

Impaired Driving Scenarios

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Scenario 1

- As a condition of bond for a charge of DWI (substance was an opioid), Defendant has been ordered to submit to random drug testing. When notified to appear at the testing site, she informs the monitoring agency that she is presumptively positive for COVID-19 and is awaiting test results. The testing site will not test her under those circumstances. How would you effectively monitor her for sobriety?

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Scenario 2

- Defendant is charged with DWI in your county while returning home from a conference reception. She resides in a county about 250 miles from you. What conditions of bond would you set to: (1) ensure her return to court in your county and (2) monitor her sobriety while this case is pending?

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Scenario 3

- Defendant is arrested for DWI but refuses to take a breath test due to concerns about COVID-19. There was an error on the name and license number of the defendant on the blood warrant. What is the appropriate remedy?

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Scenario 4

- In an order accompanying a blood warrant, what happens if a health care facility staff person, nurse, doctor or phlebotomist refuses to allow individuals into the facility who are not faced with serious health emergencies because the facility is overwhelmed by COVID-19 patients?

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Scenario 5

- You order an ignition interlock device as a bond condition for a defendant who was charged with DWI and had a BAC of .19 (no priors). His lawyer files a motion to modify the bond conditions to remove the interlock device. He states that the defendant has tested positive for COVID-19 and is having trouble breathing but does not have symptoms that require hospitalization. What are your options? What would you do?

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Scenario 6

- A person whose license has been suspended for failing a breath test applies for an ODL and states that they will voluntarily install an ignition interlock device so there are no time or travel restrictions and no supervision. You approve the ODL with an IID but 45 days later it comes to your attention that it has not been installed. You set a Zoom hearing and the defendant says he's afraid to go to the installer due to coronavirus and he thinks he might have COVID-19 because his wife has tested positive. He also says he's not going to wear a mask because it's just more of the government trying to control everyone. What should you do?

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Scenario 7

- Defendant appears before you for sentencing after being convicted of DWI. He has a prior DWI, some other misdemeanor convictions, and a diagnosis of bipolar disorder. Before you sentence him, what screens or assessments would you like to have done?

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Scenario 8

- Police responded to a 911 call about an individual passed out over the steering wheel of his vehicle. He was so intoxicated that he couldn't even attempt to perform SFSTs. Through an EMT translator, the defendant said he had 7 or 8 beers and had just left his friend's house. The police submit a probable cause affidavit for a blood warrant. The only information regarding the defendant's driving was his comment (through a translator) that he had just left his friend's house. The officer characterized it as an admission that he was driving. No information was provided concerning whether the car was in drive, was running, or where it was located at the time of the stop.
- Is there enough here to issue a blood search warrant? If not, what additional information would be needed?

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Scenario 9

- You magistrate a defendant charged with Boating While Intoxicated on July 4. He had a DWI conviction in 2011. Are you required to impose ignition interlock as a bond condition? Is there any time limit on prior convictions that trigger mandatory IID?

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Scenario 10

- An individual is arrested for DWI/First and their license is suspended. They were not required, as a bond condition, to have an interlock device. They apply for an ODL. Can the judge now require the individual to have an interlock device installed?

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Scenario 11

- A defendant is ordered (either at magistration or upon conviction) to install an ignition interlock device on every vehicle he owns or operates. His counsel informs the court that there are no facilities within 100 miles where he can currently go to get an interlock device installed. Is there anything you can do to address this problem?

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Scenario
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- Defendant applies for an ODL in your court after his license was suspended for DWLI. After you grant the ODL, you learn the defendant has a pending DWI charge in another state. Do you have an obligation to modify the ODL in light of the pending DWI charge?

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Scenario 13

- Defendant was arrested for DWI and is requesting an occupational license so he can continue working. He lost his restaurant job in March 2020 and has been working as an independent contractor for a food delivery app ever since. He is requesting a license without place and time limitations but says he cannot afford to have an IID installed on the two vehicles he owns.
- Under what circumstances could you sign an order approving an occupational license under Tex. Trans. Code 521.251?

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