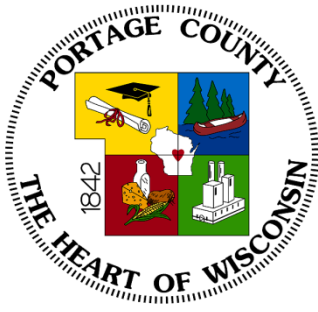




## JUSTICE PROGRAMS DEPARTMENT

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1462 STRONGS AVENUE, STEVENS POINT, WI 54481  
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TO: OWI 2<sup>nd</sup> Work Group Members

FROM: Anne Renc, Public Defender  
Andrea Starr, Justice Programs Department

DATE: September 9, 2022

### **AGENDA**

OWI 2<sup>nd</sup> Work Group  
September 14, 2022 – 1:00 p.m. to 2:00 p.m.

### **Annex Conference Room 3**

1. Why Work Group was Created
2. Discussion of WI State Statute 346.65 (2) (bm) (cm) (dm)
3. Statistics of OWI 2nds in Portage County
4. Current bond conditions for OWI 2nd
5. Current disposition for OWI 2nd
6. Services provided in Pretrial Supervision
7. Services provided in Post Sentence Supervision
8. Set next meeting date
9. Adjourn

**NOTICE:** *A quorum of the Portage County Board of Supervisors or any committee thereof may be present at this meeting.*

\*\*\*\*\*  
Any person who has special needs and plans on attending this meeting should contact the Justice Programs Department as soon as possible to ensure that reasonable accommodations can be made. Telephone 715-346-1334.  
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## WI State Statute 346.65 (2) (bm) (cm) (dm)

### **346.65 Penalty for violating sections 346.62 to 346.64.**

**(bm)** In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. [940.09 \(1\)](#) and [940.25](#) in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. [343.307 \(1\)](#) within a 10-year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. [\(am\) 2.](#), but the period of imprisonment shall be not less than 5 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 5 nor more than 7 days. A person may be sentenced under this paragraph or under par. [\(cm\)](#) or [\(dm\)](#) or sub. [\(2j\) \(bm\)](#), [\(cm\)](#), or [\(cr\)](#) or [\(3r\)](#) once in his or her lifetime.

**(cm)** In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. [940.09 \(1\)](#) and [940.25](#) in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. [343.307 \(1\)](#) equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. [\(am\) 3.](#), but the period of imprisonment shall be not less than 45 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 14 days. A person may be sentenced under this paragraph or under par. [\(bm\)](#) or [\(dm\)](#) or sub. [\(2j\) \(bm\)](#), [\(cm\)](#), or [\(cr\)](#) or [\(3r\)](#) once in his or her lifetime.

**(dm)** In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. [940.09 \(1\)](#) and [940.25](#) in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. [343.307 \(1\)](#) equals 4, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. [\(am\) 4.](#), but the period of imprisonment shall be not less than 60 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 29 days. A person may be sentenced under this paragraph or under par. [\(bm\)](#) or [\(cm\)](#) or sub. [\(2j\) \(bm\)](#), [\(cm\)](#), or [\(cr\)](#) or [\(3r\)](#) once in his or her lifetime.

## Portage County OWI 2<sup>nd</sup> Statistics

2019: 44

2020: 33

2021: 43

## Pretrial Supervision Program

The purpose of the Pretrial Supervision Program (PTSP) is monitor OWI defendant compliance with court ordered conditions through assessment, case management, supervision, and referral to community resources. The goal of the PTSP program is to reduce recidivism of impaired driving. By participating in case management, AODA treatment, testing, and community referrals, clients with a successful discharge from the Pretrial Supervision Program may see benefit at sentencing such as reduced incarceration time.

The PTSP is designed to run from the time of referral until disposition of the court case or discharge for other reasons (i.e. bond conditions removed, Failure to Appear (FTA), etc.). The defendant will report according to their supervision schedule.

### Program Eligibility

The target population are pretrial defendants who present a higher risk to be non-compliant with bond conditions and who have a history of driving while intoxicated. These defendants are primarily 3rd and greater OWI offenses.

Successful completion of the Pretrial Supervision Program is required for admittance to Post-Trial Supervision Program.

### Initial Assessment and Intake

Upon referral into the program, the client must first report the Pretrial Supervision Program for intake within 24 hours of referral or release from jail. This appointment lasts approximately two hours to allow the Case Manager to review all the information with the client to ensure that the client's risk has been properly categorized.

### Supervision Schedule

The client's supervision schedule is developed from the completed assessment(s) and details the participants requirements of supervision such as office contacts, drug testing, breathalyzers (PBT), Victim Impact Panel attendance, and suggested community referrals.

#### **UNCOPE**

UNCOPE (0-2) = Standard

UNCOPE (3-4) = Enhanced

UNCOPE (5-6) = Intensive

#### **MCPRAI-R**

0-2 = LOW

3-5 = STANDARD

6-7 = ENHANCED

8-9 = INTENSIVE

| ASSESSMENT LEVEL       | DRUG TESTING (UA/SWAB) | BREATHALYZER (PBT) |
|------------------------|------------------------|--------------------|
| Standard (UNCOPE 0-2)  | 1-2 x/month            | Average 3x/week    |
| Enhanced (UNCOPE 3-4)  | 2-3x/month             | Average 5x/week    |
| Intensive (UNCOPE 5-6) | 4x/month               | Average 7x/week    |

| SUPERVISION LEVEL                             | LOW           | STANDARD      | ENHANCED      | INTENSIVE     |
|-----------------------------------------------|---------------|---------------|---------------|---------------|
| Face-to-Face Contact                          | NO            | Monthly       | BiMonthly     | Weekly        |
| Alt Contact (phone, text, email,)             | 1x/month      | 1x/month      | BiMonthly     | N/A           |
| Supervised Conditions Compliance Verification | As Authorized | As Authorized | As Authorized | As Authorized |
| Court Date Reminders                          | Yes           | Yes           | Yes           | Yes           |
| CCAP Check                                    | Weekly        | Weekly        | Weekly        | Weekly        |

| Condition                     | Authorized when defendant:                                                                                                                                                                                                                                                                                                          |
|-------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Drug Testing                  | <ul style="list-style-type: none"> <li>Is eligible for supervision according to the Praxis <b>AND</b></li> <li>Scores 3 or greater on the UNCOPE <b>AND</b></li> <li>Has a history of illegal drug use/abuse</li> </ul> OR <ul style="list-style-type: none"> <li>Absolute sobriety is ordered as a condition of release</li> </ul> |
| Portable Breathalyzer Testing | <ul style="list-style-type: none"> <li>Is eligible for supervision according to the Praxis <b>AND</b></li> <li>Has a history of problematic alcohol use/abuse</li> </ul> OR <ul style="list-style-type: none"> <li>Absolute sobriety is ordered as a condition of release</li> </ul>                                                |

## Case Management

Each client will be assigned to a Case Manager who will serve as the primary contact for that client throughout their participation in the program. The Case Manager will review any issues, challenges, or concerns and work with the client to address these.

Case Management appointments may include:

- Addressing & reviewing identified criminogenic needs
- Referrals to appropriate community resources, including:
  - o AODA Assessment/Traffic Safety Plan
  - o AODA Treatment
  - o Anger Management Treatment
  - o Domestic Violence Programs
  - o Crisis Intervention
  - o Mental Health Assessment/Programming
  - o Financial Assistance
  - o Housing/Energy Assistance
  - o Food Assistance
  - o Education
  - o Employment Resources
  - o Medical Evaluations
  - o Assisting with Ignition Interlock Device hook up and compliance

- o Pro-social Support Groups
- o Verifying Driver's License status
- o Verifying compliance/completion of Driver's Safety Plan
- o Assisting the client in identifying a pro-social support network and verify participation
- o Alcohol and Drug Testing
- o Assisting the client in identifying a pro-social support network and verify participation
- o Use of Carey Guides & BITS - Research demonstrates that traditional methods of supervision are ineffective in reducing recidivism among adult and juvenile offenders. For behavior change and recidivism reduction to be possible, offenders must understand the personal and environmental factors underlying their offending behavior and be taught the skills they need in order to make positive changes in the future. The Carey Guides are designed to equip corrections professionals with the information and tools they need to support these changes among their clients.

### Other Community Referrals/Supports

Through the intake interview and assessments, the Case Manager will engage the client in discussions regarding the clients identified areas of need. Areas of need include but are not limited to programming (e.g. parenting classes, anger management, individual/family counseling, etc.) and/or benefits (e.g. BadgerCare, food share, etc.). The Case Manager, along with the client, will develop a plan to assist the client in identifying appropriate services that address the area of need and facilitate referrals as needed. The Case Manager will be expected to maintain a working knowledge of services and programs that are available to the clients and to work as a team with their colleagues in identifying programming that will meet their client's needs.

### Post Supervision

The purpose of the Post-Sentence Supervision Program (PSSP) is to provide intensive supervision to clients with court-ordered conditions through assessment, case management, supervision, education, and referral to community resources.

Successful participation in the Post Supervision Program will result in the current sentencing guidelines being imposed and stayed. Jail time only sentences will involve a two-category drop; fines and revocation time stay the same.

Clients will complete the mandatory minimum in jail with the balance on home detention (3rd - 14 days, 4th - 29 days). Example: An OWI 3 with a BAC of .21 would drop from 90 days to 60 days and they would serve 14 days in jail and 46 on the Home Detention Program (HDP) through the Sheriff's Office.

Residential treatment (successfully completed) will count towards HDP time but not jail time.

Clients can serve jail time within 60 days of sentencing.

### Program Eligibility

Clients eligible for this program must have successfully participated in the Pretrial Supervision Program. The PSSP is considered a continuation of Pretrial Supervision and will assist with driver safety plan

requirements, compliance with Ignition Interlock Devices, treatment services, chemical abstinence, and referrals to appropriate community resources.

### Program Length

Participation in the PSSP will be at least six months and total time in the Supervision programs must add up to one year. Client must serve a minimum of six months in PSSP and then their total time from Pretrial Supervision may be added. Example: Client served four months in the Pretrial Supervision Program + mandatory six months in PSSP = 10 months. The client must serve at least two more in the PSSP to qualify for discharge (for a total of eight months in PSSP).

### Initial Assessment and Intake, Case Plan, Supervision Schedule, Case Management

Same as Pretrial Supervision

### Electronic Monitoring/Huber Process

For individuals that may be eligible for the Sheriff's Department's Electronic Monitoring/Huber program, the assigned officers and/or clients will be requesting information of JusticePoint for the Sheriff's Office to decide regarding a client's program eligibility.

To be considered for the Sheriff's Department Program, participants MUST complete the following:

- Complete an OWI-Assessment/Drivers Safety Plan
- Install an Ignition Interlock Device

### Program Discharge

A client may complete the program successfully or be discharged from the program.

Completion or discharge will be based on the client's compliance with program expectations and completion of case plan. If a client absconds from supervision, the Case Manager will actively try to reach them via phone in hopes to return them to supervision. A discharge notice will be required if the client does not respond within 14 days.

The Case Manager will write a discharge letter indicating successful or unsuccessful completion. This must be placed in the client's file and sent to the Department of Corrections for all clients with an active probation case.

Before a client exits the PSSP, an Exit Survey should be obtained from the client. Both the exit assessment and survey are to be retained in the client's file. A copy of the exit survey may be placed in a collaborative file of exit surveys.

### Early Discharge

All early discharge requests must first be staffed with the Portage County Justice Programs Director. A client may be eligible for early discharge upon successful completion of all requirements in the Case Plan.

This explains the procedure for petitioning the court to terminate PSSP service provision earlier than was originally ordered. A PSSP Case Manager is under no obligation to petition for early discharge if

he/she believes the offender has not made sufficient progress toward the goals established as part of treatment and supervision. The offender is free to petition the court for early discharge independently, without the assistance or endorsement of their Case Manager, but there is very little chance that it would be granted.

A few pieces of information must be verified before a person can be considered eligible for early discharge. Verify the following:

1. The client served their jail time and period of Home Detention. Jail staff and Officers overseeing the Home Detention Program can provide specific dates.
2. The client has an Ignition Interlock Device (IID) installed on their vehicle(s) **if their driving privileges** were restored. There is no way around this requirement, and there is no legal way to operate any vehicle that lacks the IID; this would include an occupational license. If operating privileges were restored, then the offender must have provided to the Division of Motor Vehicles a certificate from the company that did the installation. The offender may use their driver's license or the certificate of installation as proof.

(If serious questions arise regarding a client's driving or IID status, the Jail may be contacted for clarification.)

3. The number of months that the client's driving privileges were revoked.
4. The total number of months in programming, including both Pretrial and Post-Sentence programming.

All Post-Supervision clients must have spent at least 12 months involved in Pretrial and Post-Sentence programming. If the duration of Pretrial supervision was unusually long due to a jury trial, motions/suppressions that were filed, assessments or other events that prolonged the process, this does not mean that PSSP supervision is significantly shortened. In other words, a client who was under Pretrial supervision for 10 months cannot participate in Post-Sentence Supervision for two months and then expect an early discharge. Post-Sentence Supervision will be required for at least six months before early discharge would be considered.