

NO. 91642-0

THE SUPREME COURT THE STATE OF WASHINGTON

COURTNEY L. BLOOMSTROM
BROOKE M. BUTTON
CHRISTOPHER V. COOPER

Petitioners,

v.

HONORABLE GREGORY TRIPP IN HIS OFFICIAL
CAPACITY AS SPOKANE COUNTY DISTRICT COURT
JUDGE, AND THE SPOKANE COUNTY DISTRICT
COURT,

Respondents.

BRIEF OF AMICUS CURIAE
WASHINGTON ASSOCIATION OF PROSECUTING ATTORNEYS

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TABLE OF CONTENTS

I. INTEREST OF AMICUS CURIAE 1

II. ISSUE PRESENTED 1

III. STATEMENT OF FACTS 1

IV. ARGUMENT 1

 A. PRETRIAL CONFINEMENT HAS ALWAYS BEEN PERMITTED IN WASHINGTON 2

 B. A PERSON WHO IS RELEASED ON BAIL OR ON HIS OR HER OWN RECOGNIZANCE IS STILL CONSIDERED TO BE IN CUSTODY 3

 C. IMPOSITION OF IGNITION INTERLOCK DEVICE AND DRUG TESTING AS CONDITIONS OF RELEASE IN IMPAIRED DRIVING CASES FURTHER A COMPELLING GOVERNMENTAL INTEREST 7

V. CONCLUSION 15

APPENDIX A: American Bar Association, *ABA Standards for Criminal Justice Pretrial Release* Std. 10-5.2 (3d ed. 2007) 17

TABLE OF AUTHORITIES

TABLE OF CASES

<i>Albright v. Oliver</i> , 510 U.S. 266, 114 S. Ct. 807, 127 L. Ed. 2d 114 (1994)	4, 5
<i>Bell v. Wolfish</i> , 441 U.S. 520, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979)	3, 6
<i>Butler v. Kato</i> , 137 Wn. App. 515, 154 P.3d 259 (2007)	4
<i>Ex parte Elliot</i> , 950 S.W.2d 714 (Tex. App. 1997)	15
<i>Ex Parte Rainey</i> , 59 Wash. 529, 110 P. 7 (1910)	2
<i>Gernstein v. Pugh</i> , 420 U.S. 103, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975)	3, 4
<i>Gordon v. Registry of Motor Vehicles</i> , 912 N.E.2d 9 (Mass. App.), review denied, 916 N.E.2d 767 (2009)	13
<i>Harris v. Charles</i> , 171 Wn.2d 455, 256 P.3d 328 (2011)	6, 8
<i>Hensley v. Municipal Ct.</i> , 411 U.S. 345, 93 S. Ct. 1571, 36 L. Ed. 2d 294 (1973)	4
<i>In re York</i> , 9 Cal. 4th 1133, 892 P.2d 804, 40 Cal. Rptr. 2d 308 (1995)	5, 15
<i>Oliver v. United States</i> , 682 A.2d 186 (D.C. App. 1996)	14
<i>Robinson v. Peterson</i> , 87 Wn.2d 665, 555 P.2d 1348 (1976)	3
<i>Schall v. Martin</i> , 467 U.S. 253, 104 S. Ct. 2403, 81 L. Ed. 2d 207 (1984)	7, 9
<i>State v. Baird</i> , 187 Wn.2d 210, 386 P.3d 239 (2016)	13

<i>State v. Haq</i> , 166 Wn. App. 221, 268 P.3d 977, <i>review denied</i> , 174 Wn.2d 1004 (2012)	3
<i>State v. Hawkins</i> , 70 Wn.2d 697, 425 P.2d 390 (1967)	3
<i>State v. Puapuaga</i> , 164 Wn.2d 515, 192 P.3d 360 (2008)	3, 5, 6
<i>State v. Spady</i> , 354 P.3d 590 (Mt. 2015)	14
<i>State v. Wilcenski</i> , 827 N.W.2d 642 (Wis. Ct. App.), <i>review denied</i> , 839 N.W.2d 617 (2013)	15
<i>United States v. Salerno</i> , 481 U.S. 739, 95 L. Ed. 2d 697, 107 S. Ct. 2095 (1987)	2, 6
<i>Westerman v. Cary</i> , 125 Wn.2d 277, 892 P.2d 1067 (1994)	6, 7
<i>York v. Wahkiakum Sch. Dist. No. 200</i> , 163 Wn.2d 297, 178 P.3d 995 (2008)	14

CONSTITUTIONS

Const. art. I, sec. 14	2
Const. art. I, sec. 20	2
Const. art. I, sec. 7	1, 2, 6, 13-15
Eighth Amendment	2
Fourth Amendment	1-3, 6, 13-15

STATUTES

18 U.S.C. § 3142	4
18 U.S.C. § 3142(c)(3)	4
18 U.S.C. § 3146	4
P.L. 98-472, Title II, Ch. 1, § 203(a)	4
RCW 10.21.015	8
RCW 10.21.017	8
RCW 10.21.030	7
RCW 10.21.055	8
RCW 10.99.040	8
RCW 10.99.045	8
RCW 36.28A.330(1)	8
RCW 46.04.215	8
RCW 46.20.720(1)(a)	8
RCW 46.61.50571(5)	8
RCW 9.41.800	8

RULES AND REGULATIONS

CrR 3.2 7, 8
CrR 3.2(a)(2)(b) 7
CrRLJ 3.2 7, 8
CrRLJ 3.2(a)(2)(b) 7

OTHER AUTHORITIES

American Bar Association, *ABA Standards for Criminal Justice Pretrial Release* Std. 10-1.1 (3d ed. 2007) 7
American Bar Association, *ABA Standards for Criminal Justice Pretrial Release* Std. 10-5.2 (3d ed. 2007) 4
Anne T. McCartt, William A. Leaf, et al, *Washington State’s Alcohol Ignition Interlock Law: Effects on Recidivism Among First-Time DUI Offenders*, 14 *Traffic Injury Prevention* 215 (2013) 14
Center for Court Innovation, Amanda B. Cissner, *The Drug Court Model and Persistent DWI: An Evaluation of the Erie and Niagara DWI/Drug Courts* (Sept. 2009) 10
Christine Clarridge, “West Seattle man held on \$1M bail in fatal crash,” *The Seattle Times* (Jul. 29, 2013) 11
Disease Control and Prevention, Injury Prevention & Control: Motor Vehicle Safety, Increasing Alcohol Ignition Interlock Use 13
Jack Broom and Mike Carter, “Driver in deadly 520 head-on-crash has pending DUI case,” *The Seattle Times* (Apr. 4, 2013) 11

Jennifer Sullivan, “Lynnwood man held in 15th DUI arrest,” <i>The Seattle Times</i> (Jan. 1, 2008)	11
Sara Jean Green, “Bellevue man sentenced for DUI crash that killed motorcyclist,” <i>The Seattle Times</i> (Oct. 23, 2015)	10
Sara Jean Green, “Women booked for DUI after hit-and-run with motorcycle in Lynnwood,” <i>The Seattle Times</i> (Feb. 14, 2014)	11
Tom Banse, Traffic Fatalities in the Northwest Rising at Fastest Rate in Country (May 26, 2016)	9
Vernal Coleman, “Driver who hits cruiser, injuries deputy on I-5 is arrested on suspicion of DUI,” <i>The Seattle Times</i> , (Sep. 22, 2016)	10
Victor E. Flango and Fred Chessman, <i>When Should Judges Use Alcohol Monitoring as a Sentencing Option in DWI Cases?</i> , 44 <i>Court Review</i> 102 (2007-2008)	12
Washington State Department of Transportation, <i>Washington State Strategic Highway Safety Plan 2013</i>	9
Washington State Institute for Public Policy, <i>Deferred Prosecution of DUI Cases in Washington State: Evaluating the Impact on Recidivism</i> (August 2007)	10
Washington Traffic Safety Commission, <i>Washington Impaired Driving Strategic Plan</i> (July 2013)	9

I. INTEREST OF AMICUS CURIAE

The Washington Association of Prosecuting Attorneys (“WAPA”) represents the elected prosecuting attorneys of Washington State, who are responsible for the prosecution of all felony cases in this state and of all gross misdemeanors and misdemeanors charged under state statutes. WAPA is interested in cases, such as this, which have wide-ranging impact on the ability of courts to prevent danger to the community, ensure the integrity of the judicial process, and secure the presence of defendants for trial.

II. ISSUE PRESENTED

Whether the imposition of pretrial conditions of release that monitor alcohol and/or drug use in impaired driving cases pass constitutional muster, where probable cause supports the criminal charges and the monitoring conditions do not constitute punishment?

III. STATEMENT OF FACTS

WAPA adopts the statement of the case provided by the State in the Brief of Respondent.

IV. ARGUMENT

The parties in this case agree that trial courts may lawfully impose conditions of pretrial release upon an individual who is charged with a crime. The parties in this case agree that the Fourth Amendment and Const. art. I, sec. 7 place limits upon the trial court’s authority. The parties part company

upon how conditions of release are tested under the Fourth Amendment and Const. art. I, sec. 7. This amicus brief will outline the proper test that applies to conditions of pretrial release and why that test supports the imposition of drug testing and/or ignition interlock devices (IID) in impaired driving cases.

A. PRETRIAL CONFINEMENT HAS ALWAYS BEEN PERMITTED IN WASHINGTON.

All persons charged with crimes in Washington, other than in capital cases and some offenses punishable by the possibility of life in prison, may be bailable by sufficient sureties. Const. art. I, sec. 20.¹ While excessive bail may not be required, Const. art. I, sec. 14, a trial court may constitutionally set bail in an amount that the person cannot post. *See, e.g., Ex Parte Rainey*, 59 Wash. 529, 110 P. 7 (1910) (bail of \$5000² imposed upon a laboring man accused of a common felony is not so unreasonable or excessive in amount as to require reduction).

A person who is unable to post bail is generally confined in the county jail. This loss of liberty is accompanied by a significant loss of freedom of choice and privacy, as the detainee is subject to regulations that maintain the

¹The United States Constitution is silent on whether bail should be available at all or whether all arrests must be bailable. The Eighth Amendment which prohibits excessive bail does not grant a right to bail per se. *See United States v. Salerno*, 481 U.S. 739, 752-54, 95 L. Ed. 2d 697, 107 S. Ct. 2095 (1987).

²The \$5000 bail set in *Rainey*, adjusted for inflation, would be more than \$123,000. *See* Inflation Calculator available at <http://www.usinflationcalculator.com/>.

security of the facility and that make sure no weapons or illicit drugs reach the detainee, and the detainee may be required to share his living space with others. *Bell v. Wolfish*, 441 U.S. 520, 540-42, 99 S. Ct. 1861, 60 L. Ed. 2d 447 (1979); *Robinson v. Peterson*, 87 Wn.2d 665, 672, 555 P.2d 1348 (1976) (rules applicable to inmates generally apply to pretrial detainees). These deprivations are permissible when a detached judicial officer has determined that the charge is supported by probable cause. *Gernstein v. Pugh*, 420 U.S. 103, 95 S. Ct. 854, 43 L. Ed. 2d 54 (1975).

The Washington Constitution provides no greater protection to the privacy interests of these detained individuals than does the Fourth Amendment. *State v. Puapuaga*, 164 Wn.2d 515, 524 n. 11, 192 P.3d 360 (2008). Pretrial detainees's letters and packages, cells and possessions are all subject to warrantless search. *See generally State v. Hawkins*, 70 Wn.2d 697, 704, 425 P.2d 390 (1967) (letters and packages); *Puapuaga*, 164 Wn. 2d at 523-24 (possessions). A pretrial detainee's phone calls may also be recorded. *State v. Haq*, 166 Wn. App. 221, 268 P.3d 977, *review denied*, 174 Wn.2d 1004 (2012).

B. A PERSON WHO IS RELEASED ON BAIL OR ON HIS OR HER OWN RECOGNIZANCE IS STILL CONSIDERED TO BE IN CUSTODY.

Because pretrial confinement may imperil the person's job, interrupt his source of income, and impair his family relationships, courts and

legislatures adopted policies that favored the release of individuals prior to trial on their own recognizance (OR) or on unsecured bonds. An individual who is released, whether on OR, on an unsecured bond, or upon the posting of bail is still “seized” in the constitutionally relevant sense and is subject to significant restrictions upon his liberty. *Albright v. Oliver*, 510 U.S. 266, 278-79, 114 S. Ct. 807, 127 L. Ed. 2d 114 (1994) (Ginsburg, J. concurring). *See also Hensley v. Municipal Ct.*, 411 U.S. 345, 93 S. Ct. 1571, 36 L. Ed. 2d 294 (1973) (pretrial releasee is considered in custody for habeas purposes); *Butler v. Kato*, 137 Wn. App. 515, 154 P.3d 259 (2007) (same). The imposition of conditions of release is only permissible when a detached judicial officer has determined that the charge is supported by probable cause. *Gernstein*, 420 U.S. at 114.

The conditions of release that may be imposed upon a charged individual may be quite burdensome and may effect a significant restraint of liberty. *Id.* (citing 18 U.S.C. §§ 3146(a)(2), (5)).³ *See also* American Bar

³When *Gernstein* was decided, 18 U.S.C. § 3146 provided for release in noncapital cases prior to trial. This version of the statute was repealed on October 12, 1984. *See* P.L. 98-472, Title II, Ch. 1, § 203(a). The statute that now provides for release in noncapital case is 18 U.S.C. § 3142. This statute authorizes a court to require the person to cooperate in the collection of a DNA sample, to commence or maintain employment or an education program, to restrict personal association and travel, to determine the place of abode, to report on a regular basis to a designated law enforcement agency, pretrial serves agency, or other agency, to comply with a curfew, to refrain from possessing a firearm, to refrain from use of alcohol or other controlled substance without a prescription by a licensed medical practitioner, to undergo treatment for drug or alcohol dependency, electronic monitoring and “additional or different conditions of release.” 18 U.S.C. § 3142(c)(3).

Association, *ABA Standards for Criminal Justice Pretrial Release* Std. 10-5.2 at 15-16, 106-110 (3d ed. 2007)⁴ (hereinafter “*ABA Pretrial Release*”).

The conditions that are imposed may impact an individual’s constitutional right to travel, constitutional right of intimate association, constitutional right to property, constitutional right to bear arms, and constitutional right of privacy. The lawfulness of these conditions is determined, not by reference to ordinary citizens, but with reference to the more severe restrictions experienced by an individual who is detained in jail pending trial. *See, e.g., Puapuaga*, 164 Wn.2d at 522 (“the private affairs inquiry focuses on a pretrial detainee’s asserted privacy interest in their personal effects, not on the privacy interest of the ordinary citizen”). *Accord Albright*, 510 U.S. at 278 (Ginsburg J., concurring) (unlike the ordinary citizen, a pretrial releasee must appear in court at the state’s’ command and “seek formal permission from the court . . . before exercising what would otherwise be his unquestioned right to travel outside the jurisdiction”); *In re York*, 9 Cal. 4th 1133, 892 P.2d 804, 813, 40 Cal. Rptr. 2d 308 (1995) (a defendant who is released on OR does not have the same reasonable expectation of privacy as that enjoyed by persons not charged with any crime; because an incarcerated individual is generally subject to random drug testing

⁴This standard is reproduced in appendix A.

and warrantless search and seizure in the interest of prison security, the OR releasee may be subject to the same).

Conditions of release pass muster under the Fourth Amendment if they are reasonably related to a legitimate governmental objective and do not amount to “punishment.” *Westerman v. Cary*, 125 Wn.2d 277, 293, 892 P.2d 1067 (1994). *See also United States v. Salerno*, 481 US. 739, 748, 95 L. Ed. 2d 697, 107 S. Ct. 2095 (1987) (recognizing that the “Government’s regulatory interest in community safety can, in appropriate circumstances, outweigh an individual’s liberty interest”). If a condition passes muster under the Fourth Amendment, the condition is also lawful under Const. art. I, sec. 7. *Puapuaga*, 164 Wn.2d at 522-23 (pretrial detainees have no greater right to privacy under the state constitution than under the Fourth Amendment).

A particular restriction or condition will amount to “punishment” in the constitutional sense when the condition was imposed with the intent to punish or when the condition is arbitrary or purposeless. *See Bell*, 441 U.S. at 538-40. A condition which may constitute punishment in some contexts, will not violate the Fourth Amendment in the pretrial setting if it is designed to alleviate the burdens of pretrial detention that would otherwise accompany detention in jail. *See, e.g., Harris v. Charles*, 171 Wn.2d 455, 469 n. 10, 256 P.3d 328 (2011) (“When EHM is imposed as a condition of pretrial release

pursuant to CrR 3.2 or CrRLJ 3.2, it is not intended as punishment but rather as a means of alleviating the burdens of pretrial detention and of assuring the defendant's future appearance in court.”).

C. IMPOSITION OF IGNITION INTERLOCK DEVICE AND DRUG TESTING AS CONDITIONS OF RELEASE IN IMPAIRED DRIVING CASES FURTHER A COMPELLING GOVERNMENTAL INTEREST.

The government has a number of compelling interests that may impact the number and type of pretrial release conditions that may be imposed in a particular case. First, the “government has compelling interests in preventing crime and ensuring that those accused of crimes are available for trial and to serve their sentences if convicted.” *Westerman*, 125 Wn.2d at 293. *Accord Schall v. Martin*, 467 U.S. 253, 264, 104 S. Ct. 2403, 81 L. Ed. 2d 207 (1984) (“The ‘legitimate and compelling state interest’ in protecting the community from crime cannot be doubted. . . . We have stressed before that crime prevention is ‘a weighty social objective’” (citations omitted)). Another compelling governmental interest is the prevention of interference with the administration of justice. *See, e.g.*, RCW 10.21.030; CrR 3.2(a)(2)(b); CrRLJ 3.2(a)(2)(b). *Accord ABA Pretrial Release Std.* 10-1.1 (pretrial release decisions should be made for the purpose of “providing due process to the accused of crime, maintaining the integrity of the judicial process by securing defendants for trial, and protecting victims,

witnesses and the community from threat, danger or interference.”).

Pretrial release conditions authorized by CrR 3.2 and CrRLJ 3.2 are intended to further these compelling interests, rather than a means of imposing punishment. *Harris*, 171 Wn.2d at 468-69. A number of statutes also identify pretrial conditions that are intended to further these same compelling interests. *See, e.g.*, RCW 9.41.800 (prohibit firearm possession); RCW 10.21.015 (pretrial release program, including participation in a 24/7 sobriety program⁵); RCW 10.21.017 (home detention); RCW 10.21.055 (ignition interlock devices (IID)⁶ and 24/7 sobriety program monitoring in DUI, physical control, vehicular homicide, and vehicular assault cases); RCW 10.99.040 and .045 (imposition of pretrial no contact orders and electronic monitoring in domestic violence cases); RCW 46.61.50571(5) (electronic monitoring or alcohol abstinence monitoring in impaired driving cases); RCW 46.20.720(1)(a) (ignition interlock device (IID) restriction in cases of impaired driving).

⁵A “‘24/7 sobriety program’ means a program in which a participant submits to testing of the participant’s blood, breath, urine, or other bodily substance to determine the presence of alcohol or any drug as defined in RCW 46.61.540. Testing must take place at a location or locations designated by the participating agency, or, with the concurrence of the Washington association of sheriffs and police chiefs, by an alternate method.” RCW 36.28A.330(1).

⁶An ignition interlock device is a “breath alcohol analyzing ignition equipment or other biological or technical device . . . designed to prevent a motor vehicle from being operated by a person who has consumed an alcoholic beverage.” RCW 46.04.215.

A court considering the appropriate conditions of release must necessarily consider the nature of the charged offense and the personal characteristics of the pretrial releasee. The potential for harm to the community from a pretrial releasee is greatest when the type of offense is related to a high rate of recidivism. *Cf. Schall*, 467 U.S. at 265 (harm to society from juveniles charged with crimes may be greater than when an adult is charged with a crime “given the high rate of recidivism among juveniles”).

Impaired driving is one of the leading contributors to highway deaths and major injuries. *See* Washington State Department of Transportation, *Washington State Strategic Highway Safety Plan 2013*, at 5 and 27-37;⁷ Washington Traffic Safety Commission, *Washington Impaired Driving Strategic Plan* (July 2013).⁸ Despite years of efforts to reduce the number of impaired-driver related fatalities, the numbers have increased in recent years. *See* Tom Banse, *Traffic Fatalities in the Northwest Rising at Fastest Rate in Country* (May 26, 2016).⁹

⁷This document may be found at <http://wsdot.wa.gov/NR/rdonlyres/5FC5452D-8217-4F20-B2A9-080593625C99/0/TargetZeroPlan.pdf> (last visited Jan. 5, 2017).

⁸This document may be found at http://wtsc.wa.gov/wp-content/uploads/dlm_uploads/2015/03/2013-WA-Impaired-Driving-Strategic-Plan.pdf (last visited Jan. 5, 2017).

⁹Available at <http://ijpr.org/post/traffic-fatalities-northwest-rising-fastest-rate-country#stream/0> (last visited Jan. 5, 2017).

The recidivism rate of impaired drivers is extraordinarily high. Nationally, estimates indicate that between 20% and 35% of first-time alcohol-impaired offenders will repeat. *See* Center for Court Innovation, Amanda B. Cissner, *The Drug Court Model and Persistent DWI: An Evaluation of the Erie and Niagara DWI/Drug Courts*, at 2 (Sept. 2009). Recidivism rates in Washington have increased since 1998, with 22% to 52% of defendants committing a subsequent DUI offense. *See generally* Washington State Institute for Public Policy, *Deferred Prosecution of DUI Cases in Washington State: Evaluating the Impact on Recidivism* (August 2007).¹⁰

Experience in Washington, moreover, reveals that pretrial releasees who have been charged with impaired driving continue to drive while impaired when released prior to trial or on appeal. *See, e.g.*, Vernal Coleman, “Driver who hits cruiser, injures deputy on I-5 is arrested on suspicion of DUI,” *The Seattle Times*, (Sep. 22, 2016) (31-year-old arrestee had a pending intoxicated-driving charge on date of incident);¹¹ Sara Jean Green, “Bellevue man sentenced for DUI crash that killed motorcyclist,” *The Seattle Times*

¹⁰This report is available at http://www.wsipp.wa.gov/ReportFile/992/Wsipp_Deferred-Prosecution-of-DUI-Cases-in-Washington-State-Evaluating-the-Impact-on-Recidivism_Full-Report.pdf (last accessed on Jan. 5, 2017).

¹¹Article available at <http://www.seattletimes.com/seattle-news/crime/driver-who-struck-cruiser-injured-deputy-on-i-5-was-allegedly-drunk/> (last visited Apr. 22, 2017).

(Oct. 23, 2015) (while charges pending defendant twice used illegal drugs and was rushed to the hospital while in a community-based alternative program);¹² Sara Jean Green, “Women booked for DUI after hit-and-run with motorcycle in Lynnwood,” *The Seattle Times* (Feb. 14, 2014) (“Masterman-Stearns was charged in April 2002 with DUI in Auburn. While that case was pending, she was arrested in December 2005 for DUI, also in Auburn, court records show.”);¹³ Christine Clarridge, “West Seattle man held on \$1M bail in fatal crash,” *The Seattle Times* (Jul. 29, 2013) (on date of fatality collusion, the suspect had an unresolved 2010 DUI case pending);¹⁴ Jack Broom and Mike Carter, “Driver in deadly 520 head-on-crash has pending DUI case,” *The Seattle Times* (Apr. 4, 2013);¹⁵ Jennifer Sullivan, “The man of many DUIs kept driving, has a crash,” *The Seattle Times* (Apr. 7, 2011) (while free on bond pending appeal from his 12th drunken driving conviction, defendant was arrested on a new DUI);¹⁶ Jennifer Sullivan,

¹²Article available at <http://www.seattletimes.com/seattle-news/crime/bellevue-man-sentenced-for-dui-crash-that-killed-motorcyclist/> (last visited Apr. 22, 2017).

¹³Article available at <http://www.seattletimes.com/seattle-news/woman-booked-for-dui-after-hit-and-run-with-motorcycle-in-lynnwood/> (last visited Apr. 22, 2017).

¹⁴Article available at <http://www.seattletimes.com/seattle-news/west-seattle-man-held-on-1m-bail-in-fatal-crash/> (last visited Apr. 22, 2017).

¹⁵Article available at <http://www.seattletimes.com/seattle-news/driver-in-deadly-520-head-on-crash-has-pending-dui-case/> (last visited Apr. 22, 2017).

¹⁶Article available at <http://www.seattletimes.com/seattle-news/the-man-of-many-duis-kept-driving-has-a-crash/> (last visited Apr. 22, 2017).

“Lynnwood man held in 15th DUI arrest,” *The Seattle Times* (Jan. 1, 2008) (suspect had pending DUI arrest at the time of his 15th arrest for investigation of drunk driving).¹⁷

The only sure method of protecting the public from the risks posed by a person charged with impaired driving is to detain him or her in jail pending trial. While in jail, such a person will not be able to consume alcohol or drugs and will not operate a motor vehicle. Unfortunately, the person will also be unable to fulfill family obligations, work, or attend to the other routine tasks of daily life. A trial court may only ameliorate these hardships when it has the discretion to restrict a pretrial releasee when the pretrial releasee’s conduct places the public at risk.

Less restrictive alternatives to total incarceration include the imposition of IIDs, transdermal or remote alcohol monitors,¹⁸ participation in a 24/7 sobriety program, and drug testing. Use of these strategies protects the public while allowing offenders to remain employed, to fulfill family

¹⁷Article available at <http://www.seattletimes.com/seattle-news/lynnwood-man-held-in-15th-dui-arrest/> (last visited Apr. 22, 2017).

¹⁸There are two transdermal measuring devices--the Wrist Transdermal Alcohol Sensor (WrisTAS) by Giner, Inc., and the Secure Continuous Remote Alcohol Monitor (SCRAM) bracelet by Alcohol Monitoring Systems, Inc. The SCRAM system “is attached to the ankle and detects alcohol from continuous samples of vaporous or insensible perspiration (sweat) collected from the air above the skin and transmits that data via the web.” Victor E. Flango and Fred Chessman, *When Should Judges Use Alcohol Monitoring as a Sentencing Option in DWI Cases?*, 44 *Court Review* 102 (2007-2008). Studies reveal that very few arrests for new DUI offenses occur while participants wear SCRAM bracelets. *Id.*

obligations, and to participate in treatment. While these tools might violate the constitutional rights of a member of the general public, they do not violate the Fourth Amendment or Const. art. I, sec. 7 rights of a pretrial releasee as their purpose is not punitive. *See, e.g., Gordon v. Registry of Motor Vehicles*, 912 N.E.2d 9, 15 (Mass. App.) (while an IID requirement may be burdensome, that circumstance alone does not transform its imposition into criminal punishment), *review denied*, 916 N.E.2d 767 (2009).

Imposition of a breath alcohol test¹⁹ through an IID every time the pretrial releasee attempts to drive is reasonable as it offers immediate protection to the public by disabling the pretrial releasee's vehicle when the pretrial releasee has consumed alcohol. The use of IIDs is directly associated with reductions in recidivism and reductions in crashes. *See generally* Disease Control and Prevention, Injury Prevention & Control: Motor Vehicle

¹⁹This Court has previously recognized that breath alcohol tests are fairly unintrusive and provide minimal information about a person:

A breath test is much less intrusive than other blood alcohol tests and produces only a limited amount of information. *Cf. Maryland v. King*, ___ U.S. ___, 133 S. Ct. 1958, 1969, 186 L. Ed. 2d 1 (2013). A blood draw, for instance, entails a "physical intrusion beneath [the] skin and into [the] veins to obtain a sample of ... blood." *Missouri v. McNeely*, ___ U.S. ___, 133 S. Ct. 1552, 1558, 185 L. Ed. 2d 696 (2013). Beyond this puncturing of the skin, a blood test can produce a much wider array of information than a breath test, such as a person's DNA (deoxyribonucleic acid) or the presence of certain diseases. In contrast, a breath test simply captures one's breath and produces a scope of information that is limited solely to a calculation of the alcohol content of the breather's blood.

State v. Baird, 187 Wn.2d 210, 230, 386 P.3d 239 (2016) (González, J., concurring).

Safety, Increasing Alcohol Ignition Interlock Use,²⁰ Anne T. McCartt, William A. Leaf, et al, *Washington State's Alcohol Ignition Interlock Law: Effects on Recidivism Among First-Time DUI Offenders*, 14 *Traffic Injury Prevention* 215 (2013).

The petitioners' arguments that imposition of one or more of the non-punitive public safety alcohol or drug monitoring tools violates the Fourth Amendment or Const. art. I, sec. 7, depends upon cases that looked to the rights enjoyed by the public at large, rather than the reduced privacy rights of a pretrial detainee. *See, e.g.*, Petitioner's Opening Brief at 38-40 (relying upon the school drug testing case of *York v. Wahkiakum Sch. Dist. No. 200*, 163 Wn.2d 297, 178 P.3d 995 (2008), to argue that Const. art. I, sec. 7 precludes alcohol or drug monitoring of pretrial releasees). Courts that have applied the correct framework have repeatedly rejected the petitioners' position in impaired driving cases and in cases where the pretrial releasee has a history of drug use or excessive alcohol consumption. *See, e.g., Oliver v. United States*, 682 A.2d 186 (D.C. App. 1996) (pretrial drug testing that is imposed when the court has individualized suspicion of arrestee's drug use does not violate the Fourth Amendment); *State v. Spady*, 354 P.3d 590, 596-598 (Mt. 2015) (imposition of a twice-daily alcohol breath tests upon a

²⁰This document is available at https://www.cdc.gov/motorvehiclesafety/impaired_driving/ignition_interlock_states.html (last visited Jan. 5, 2017).

repeat impaired driver releasee did not violate either the Fourth Amendment or the Montana Constitution); *York*, 892 P.2d at 813- 815 (random pretrial drug testing as a condition of pretrial release does not violate the Fourth Amendment if the court has made an individualized determination that this condition is warranted); *Ex parte Elliot*, 950 S.W.2d 714, 715-17 (Tex. App. 1997) (per curiam) (pretrial order requiring an impaired driver releasee to utilize an ignition interlock was proper as the requirement is not punitive or oppressive); *State v. Wilcenski*, 827 N.W.2d 642 (Wis. Ct. App.) (ordering person arrested for impaired driving to submit to random drug and/or alcohol testing while on pretrial release does not violate the Fourth Amendment), *review denied*, 839 N.W.2d 617 (2013).

V. CONCLUSION

The imposition of IIDs and other mechanisms for measuring a pretrial releasee's compliance with a drug or alcohol abstinence condition furthers the public's compelling interest in preventing crime. Because these conditions are not punitive in nature, these conditions do not violate either the Fourth Amendment or Const. art. I, sec. 7. This Court should affirm the lower court's decision.

Respectfully submitted this 24th day of April, 2017.

A handwritten signature in black ink, appearing to read "Pamela B. Loginsky". The signature is written in a cursive style with a horizontal line underlining the name.

PAMELA B. LOGINSKY

WSBA No. 18096

Staff Attorney

APPENDIX A

American Bar Association, *ABA Standards for Criminal Justice Pretrial Release* Std. 10-5.2 (3d ed. 2007):

Standard d 10-5.2. Conditions of release

(a) If a defendant is not released on personal recognizance or detained pretrial, the court should impose conditional release, including, in all cases, a condition that the defendant attend all court proceedings as ordered and not commit any criminal offense. In addition, the court should impose the least restrictive of release conditions necessary reasonably to ensure the defendant's appearance in court, protect the safety of the community or any person, and to safeguard the integrity of the judicial process. The court may:

(i) release the defendant to the supervision of a pretrial services agency, or require the defendant to report on a regular basis to a designated law enforcement agency, pretrial services agency, or other agency;

(ii) release the defendant into the custody or care of some other qualified organization or person responsible for supervising the defendant and assisting the defendant in making all court appearances. Such supervisor should be expected to maintain close contact with the defendant, to assist the defendant in making arrangements to appear in court, and, when appropriate, accompany the defendant to court. The supervisor should not be required to be financially responsible for the defendant nor to forfeit money in the event the defendant fails to appear in court. The supervisor should promptly report a defendant's failure to comply with release conditions to the pretrial services agency or inform the court;

(iii) impose reasonable restrictions on the activities, movements, associations, and residences of the defendant, including curfew, stay away orders, or prohibitions against the defendant going to certain geographical areas or premises;

(iv) prohibit the defendant from possessing any dangerous weapons and order the defendant to immediately turn over all firearms and other dangerous weapons in defendant's possession or control to an agency or responsible third party designated by the court; and prohibit the defendant from engaging in certain described activities, or using intoxicating liquors or certain drugs;

(v) conditionally release the defendant pending diversion or participation in an alternative adjudication program, such as drug, mental health or other treatment courts;

(vi) require the defendant to be released on electronic monitoring, be evaluated for substance abuse treatment, undergo regular drug testing, be screened for eligibility for drug court or other drug treatment program, undergo mental health or physical health screening for treatment, participate in appropriate treatment or supervision programs, be placed under house arrest or subject to other release options or conditions as may be necessary reasonably to ensure attendance in court, prevent risk of crime and protect the community or any person during the pretrial period;

(vii) require the defendant to post financial conditions as outlined under Standard 10-5.3, execute an agreement to forfeit, upon failing to appear as required, property of a sufficient unencumbered value, including money, as is reasonably necessary to ensure the appearance of the defendant, and order the defendant to provide the court with proof of ownership and the value of the property along with information regarding existing encumbrances as the judicial officer may require;

(viii) require the defendant to return to custody for specified hours following release for employment, schooling, or other limited purposes; and

(ix) impose any other reasonable restriction designed to ensure the defendant's appearance, to protect the safety of the community or any person, and to prevent intimidation of witnesses or interference with the orderly administration of

justice.

(b) After reasonable notice to the defendant and a hearing, when requested and appropriate, the judicial officer may at any time amend the order to impose additional or different conditions of release.