examined rearrest rates for impaired driving one year after first arrest.

**TABLE 19
ELIGIBILITY CRITERIA FOR THE REDDO PROGRAM**

1. Current offense is the offender’s first offense for impaired driving the last ten years. Defendants with dismissed cases or found not guilty are eligible for REDDO. Defendants with DWI cases receiving a nolle prosequi are not eligible for REDDO.
2. Offender has no prior criminal conviction (does not include nolle prosequi or Probation Before Judgement).
3. Offender has not participated in any other substance abuse diversion program.
4. Offender has no prior revocation of driver’s license.
5. Offender cannot have more than three failures to appear for court or administrative hearings in the last five years.
6. Offender cannot have other incarcerating traffic offenses at the time of the DWI arrest.
7. There cannot be any bodily injury involved in the offense.
8. There cannot be any property damage involved in the offenses (with the exception of defendant’s own vehicle).
9. The offender must be a resident of Maryland or residing in the metro area.
10. The offender must be 18 year or older.
11. The offender must be willing to pay all underlying tickets.
12. Offenders evaluated in need of treatment must be willing to attend designated treatment in Montgomery County.

Source: September 1996, HHS/PS Committee Briefing on Adult Addiction Programs

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To examine whether the Council should encourage bringing back some type of program for first-time DWI offenders that provides an opportunity for pre-trial diversion from the criminal justice system to alcohol addiction education and treatment, OLO recommends a re-examination of the structure, implementation, and effectiveness of the REDDO program.

Specifically, OLO would conduct more detailed research on:

1. The advantages and disadvantages of programs that divert DWI offenders from the court system to education and/or treatment, and the advantages/disadvantages of the REDDO program in particular.
2. Possible strategies for improving the design of a REDDO-type diversion program to address the concerns/disadvantages expressed about the program.

ISSUE #5

Are County resources allocated to the Montgomery County Police Department and State's Attorney's Office balanced to maximize the complementary roles of enforcement and prosecution?

THE RESEARCH

The research consistently shows that in order to effectively deter the general public from alcohol-impaired driving, the overall system for enforcing DWI laws must be able to apprehend offenders and then deliver punishment that is quick and certain. To accomplish this requires a balance of resources across the entire criminal justice system, and especially between law enforcement and prosecution.

DISCUSSION

The enforcement of laws against alcohol-impaired driving is a part of an inter-agency criminal justice system. In Montgomery County, as outlined in Chapter II (see pages 9-17), the identification, arrest, prosecution, and adjudication of a drunk driver involves multiple personnel from different public agencies.

The respective roles of the Police Department and Office of the States' Attorney in effectively deterring DWI are particularly interrelated and complementary. The County directly provides the great majority of funding for both of these functions.

The Role of the Police Department. Law enforcement officers have the front-line role in detecting DWI offenders and conducting the pre-arrest screening tests. Officers must first develop probable cause to arrest a person for DWI. Once an arrest is made, officers are responsible for processing the defendant in accordance with a complex set of laws and procedures. Officers write the first official report about the incident and identify witnesses. The evidence gathered by law enforcement officers at the scene of the incident is essential material for the prosecution, and the arresting police officer is frequently the prosecution's only eyewitness.

The Montgomery County Police Department (MCPD) is the major law enforcement agency in the County. Other law enforcement agencies authorized to make arrests for DWI in the County include the Maryland State Police, the Park Police, the Police Departments of the cities of Rockville, Gaithersburg, and Takoma Park, the Police Department of the Village of Chevy Chase, the Office of the Sheriff, and the Metro Police.

MCPD's approach to staffing alcohol enforcement has varied over the years. The current staffing arrangement is a hybrid of centralized and decentralized staffing. Some officers are assigned to the Alcohol Initiatives Section (part of the Special Operations Division) to work full-time on alcohol-related enforcement, education, and prevention activities.

In addition, based upon the view that alcohol enforcement is a primary duty for all patrol officers, the Department expects patrol officers in all District Stations to routinely enforce DWI laws in their own areas of patrol. Each officer graduating from the Police Academy is trained and certified by NHTSA (National Highway Traffic Safety Administration) instructors to conduct Standardized Field Sobriety Tests. In addition, more than 200 officers have attended additional in-service training on alcohol-enforcement and are certified as Alcohol Enforcement Specialists.

Table 20 contains data on the number of DWI arrests made each year by the Montgomery County, City of Rockville, and City of Gaithersburg police, and the percent of all arrests that these DWI arrests represent. As the data indicate, the number and portion of DWI arrests has increased in the past 5-6 years. The almost 4,000 arrests made in 1999 and 2000 represents more than a 50% increase from the 2,600 DWI arrests made in 1994.

TABLE 20
ARRESTS FOR DWI: TOTAL NUMBER AND AS PERCENT OF ALL ARRESTS¹

Year	Arrests for DWI	DWI Arrests as Percent of All Arrests
1994	2,608	19%
1995	2,820	19%
1996	3,350	21%
1997	3,495	22%
1998	3,834	23%
1999	3,901	23%
2000	3,887	24%

Source: Montgomery County Police Department, March 2001

¹ These data represent arrests made by the Montgomery County, City of Rockville, and City of Gaithersburg Police. The data do not include arrests made by Maryland State Police, Park Police, or City of Takoma Park Police.

The Role of the State's Attorney's Office. The States Attorney's Office prosecutes the crimes charged by the police. For each case, a prosecutor must decide whether to prosecute a case. This decision is based upon a review of the charges, the police report, and other evidence. If the prosecutor decides to proceed, he/she must decide whether to take a case to trial or enter into plea negotiations.

To prepare a case for trial, the prosecutor evaluates and gathers all of the evidence, ensures that the correct set of subpoenas are issued, compiles driving and criminal records, and interviews witnesses. In court, a prosecutor presents the case for the state, and interacts with the defense attorney and the judge to determine the appropriate disposition for a case. After the court reaches a verdict, the prosecutor will make sentencing recommendations and work with the probation agent to ensure compliance with the conditions of sentencing.

The District Court Team in the States Attorney's Office prosecutes all criminal cases (including incarcerable traffic offenses) in the District Court. This Team also prosecutes District Court jury trial demands (in the Circuit Court), appeals of District Court verdicts (in the Circuit Court), and violations of probation (in the District Court and the Circuit Court).

District Court cases jury demanded to the Circuit Court are first scheduled for the Pre-Trial docket. The prosecutor, the defense attorney and the judge may try to reach a plea agreement to settle the case, or the defendant may choose to pursue a trial before a jury. If a defendant opts for a trial, the matter is scheduled for trial in the Circuit Court.

Preparing cases for a jury trial in the Circuit Court is substantially more time consuming than preparing cases for a trial in the District Court. The State's Attorney's Office estimates that it takes, on average, 15-30 minutes to prepare for a District Court trial. In comparison, it may take 3-4 hours (or even longer) to prepare for a jury trial in the Circuit Court. A District Court trial may last 45 minutes; the same matter litigated before a jury in the Circuit Court may take multiple days.

Table 21 evidences the increasing workload for the District Court Team between FY 97 and FY 00. The data show a 33% increase in total number of charges and cases. Specifically, DWI charges and other criminal charges have increased by 2,000 and 3,600 respectively. Jury demands, which require the greatest investment of prosecutor time, increased 129%.

TABLE 21
THE DISTRICT COURT TEAM WORKLOAD
FY 97 TO FY 00

	FY 97	FY 98	FY 99	FY 00	Percent Change FY 97- FY 00
DWI Charges*	5,317	6,013	7,086	7,329	38%
Criminal Cases	12,823	12,563	14,592	16,424	28%
Appeals	601	649	601	587	-2%
Jury Demands	674	784	1,049	1,541	129%
TOTAL	19,415	20,009	23,328	25,881	33%

*The number of DWI charges exceeds the number of DWI arrests because most DWI offenders receive more than one charge based upon a single incident.

Source: Annual Report of the Judiciary

As of this writing, the District Court Team consists of 14 Assistant States Attorneys and 12 support staff. Currently, nine of the prosecutors are assigned to the six daily Criminal Court and Traffic Court dockets in the District Court. Four prosecutors handle all of the Team's jury demands and appeals in the Circuit Court.

At any given time, DWI cases account for one-quarter to one-third of all of the criminal cases heard in the District Court. It is impossible, however, to disentangle the workload issues posed by DWI cases from the rest of the District Court Team's work. Interviews with the District Court Team indicate that:

- In an average week, a prosecutor who is preparing DWI cases for trial in the District Court is responsible for preparing a total of 140-220 cases for trial. This workload includes a combination of cases on the Traffic Court and Criminal Court dockets.
- In an average week, the group of four prosecutors assigned to the District Court cases that move to the Circuit Court (either as a result of a jury demand or appeal) handles 160 cases. Approximately 60 cases are scheduled for jury trial (20 cases each on Monday, Tuesday, and Wednesday), and another 100 cases are scheduled on the Friday Pre-Trial docket. This workload also includes a combination of cases that originated on the Traffic Court and Criminal Court dockets.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To further examine the balance of County-funded resources allocated to DWI enforcement and prosecution, OLO would pursue answers to the following questions:

1. What work (in terms of specific tasks and time required) is generated within the Police Department and State's Attorney's Office following a DWI arrest? Are there factors that consistently explain whether a case is more or less time consuming within either agency?
2. How much of the District Court Team's time is spent on prosecuting cases in the District Court? How much of the District Court Team's time is spent on prosecuting cases in the Circuit Court? How has this changed in the past few years with the overall increase in jury demands coming out of the District Court? What are the consequences of this changing workload?
3. Given the current level of resources allocated by the State's Attorney's Office to the District Court Team, can the prosecutors handle the volume of DWI cases in a manner that maximizes the systems' goals of deterrence?
4. Are there ways to increase (or change) resource allocation either within the Police Department or the State's Attorney's Office to promote increased DWI deterrence?

ISSUE #6

What are the trends in case disposition and sentencing practices for DWI cases brought before the District Court in Montgomery County? Is there a correlation between sentencing and re-arrest for DWI offenders?

THE RESEARCH

There is a limited amount of national research on case disposition trends for DWI cases. OLO Report 2001-1 contained information on the research that has been conducted on the effectiveness of different sentencing patterns on DWI recidivism. In sum, the research does not evidence clear results:

- Studies on the effectiveness of jail in reducing DWI recidivism suggests that jail terms are not more effective than other sanctions in reducing DWI recidivism among first-time or repeat offenders. Some evidence suggests that offenders who serve time in prison have higher recidivism rates than those who don't.
- The data on whether education and treatment programs reduce an offender's chances of re-arrest is also mixed although a consistent finding is that combining treatment with sanctions is more effective than either intervention alone.
- Similarly, some of the research on recidivism rates of offenders granted Probation Before Judgement concludes that PBJs contribute to a higher rate of DWI recidivism, and other research found that offenders who received PBJ had lower recidivism rates or took longer to be re-convicted.

Since OLO Report 2001-01 was published in February 2001, OLO located a 1994 follow-up analysis of the study of Maryland DWI cases conducted by the National Center for State Courts (NCSC). This study, by Faye Taxman, expanded the follow-up period for the cases in the original study NCSC study and reexamined the recidivism rate for drunk driving offenders and whether recidivism rates vary by type of sanctions imposed and offender characteristics. Taxman's key findings are summarized below.

Sentence Conditions. Taxman reported that DWI offenders in Maryland received, on average three conditions as part of their sentence and that both first time and repeat offenders had the same average number of conditions imposed. First time offenders were more likely to receive a fine, unsupervised probation, community service or alcohol education. Repeat offenders were more likely to receive jail time, DDMP probation or conditions of attendance at AA meetings. The main difference in sentencing was the type of probation that was imposed. Imposition of probation before judgement appeared to have no effect on other aspects of the sentence.

Recidivism Rates. Taxman found that with a consistent measure of follow-up period of three years, 13.4 percent of DWI offenders had at least one subsequent conviction for drunk driving. (Table 22 shows the recidivism rates for the sample of cases based on the most common combinations of sentence characteristics.)

TABLE 22
RECONVICTION RATES BY COMMON COMBINATIONS OF SENTENCES

Sentence Characteristic	Percent Re-convicted Within 3 Years	Number of Cases
Guilty, Supervised Probation and Fine	15%	783
Guilty, DDMP and Fine	15%	650
Guilty, Treatment and Fine	14%	563
Guilty, Alcohol Education and Fine	13%	232
PBJ, Supervised Probation and Fine	12%	768
PBJ, Treatment and Fine	10%	493
PBJ, Alcohol Education and Fine	10%	452
ALL CASES	13%	3,711

Source: CESAR White Paper, *Drunk Driving in Maryland: An Analysis of Recidivism and Policy Issues*, Faye Taxman et. al., November 1994, p. 13.

Taxman concluded the risk of conviction for another drunk driving offense was related to a history of drunk driving convictions and/or traffic convictions and to some sentence characteristics. Taxman's results confirmed the NCSC study findings about the relationship between offender characteristics, sentence types, and recidivism rates. Specifically, Taxman reported,

- First-time offenders are less likely to recidivate than repeat offenders,
- Offenders with prior traffic convictions have a higher risk of re-offending, and
- Alcohol education and alcohol treatment were related to a reduced risk of reconviction.

Taxman also found:

- First offenders with sentence conditions of alcohol education and treatment had a lower risk of reconviction than offenders with other conditions; and
- PBJ was associated with increased time to reconviction, suggesting that PBJ may hold some deterrent value for first time offenders.

DISCUSSION

Chapter II of this report outlined the steps in the identification, prosecution, and adjudication of a person charged with DWI in Montgomery County. Almost all DWI cases are adjudicated in the District Court, although a subset also get adjudicated in Circuit Court as the result of a jury demand or an appeal.¹

Identifying and understanding the connection (if any) between sentencing and recidivism of DWI/DUI offenders is a core effectiveness and results question. The Administrative Office of the Courts collects data on the number of DWI charges received in District Court in Montgomery County and the disposition of these charges. However, the AOC does not report charge data by individual case; it also does not report data on sentencing patterns. As a result, longitudinal data on case disposition and sentencing outcomes for DWI/DUI cases in the District Court and the Circuit Court are not readily available.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

It would be a significant undertaking to conduct an updated analysis of case disposition, sentencing patterns, and DWI/DUI recidivism rates in Montgomery County. If the Council is interested in pursuing this issue, OLO would recommend developing a Request for Proposals and hiring an outside consultant to propose a cost-effective approach to performing this analysis.

The questions to address would include:

1. For a sample of cases processed in Montgomery County District Court, what are the offender characteristics, including driving records and criminal records, treatment assessment and treatment programs, sentencing patterns, and case dispositions?
2. What are the recidivism rates for these cases? What factors are associated with an increased or decreased risk of recidivism?
3. How do the recidivism rates for this sample of cases in Montgomery County and the factors associated with an increase or decreased risk of recidivism compare to the research findings about recidivism rates from other research studies?

¹ Data provide by the State's Attorney's Office evidence an increasing number of cases being adjudicated in Circuit Court as a result of jury demands. (See Table 21, page 95.)

ISSUE #7

Does the State Motor Vehicle Administration (MVA) efficiently and effectively perform the administrative licensing suspension/revocation functions related to DWI/DUI offenders that are assigned by law to the agency?

THE RESEARCH

Research has found that administrative licensing actions are some of the most effective measures available for reducing fatal alcohol-related crashes and reducing recidivism rates. Administrative licensing suspension/revocation is seen as an effective deterrent because it can be structured to operate as an immediate and certain penalty. An administrative license suspension is a civil action that proceeds independently from the criminal justice system's often lengthy process of criminal prosecution.

Studies have shown that driver's license suspensions are associated with quantifiable traffic safety benefits, and that longer periods of license suspension are significantly associated with fewer alcohol-related collisions and fewer total collisions. Two recent studies suggest that the effectiveness of administrative licensing action may even be greater if combined with vehicle sanctions, e.g., vehicle immobilization, vehicle seizure programs. (For more information on vehicle based sanctions, see page 103.)

The most notable limitations to administrative licensing actions are that license suspensions/revocations are difficult to enforce. As a result, it is estimated that 75% of drivers whose licenses are suspended continue to drive during their period of license suspension/revocation. On the positive side, other research shows that individuals, who do violate their suspension, drive less often and more carefully to avoid detection. Nonetheless, even with more careful driving, these offenders pose an elevated traffic risk.

Some jurisdictions also report problems with the administrative hearing process related to the license suspension/revocation. For example, the scheduling of hearings pose logistical difficulties for the arresting officers, and/or the hearing officers allow non-pertinent issues to be entered into the record at the hearing.

DISCUSSION

When a person is arrested for DWI/DUI in Maryland, the arresting law enforcement officer (acting on behalf of the State Motor Vehicle Administration) confiscates the driver's license of the defendant when the defendant either¹:

- Refuses to submit to an implied consent chemical breath test; or
- Takes the chemical breath test with a result that shows a BAC of .10 or more.²

¹ This, of course, assumes that the defendant is in possession of his/her driver's license. In addition, State law limits officers to confiscating drivers licenses issued by the State of Maryland. With out-of-state drivers, the officer issues a DR-15A, but does not confiscate the license.

² Under current law, .10 is the illegal per se BAC limit; it is expected that legislation will be enacted this year that lowers the illegal per se BAC limit to .08.

The arresting officer gives the defendant a written notice of suspension (a DR-15A), which also serves as a temporary-driving permit. In Maryland, the permit establishes a 45-day period for the driver to request an administrative hearing to appeal the suspension. The officer is required to mail the defendant's driver's license, along with a copy of the police report within 24 hours to the MVA.

The length of the suspension period is outlined in State law. Consistent with the National Highway Traffic Safety Administration recommendations, the suspension period for drivers in Maryland who refuse to take the test is longer than that for driver who take the test:

- If the results of a chemical test indicate that a person's BAC is .10 or more at the time of testing, the person's driver's license is suspended for 45 days (first offense) and 90 days (second or subsequent offense).
- If a person refuses to take the test, the person's driver's license is suspended for 120 days (first refusal); and for one year (second or subsequent refusal).

The law allows the MVA to modify a person's license suspension under certain conditions. This process is further explained below.

Similar to most other states, Maryland law permits the opportunity for the licensing agency (MVA) to reinstate a driver's driving privileges under certain conditions. (In contrast, some states impose what is known as "hard" suspensions, which means there is no restoration of driving privileges during a specified time period.) State law provides that the MVA can modify a driver's license suspension if:

- The licensee did not refuse to take a chemical test;
- The licensee has not had a license suspended for an alcohol-related offense during the past five years;
- The licensee has not been convicted for a prior alcohol-related offense during the past five years;
- The licensee is required to drive a motor vehicle in the course of employment;
- The license is required for the purpose of attending an alcohol prevention or treatment program; or
- The licensee has no alternative means of transportation to and from his/her place of employment.

As part of modifying a licensee's suspension, the MVA can require the licensee to participate in the Ignition Interlock System Program. If a licensee refused to take a chemical test, then the MVA can modify a suspension or issue a restrictive license only if the licensee participates in the Ignition Interlock System Program. (For more about how this program works see pages 45-46.)

The State MVA's administrative hearings are held by hearing officers at specified locations around the state. (The suspension hearings for Montgomery County drivers are held in the MVA's Gaithersburg facility.) If the driver chooses not to appeal the suspension or if the appeal is not upheld, then the MVA suspends a driver's license for the period established in State law.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To examine the issue of whether the State Motor Vehicle Administration efficiently and effectively carries out the administrative license suspension/revocation functions (pre-trial and post conviction) related to DWI/DUI offenders that are assigned by law to the agency, OLO would pursue answers to the following specific questions:

1. How often are pre-trial administrative licensing actions taken as a result of a DWI/DUI arrests in Montgomery County appealed and what are the outcomes of these appeals? In particular, how often does the MVA decide to restore a person's driving privileges and what types of conditions are imposed? How are these conditions enforced?
2. How often are administrative licensing actions taken as a result of a DWI/DUI conviction in Montgomery County appealed and what are the outcomes of these appeals? In particular, how often does the MVA decide to restore a person's driving privileges and what types of conditions are imposed? How are these conditions enforced?
3. How often does the MVA require individuals (either pre-trial or post-conviction) to participate in the Ignition Interlock System Program? How often do judges in Montgomery County impose participation in the Ignition Interlock program as a condition of probation? What are the logistics of the Ignition Interlock program in Montgomery County?
4. In what types of situations and how often are MCPD officers required to attend MVA hearings? How much officer time is involved in an average month?
5. Is it convenient for officials in Montgomery County (e.g., ECC operators, police officers, Assistant State's Attorneys, Courts) to check on the status of a person's driver's license? Are MVA's records kept current?
6. Are there aspects of the administrative licensing/revocation process within the purview of Montgomery County that would make the law work more efficiently or effectively? Are there changes in State law or procedures that the County should advocate?

ISSUE #8

Should Montgomery County seek State legislation to permit the Motor Vehicle Administration to administratively impose vehicle-based sanctions for repeat DWI offenders?

THE RESEARCH

The evaluation research provides support for the use of vehicle-based sanctions as an effective strategy for reducing recidivism for DWI offenders. The combined effect of vehicle impoundment and administrative license suspension programs also appears promising in terms of reducing repeat DWI offenses.

Some research indicates that impoundment programs managed outside the courts (i.e., through the motor vehicle administration) are more effective. An evaluation of Minnesota's license plate impoundment law found a significant difference in the rate of impoundment under the court program compared to the administrative program. The evaluation also found violators whose licenses were impounded had lower recidivism rates than those whose plates were not impounded.

When the law was first enacted in Minnesota, it required offenders to surrender their license plates to the court. However, the court required fewer than 5% of those who should have surrendered their plates to do so. Subsequently the law was amended to provide that the arresting officer could administratively impound and destroy the plates. In the first 21 months after administrative impoundment was enacted, 64% of the license plates were impounded successfully.

Several other promising research findings on vehicle sanctions are:

- A 1995 study of a program in Portland, Oregon showed that vehicle impoundment reduced the recidivism rate of drivers whose vehicles were seized to half the recidivism rate of a similar group of drivers whose vehicles were not taken. (Crosby, 1995)
- A study of impoundment programs in two Ohio counties also found these programs to be effective in preventing recidivism while the vehicle was immobilized and in deterring people from re-offending once the vehicle was released. (NHTSA, January 2000)

DISCUSSION

Maryland law authorizes the court (but not the Motor Vehicle Administration) to order the impoundment of a vehicle owned by a driver who is arrested for driving on a suspended license, when the suspension is because of a previous DWI charge. However, OLO's interviews with law enforcement and prosecutors suggest that such offenders in Montgomery County rarely receive this sanction as part of a sentence or condition of probation.

As discussed in OLO's earlier report, there are different approaches to vehicle sanctions in use across the country:

- Vehicle impoundment programs authorize the temporary seizure and holding of an offender's vehicle;
- Vehicle forfeiture programs authorize the seizure and subsequent sale of an offender's vehicle; and
- License plate impoundment programs authorize the impoundment and/or destruction of the license plates of an offender's vehicle.

Impoundment laws generally vary the length of the impoundment period according to the charge and the number of offenses. In Ohio, for example, the vehicle of a driver charged with driving on a suspended license as a result of a DWI conviction will be impounded 30 days for a first offense and 60 days for a second offense. The vehicle of a driver charged with DWI will be impounded for 90 days for a second offense and 180 days for a third offense.

Methods for impounding a vehicle also vary. In some places, a vehicle is held at an impound lot for the full impoundment period. In other instances, a vehicle is held at an impound lot for an initial period. Then, the vehicle is transferred to the owner's property and immobilized with a boot or club.

A valid criticism of vehicle-based sanction programs is that they increase administrative recordkeeping tasks for law enforcement, the courts, and department of motor vehicle staff. For example, police officers must fill out the paperwork to seize, impound, club and un-club vehicles. The court may need to hold additional hearings. The department of motor vehicle staff must check the driving records, track the status of offenders and their vehicles, and communicate regularly with the police department.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

To further examine whether the County should advocate for legislation that authorizes the Motor Vehicle Administration (or another agency) to administratively impose vehicle-based sanctions for repeat DWI offenders, OLO would:

1. Research the legislative history in Maryland of authorizing vehicle-based sanctions for DWI offenders.
2. Seek out more detailed information from a sample of jurisdiction that have had experience with the different types of vehicle sanction programs for DWI offenders. Specific issues to explore would include the logistics, fiscal impact, community reaction, and effectiveness of the different programs.
3. Obtain copies of sample laws/regulations that established administratively based vehicle sanction programs, and research potential legal obstacles to implementing such a program in Maryland.

Based upon this additional research, OLO would return to the Council with a recommendation on whether to pursue State legislation to authorize the MVA to administratively impose vehicle sanctions for repeat DWI offenders.

ISSUE #9

In practice, how does the State's specialized probation program for drunk driving offenders (the Drinking Driver Monitor Program) work in Montgomery County? What is known about the results of offenders' participation in this probation program?

THE RESEARCH

Placement on probation is a common sanction for DWI offenders across the country. The federal Bureau of Justice reports that there are more than 450,000 DWI offenders on probation nationally, representing nearly 14% of all probationers. About two-thirds of DWI offenders on probation are first-time offenders, and the other third report prior DWI convictions. (BJS, Special Report, 1999)

A national survey of DWI offenders in 1997 showed that that fees/fines and court costs were the most common condition of probation for DWI offenders. The Bureau of Justice Statistic (BJS) also estimated that of the DWI offenders on probation:

- 86% were required to get treatment for alcohol abuse;
- 27% were required to receive treatment for drug abuse;
- 10% were given the condition that they remain alcohol/drug free;
- 28% were ordered to mandatory drug testing; and
- 25% were required to perform some type of community service (BJS, Special Report, 1999).

Research studies report mixed results as to whether different probation strategies effectively reduce recidivism rates. A consistent finding is that that educational programs alone have a limited impact on repeat offenders and typically do not bring about any change in drinking and driving behavior. In addition, research consistently indicates that a long-term comprehensive approach of punishment, education, and treatment, with follow up monitoring and after care, is more effective than any individual strategy.

DISCUSSION

Similar to practices found in court rooms across the country, judges in Montgomery County place a large proportion of DWI offenders on probation. State law provides for probation either before judgement (PBJ) or following judgement.¹) Whether it is imposed before or following judgement, the court has the option of ordering supervised or unsupervised probation. For DWI/DUI offenders, a judge can also specify placement under the supervision of the State Division of Parole and Probation's Drinking Driver Monitor Program.

¹ For more details about the meaning of and process involved with a PBJ, see page 41

According to the Division of Parole and Probation, since 1991, all DWI offenders placed on supervised probation are assigned to the Drinking Driver Monitor Program (DDMP).² The State's written description of the program indicates that clients must report to DDMP within 72 hours of sentencing. DDMP staff formally notify offenders of their conditions of probation, and assign a frequency and location of reporting. DWI offenders are often required to report to a probation agent, or "monitor" on a weekly or bi-weekly basis.

State law requires that when a court convicts a person for DWI or DUI and places the person on probation, the court must (as a condition of the suspension of the sentence) require that the person participate in an alcohol treatment or education program approved by the State Department of Health and Mental Hygiene. It is OLO's understanding that DDMP staff refer probationers to state certified evaluation and/or treatment as directed by the court and monitor compliance with court ordered evaluation and treatment conditions.

If a DDMP client does not report for his/her regularly scheduled meeting with probation staff, violates the conditions of probation, or displays "unlawful conduct," then the monitor informs the sentencing court or the Motor Vehicle Administration of the violation. The monitor can also petition the sentencing court for a warrant and the court sets a hearing date. At the hearing, the judge decides whether to continue the offender on probation or revoke the probation and send the offender to jail. The judge may schedule a second hearing to see if the offender will follow through on a promise to change his/her behavior and comply with the probation conditions.

PROPOSED SCOPE OF ADDITIONAL OLO WORK

In order to learn more about how the Drinking Driver Monitor Program works in practice in Montgomery County, OLO would pursue answers to the following questions:

1. In what specific ways does probation under the Drinking Driver Monitor Program differ from other forms of probation?
2. What are the typical conditions of probation for Montgomery County DDMP clients, e.g., community service, attendance at Alcoholics Anonymous meetings, addiction education, regular breathalyzer testing?
3. How are DDMP clients referred to alcohol/drug addiction screening and treatment services in Montgomery County and how do DDMP staff monitor compliance with alcohol education and treatment conditions of probation? Do DDMP staff track how clients perform in treatment, treatment success, or treatment results?

² Offenders can also be assigned to participate in the DDMP by the Motor Vehicle Administration, as a condition for reinstating a driver's license after it has been suspended or revoked.

4. What kinds of alcohol addiction treatment do Montgomery County DDMP clients receive, e.g., 'scared straight' approach, group counseling, individual counseling, combination of education and counseling?
5. In practice, what are the consequences for Montgomery County DDMP clients who violate the conditions of probation?
6. What data are available on the results or outcomes of participation in the Drinking Driver Monitor Program, e.g., recidivism rates, treatment completion rates?

ADVICE OF RIGHTS - B16-205.1 of the Maryland Vehicle Law)

You have been stopped or detained and reasonable grounds exist to believe that you have been driving or attempting to drive a motor vehicle while intoxicated; under the influence of alcohol; so far under the influence of any drug, any combination of drugs, or a combination of one or more drugs and alcohol, or under the influence of a controlled dangerous substance that you could not drive a vehicle safely; or in violation of an Alcohol Restriction.

In this state, any person who drives or attempts to drive a motor vehicle, including a commercial motor vehicle, on a highway or on any private property that is used by the public in general, is deemed to have consented to take a chemical test to determine the alcohol concentration, or a blood test to determine the drug or controlled dangerous substance content of the person. The chemical test shall be at no cost to you. A test of blood shall be administered if the breath test equipment is unavailable, a test is required to determine the drug or controlled dangerous substance content, or if your injuries require medical treatment. The results of such test or a refusal of such test may be admissible as evidence in any criminal prosecution.

• **MANDATORY TEST:**

Submission to the test for alcohol concentration is mandatory if you are involved in a motor vehicle accident resulting in the death of, or life threatening injuries to another person.

• **You have the right to refuse to submit to the test. If you refuse:**

The Motor Vehicle Administration (MVA) will be notified of your chemical test refusal; your Maryland (MD) driver's license shall be confiscated; an Order of Suspension issued, and if eligible, a temporary license issued, valid for 45 days. An Administrative suspension shall be imposed by the MVA against your MD driver's license or driving privilege if you are a non-resident. The suspension shall be 120 days for a first offense and 1 year for a second or subsequent offense. You will be ineligible for modification of the suspension or issuance of a restrictive license; except in certain circumstances, a test refusal suspension may be modified and a restrictive license issued, if you agree to participate in the Ignition Interlock Program for at least 1 year.

• **Submission to the test. If your test results in an alcohol concentration of .10 or more:**

The MVA will be notified of your test results; your Maryland driver's license shall be confiscated; an Order of Suspension Issued; and if eligible, a temporary license issued valid for 45 days. An Administrative suspension shall be imposed by the MVA against your Maryland driver's license or privilege. The suspension shall be 45 days for a first offense and 90 days for a second or subsequent offense. Modification of the suspension may occur in certain circumstances.

• **Administrative Hearing:**

You may request an Administrative Hearing, at anytime within 30 days of the date of the Order of Suspension, to show cause why your driver's license or privilege should not be suspended. You must request a hearing within 10 days of the date of the Order of Suspension to insure that your privilege to drive is not suspended prior to your hearing. Your request for a hearing must be made in writing or use the "Hearing Request" form if available. Send your request to the Office of Administrative Hearings at 11101 Gilroy Rd, Hunt Valley, MD 21031-1301. You must include a check or Money Order for \$15.00, which is the required filing fee, made payable to the "Maryland State Treasurer".

• **Violation of Restriction:** The MVA may also suspend or revoke your license upon satisfactory evidence of a violation of an alcohol restriction.

• **Disqualification of CDL: In addition to any suspension for a test failure or refusal, as required by B16-205.1, your Commercial Driver's License (CDL) may be disqualified. If you were operating a commercial motor vehicle and you refuse to submit to a chemical test for alcohol, or your test result indicates an alcohol concentration of 0.04 or more, your CDL or privilege may be disqualified 1 year for a first offense; 3 years for a first offense while transporting hazardous materials required to be placarded; and lifetime for a second or subsequent offense.**

• **Your driver's license or privilege will be suspended on the 46th day after the date of the Order of Suspension if:**

(1) You do not request a hearing within 10 days of the date of the Order of Suspension, (2) You fail to appear for a hearing, or (3) at the conclusion of the hearing, a decision is rendered against you. Your request for a hearing will be invalid if submitted without the required \$15.00 filing fee.

• **Certification:**

I have read or have been read the Advice of Rights for a chemical test and have been advised of administrative sanctions that shall be imposed for: (1) a refusal to take a test; (2) a test resulting in an alcohol concentration of 0.10 or more; or (3) a test resulting in an alcohol concentration of 0.04 or more while operating a commercial motor vehicle. I understand that this requested test is in addition to any preliminary tests that were taken.

Having been so advised, do you now agree to submit to a test? (This is not an admission of guilt).

(Officer check reply)

Yes - Agree to submit to an alcohol concentration test

Yes- Agree to submit to a test for drug or controlled dangerous substance (CDS)

No- Alcohol concentration Test Refused

No- Drug or CDS Test Refused (DRE must Complete & submit DRE Certification Form)

Driver Signature _____ Date _____ Time _____ DR15-A Control # _____

Signature of Officer _____ I.D. No. _____ Police Agency _____



OFFICER'S COPY

DR-15 (2/99)

IN THE DISTRICT COURT FOR MONTGOMERY COUNTY, MARYLAND

STATE OF MARYLAND :
VS. : CITATION NUMBER:
:

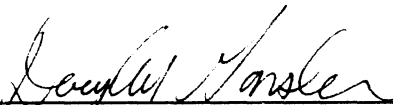
DEFENDANT :

SUBSEQUENT OFFENDER ADDENDUM

This is to advise the defendant in the above captioned case that the State has evidence of his/her previous conviction(s) of the same substantive offense with which he/she is presently charged, and that the State intends to seek increased punishment, upon conviction herein, as a second or subsequent offender as authorized by law.

The previous conviction(s) upon which the State relies are as follows:

Conviction Date Offense Citation # Date of Violation



Douglas F. Gansler
State's Attorney for Montgomery County

POINTS AND AUTHORITIES

- 1) Maryland Rules of Procedure, 4-245
- 2) Annotated Code of Maryland, Transportation Article, Section 27-101(f), (h), (j), (k)

CERTIFICATE OF SERVICE

I, the undersigned police officer, HEREBY CERTIFY, that on this _____ day of _____, 2001, a copy of the foregoing subsequent offender addendum was hand-delivered to: _____ (Defendant).

Montgomery County Police Officer

②

**DRIVING WHILE
INTOXICATED / IMPAIRED**
Montgomery County, Maryland
Department of Police

1. DEFENDANT'S NAME (LAST, FIRST, MIDDLE)						2. DST - CR NUMBER								
3. DEFENDANT'S ADDRESS						CITY - STATE - ZIP						4. CLASS		
5A. DEFENDANT'S PLACE OF EMPLOYMENT OR SCHOOL				6. RACE	SEX	AGE	HEIGHT	WEIGHT	HAIR	EYES	COMPLEXION	7. BEAT		
5B. ADDRESS				8. PLACE OF BIRTH				9. DATE OF BIRTH MO - DAY - YR		PRA	C / L			
10. LOCATION OF ARREST				DST.		11. SOCIAL SECURITY NUMBER		12. OTHER IDENTIFYING NUMBERS				13. ADULT <input type="checkbox"/>		JUVENILE <input type="checkbox"/>
14. HOW APPREHENDED <input type="checkbox"/> ACCIDENT <input type="checkbox"/> TRAFFIC <input type="checkbox"/> CHECKPOINT				15. OTHER IDENTIFYING CHARACTERISTICS (GLASSES, CONTACTS, MARKS, SCARS, TATTOOS, ETC.)										
16. DATE ARRESTED MO - DAY - YR		DAY	TIME	17. ALIAS / NICKNAME(S)				18. PHONE RES: BUS:						
19. WANTED CHECK BY:		DATE	TIME	20. CHARGE SUB-SECTION TR. ART. <input type="checkbox"/> A <input type="checkbox"/> C 21 - 902 <input type="checkbox"/> B <input type="checkbox"/> D				16 - 113 <input type="checkbox"/> YES <input type="checkbox"/> NO		21. ADDED TRAFFIC CHARGES <input type="checkbox"/> YES <input type="checkbox"/> NO		22. CITATION # (DWI)		
CODE: F - FATHER; M - MOTHER; W - WIFE; H - HUSBAND; S - SISTER; B - BROTHER														
23A. NAME		CODE	ADDRESS				CITY - STATE - ZIP		RES. PHONE		BUS. PHONE			
23B.														
23C.														
24. DEFENDANT'S VEHICLE INFORMATION		YEAR	MAKE	MODEL	TAG NUMBER		STATE	OPERATOR'S LICENSE NO.		STATE				
25. STATUS OF DEFENDANT		<input type="checkbox"/> SUBJECT INCARCERATED			<input type="checkbox"/> SUBJECT RELEASED			<input type="checkbox"/> BOND AMOUNT SET \$ _____						
		<input type="checkbox"/> MONT. CT. DTN. CENTER			<input type="checkbox"/> PERSONAL BOND									
		<input type="checkbox"/> OTHER LOCATION _____			<input type="checkbox"/> TURNED OVER TO _____									
26. M.C.P. 50 ADVISED		SIGNED		STATEMENT		27. DO YOU HAVE EPILEPSY?		DIABETES?		28. ARE YOU ILL?		HAVE YOU BEEN TO A DOCTOR?		
<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		
IF YES, DOCTOR'S NAME		29. ARE YOU TAKING DRUGS? (IF YES, GET SAMPLE IS POSSIBLE)				WHAT KIND?		TIME OF LAST DOSE						
		<input type="checkbox"/> YES <input type="checkbox"/> NO												
30. HAVE YOU BEEN DRINKING?		WHAT	QUANTITY	TIME OF DRINKS?		31. ALCOHOL IN POSSESSION								
<input type="checkbox"/> YES <input type="checkbox"/> NO				FIRST _____ LAST _____										
32. ATTITUDE		<input type="checkbox"/> POLITE		<input type="checkbox"/> EXCITED		<input type="checkbox"/> INSULTING		<input type="checkbox"/> SLEEPY		<input type="checkbox"/> COMBATIVE		<input type="checkbox"/> COOPERATIVE	<input type="checkbox"/> OTHER	
33. FACE COLOR		<input type="checkbox"/> NORMAL		<input type="checkbox"/> FLUSHED		<input type="checkbox"/> PALE		<input type="checkbox"/> OTHER (EXPLAIN)						
34. BREATH		<input type="checkbox"/> ODOR OF ALCOHOLIC BEVERAGE		<input type="checkbox"/> YES		<input type="checkbox"/> NO								
35. EYES		<input type="checkbox"/> WATERY		<input type="checkbox"/> BLOODSHOT		<input type="checkbox"/> NORMAL								
36. SPEECH		<input type="checkbox"/> SLURRED		<input type="checkbox"/> STUTTERING		<input type="checkbox"/> INCOHERENT		<input type="checkbox"/> CONFUSED						
37. WALK		<input type="checkbox"/> SAGGING KNEES		<input type="checkbox"/> WOBBLING		<input type="checkbox"/> SWAYING		<input type="checkbox"/> FALLING		<input type="checkbox"/> FAIR				
38. PBT		RESULTS		39. FIELD SOBRIETY TESTS:										
<input type="checkbox"/> YES <input type="checkbox"/> NO				<input type="checkbox"/> WALK AND TURN			<input type="checkbox"/> ONE LEG STAND		<input type="checkbox"/> HORIZONTAL GAZE		<input type="checkbox"/> ALPHABET			
40. ITEM NO.		NARRATIVE - CONTINUATION OF ABOVE ITEMS. INDICATE ITEM NUMBER AT LEFT. DO NOT LIST ANY CRIMINAL CHARGES. USE ARREST REPORT.									41. DWI LOG BOOK PAGE # _____			
42. CHEMICAL TEST		DATE	42A. LICENSE CONFISCATED		42B. TEMPORARY LICENSE ISSUED		43. M.V.A. RECORD REQUESTED							
<input type="checkbox"/> ACCEPTED		TIME	<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO		<input type="checkbox"/> YES <input type="checkbox"/> NO							
<input type="checkbox"/> REFUSED			IF TEST REFUSED, M.V.A. FORM DR 15 FORWARDED DATE											
44. BLOOD <input type="checkbox"/>		ADMINISTERED BY		DATE	HOURS	LOCATION								
45. BREATH <input type="checkbox"/>		OPERATOR'S NAME		CERTIFICATION #	DATE	HOURS	RESULTS		STATION					
46. VEHICLE TOWED?		IF YES, BY WHOM?			VEHICLE STORED?		IF YES, LOCATION:							
<input type="checkbox"/> YES <input type="checkbox"/> NO					<input type="checkbox"/> YES <input type="checkbox"/> NO									
47. DEFENDANT ARMED? IF YES, TYPE(S) OF WEAPON(S)		48. SIGNS OF INJURY OR ILLNESS			ARRESTING OFFICER(S) NAME, I.D. #, CAR # (PRINT)									
<input type="checkbox"/> YES <input type="checkbox"/> NO														
DISTRIBUTION:		APPROVED BY - NAME, I.D. # (PRINT)			DATE	ARRESTING OFFICER(S) NAME, I.D. #, CAR # (PRINT)								
GA - SA - YD														
CAP - CP - FM														
SID		DATA SYSTEMS			REPORTING AREA	RECORDS USE ONLY	EVENT CODE	PAGE ____ OF ____						
OTHER:						DOCUMENT								
						CODE								

UNIFORM JUVENILE CIVIL CITATION FOR ALCOHOL AND TOBACCO OFFENSES

Montgomery/Rockville CM
 County/City Agency
 vs. Jonathan Henry Doe
 Child's (First) Name Middle Last
 1234 Slippery Rock Way
 Current Address (include street no., or post office box no.)
 Columbia MD 21046
 City State Zip Code
 5-06 120 M W 010180 D123 456 654 321
 Height Weight Sex Race Birth Date Driver's License Number and State

Related Citations Telephone No.
Day: 555-1212 Night: 555-1212

It is formally charged that the above named child on July 15, 19 95
 at 7:17 PM M at 10745 Little Patuxent Pkwy Rockville
 did possess an alcoholic beverage by a person under 21 Probable cause (basic)
 City/County, Maryland

In violation of Article 27 Section 400 Sub-Section A Paragraph of the Annotated Code of Maryland

You are hereby notified to appear on the _____ day of _____, 19 _____
 at _____ M at Dept. of Juvenile Justice located at _____
 _____ Tel.No. _____

You will be notified by the Dept. of Juvenile Justice when and where to appear for a hearing.
 Full Name of Child's Legal Parent/Guardian Signature of Parent/Guardian

Full Address of Child's Legal Parent/Guardian Only

NOTE: YOUR FAILURE TO APPEAR MAY RESULT IN FORMAL COURT ACTION.

I sign my name as a receipt of a copy of the Citation and not as to admission. I hereby agree to appear.

X Child's Signature _____

I solemnly affirm under the penalties of perjury that the contents of the foregoing citation are true to the best of my knowledge, information and belief.

Officer's Signature _____ Date _____ Agency _____ Sub-Agency _____ ID. No. _____

Intake Decision

Referred to smoking cessation clinic. ISYS No. _____
 Assigned to alcohol rehabilitation program.
 Assigned to supervised work program for _____ hours
 Parent/Guardian agrees to withdraw consent for a period of _____ days, after child is eligible, and has applied, for a driver's license.
 Forwarded to State's Attorney

Intake Officer's Signature Hearing Date

Signature of Parent/Guardian Withdrawing Consent Date

Selected State Alcohol Policies as of January 1, 2000



Distribution System

Licensure state: all wholesale and retail made by private licensed entities. State does not directly control any part of the distribution system, but indirectly regulates all sales through placing conditions on the licenses.

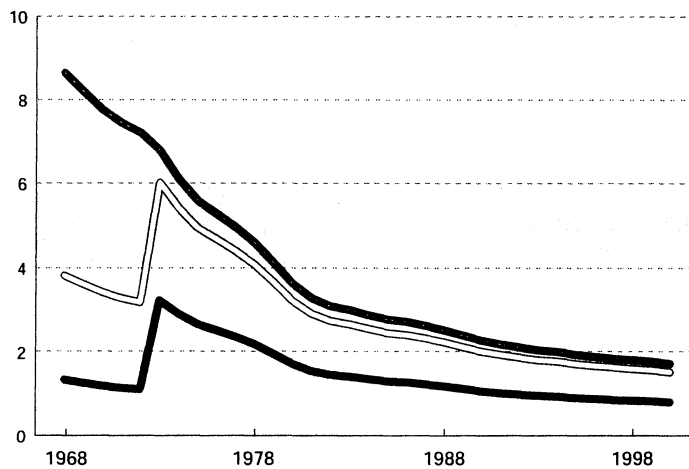
Purchase and Sales

- Keg Registration
- Server Training Mandatory

Taxes

Trend of Taxes 1968-2000 (adjusted for inflation; 2000 dollars)

Cents Per Drink



Current Alcoholic Beverage Taxes

- Beer** **\$0.02** per liter
cents per drink: **0.84**
- Spirits** **\$0.40** per liter
cents per drink: **1.76**
- Wine** **\$0.11** per liter
cents per drink: **1.56**

Cents per drink = 12 oz. beer, 1.5 oz. spirits, and 5 oz. wine

Drinking and Driving

Blood Alcohol Content Limits

General BAC	Youth BAC	Boating BAC
0.10	0.02	0.10
		Snowmobile BAC
		-

Penalties for Violating General BAC Limits

	Fine (\$)		Jail (days)		License Suspension/Revocation (days)				Vehicle	
	Min.	Max.	Min.	Max.	Pre-Conviction		Post-Conviction		Ignition Interlock	Impound or Seize
1st Offense	-	1000	undef	365	undef	undef	180	180	yes	-
2nd Offense	-	2000	undef	730	undef	undef	365	365	yes	-
3rd Offense	-	3000	undef	1095	undef	undef	545	545	yes	-



Maryland's Graduated Licensing System

Everything You Need to Know About Maryland's GRADUATED LICENSING SYSTEM

On July 1, 1999, the MVA introduced the Rookie Driver Graduated Licensing System. Rookie Driver is a 3-level licensing system giving novice drivers the opportunity to gradually move up in licensing while acquiring more experience in the process.

The Rookie Driver Graduated Licensing System will save lives with:

- Mandatory parent and mentor involvement in the learning process.
- Requiring conviction-free driving.
- Increase in the length of time a novice driver must be supervised.
- Gradual exposure to more difficult driving conditions.

Rookie Driver is designed to lessen high risk behavior, reducing crashes, injuries, and fatalities. The three (3) licensing stages will remain the same, but the requirements for each stage will differ.

THE LEARNER'S PERMIT

Allows a new driver to begin the learning and practice process of operating a motor vehicle.

Rookie Driver Graduated Licensing System	Learner's Permits obtained prior to July 1, 1999
Minimum Age, 15 years, 9 months	Minimum Age, 15 years, 9 months
Valid for one (1) year	Valid for six (6) months
Hold four (4) months -- and driver must be conviction-free during that time	Hold fourteen (14) days
Cost \$45	Cost \$30
Enroll in an approved Driver Education Program (Begin the process of documenting supervised driving in the practice log)	Enroll in an approved Driver Education Program (Practice log not required)
Driver must restart four (4) month waiting period if convicted of a moving violation	No need to restart waiting period if convicted of a moving violation

THE PROVISIONAL LICENSE

Issued to drivers of all ages after they gain experience driving with a learner's permit

Rookie Driver Graduated Licensing System	Learner's Permits obtained prior to July 1, 1999
Minimum age, 16 years, 1 month	Minimum age, 16 years
Requires successful completion of Driver's Education for all ages	Requires successful completion of Driver's Education if under 18
A parent, guardian, or supervising driver must submit a completed and signed practice log documenting a minimum of forty (40) hours of supervised driving	No practice log required
Must be held for eighteen (18) months with driver conviction-free	Must be held for twelve (12) months with driver conviction-free
Issued if out-of-state less than eighteen (18) months	Not issued for out-of-state license conversion

- If licensed out-of-state for less than 6 months, driver must hold for 18 months

- If licensed out-of-state for 6 to 12 months, driver must hold for 12 months
- If licensed out-of-state for 12 to 18 months, driver must hold for 6 months

Driver must restart 18-month waiting period if convicted of a moving violation; sanctions will be imposed for convictions:

1. First conviction: Driver improvement classes
2. Second conviction: 30-day suspension of license
3. Third or subsequent conviction: 180-day suspension or revocation of license

Driver must restart 12-month waiting period if convicted of a moving violation and given points

THE DRIVER'S LICENSE

The privilege awarded to drivers who progress through the licensing system.

Rookie Driver Graduated Licensing System

Learner's Permits obtained prior to July 1, 1999

Minimum age, 17 years, 7 months

Minimum age, 17 years

Must maintain 18 month conviction-free period prior to full license regardless of age

Can convert to full license if conviction free for past 12 months or at age 18 regardless of convictions

(General Information Brochure | Parent Brochure | Driving School Brochure | Provisional License Brochure | Mentor Brochure)

(Rookie Driver Home | News | [\[Law\]](#) | MVA Home Page)

Drawing the Line on Underage Alcohol Use
Roster

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**ALCOHOL INITIATIVES SECTION
CALENDAR OF EVENTS 2001**

April

- ◆ DRE School
- ◆ Complete Health Classes
- ◆ Prom Season Presentations
- ◆ After-Prom Activities
- ◆ AES Re-certification
- ◆ Intern Training

May

- ◆ District Prom Season Initiatives
- ◆ 1 Sobriety Checkpoint *
- ◆ 2 Phantom Sobriety Checkpoints *
- ◆ DRE Certification
- ◆ Kemper Gold Tournament
- ◆ Memorial Day Enforcement
- ◆ Underage Compliance Checks

June

- ◆ District Prom Season Initiatives
- ◆ DRE Certification
- ◆ DRE Conference *
- ◆ PBT Class
- ◆ Part 2 In-service AIS Officers

July

- ◆ Summer Alcohol Enforcement
- ◆ 1 Sobriety Checkpoint *
- ◆ 1 Phantom Sobriety Checkpoint *
- ◆ July 4 Enforcement – 4th District
- ◆ DRE Certification Ends
- ◆ Explorer Training
- ◆ 1 Week Recruit DWI Training

August

- ◆ 2 Weeks Recruit DWI Training
- ◆ County Fair Detail
- ◆ Underage Compliance Checks
- ◆ Saturation Patrol *

September

- ◆ Labor Day Enforcement
- ◆ Back To School Initiatives
- ◆ Homecoming Initiative
- ◆ 1 Sobriety Checkpoint *
- ◆ 1 Phantom Sobriety Checkpoint *
- ◆ Underage Compliance Checks

October

- ◆ Teach 10th Grade Health Classes
- ◆ Homecoming Season Ends
- ◆ Halloween Enforcement

November

- ◆ Health Classes Continues
- ◆ DRE In-service
- ◆ Holiday Task Force
Planning/Commencement

December

- ◆ Holiday Task Force Continues
- ◆ 1 Sobriety Checkpoint *
- ◆ 2 Phantom Sobriety Checkpoints *
- ◆ Underage Compliance Checks
- ◆ Saturation Patrol *

Source: MCPD, Alcohol Initiatives Section