

IMPAIRED DRIVING RISK ASSESSMENT



A PRIMER FOR POLICYMAKERS



EXECUTIVE SUMMARY



The knowledge source for safe driving

The Traffic Injury Research Foundation

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Background

- > Although a general decreasing trend in the number of persons killed in a traffic crash involving a drinking driver has occurred in Canada between 1995 and 2008, the progress achieved since the late 1990s has been nominal and the number of persons killed and injured in crashes involving drinking drivers remains high.
- > In 2009, 32.3% of fatally injured drivers in Canada had a blood alcohol concentration (BAC) over the legal limit of .08 (Mayhew et al. 2011). In addition, in 2009, 714 people were killed in Canada in road crashes that involved a driver who had been drinking and approximately 2,913 drivers (excluding Newfoundland and Labrador) were involved in alcohol-related serious injury crashes in Canada (Mayhew et al. 2011).

Introduction

- > Growing economic challenges mean that jurisdictions are seeking ways to use resources more effectively and efficiently to best manage drunk drivers to protect the public. The use of research-based risk assessment tools and practices is one means to attain this goal and a linchpin to making the best use of available resources.
- > There are two types of systems that process impaired drivers in Canada and rely upon, to varying extents, information stemming from risk assessments of these drivers: 1) the criminal justice system; and, 2) remedial impaired driver programs that are an administrative sanction imposed by the driver licencing authority.
- > The term “risk” has different meanings among different practitioners, and the goals of risk assessment practices within these two systems differ substantially. Yet, both approaches to the risk assessment of impaired drivers are extremely relevant to reduce impaired driving.

Purpose and Methods

- > The purpose of this report is to provide an overview of risk assessment practices in Canada for impaired drivers, and to provide a snapshot of the practices used by driver licencing and criminal justice practitioners. Its goals are to summarize current

risk assessment practices and to describe the different ways that impaired drivers are assessed for risk in both systems. The report includes some recommendations to inform and/or guide future efforts to develop or improve best practices related to risk assessment in both systems.

- > The contents of this report are based upon:
 - » Focus groups involving 28 remedial impaired driver program practitioners and criminal justice professionals in Alberta, Ontario, Quebec and Nova Scotia;
 - » Conference calls with a judge and a probation officer in the Yukon and Northwest Territories;¹ and,
 - » A survey of 65 justice professionals (Crown attorneys, defence attorneys and probation officers) representing six jurisdictions that responded to the survey (Alberta, Manitoba, Saskatchewan, New Brunswick, British Columbia and Ontario).

Remedial Programs and Services Results

- > This section contains the results of the focus groups that were conducted in four jurisdictions across Canada representing several regions of the country.
- > **Agency goals.** Staff that participated in the focus groups representing remedial impaired driver programs and services in the driver licencing system agreed that these programs and services have two main objectives:
 - » To help offenders separate drinking and driving activities and to develop alternative behaviours; and,
 - » To educate offenders about the effects of alcohol and drug use with the goal of reducing their use of, and problems with, these substances.
- > **Agency approach.** Common themes that emerged regarding approach included:
 - » Many programs have a theoretical foundation and theories include bio-social,² psycho-educational³ and social psychological theories.
 - » Most programs emphasize harm reduction as a preferred approach over abstinence.
 - » The use of client-centred, individualized approaches is preferred and enables clinicians to work one-on-one with clients and develop a rapport with them.

¹ There are no remedial impaired driver licencing programs in the Territories.

² Bio-social theories assert that biology has significant explanatory power in understanding why persons act as they do, however, these theories also acknowledge the role of the physical and social environment in influencing behaviour. Bio-social theories reject explanations of behaviour that take into account only cultural, social and/or environmental features.

³ Psycho-educational theories are based upon a humanistic approach to behaviour modification and claim that behavioural change is an ongoing, dynamic process that requires a trusting and mutually respectful relationship between the therapist and patient. The emphasis is on problem-solving, the reinforcement of positive coping mechanisms, the development of new coping mechanisms, the use of positive language, self-regulation, and the encouragement of independent positive decision-making. Assessments of behaviour are ecological and attempt to account for all aspects of a person's life that may influence behaviour.

- » Case plans should achieve a good balance between structure and flexibility in order to adapt plans to the needs of offenders, which can change over time.
- > **Staff qualifications.** Historically, staff members may or may not have been required to hold a university degree, diploma or certification in a relevant discipline but they often possessed vast personal and/or practical experience that was relevant to the job. Conversely, today, a university degree, a diploma or certification is a standard requirement for all new hires (either undergraduate and/or post-graduate). Relevant fields include addictions, social work or social services, humanities, psychology, counselling, nursing, recovery, and teaching and facilitation. A minimum level of practical experience and regular accreditation may also be requirements.
- > **Staff training and knowledge.** According to staff, the level of hands-on training and supervision that new staff members receive varies substantially across jurisdictions. Orientation, training and mentoring is very structured in some jurisdictions; efforts are more ad hoc in others. Continuing education opportunities are often a function of resources.
- > Perceptions among staff members regarding their level of knowledge, particularly with regard to appropriate theories of behaviour, the validity and reliability of risk assessment instruments used, and the interpretation of results can vary across jurisdictions. Of interest, staff members generally agreed that the ability to properly score the instruments is paramount, particularly because the interpretation of scores can be subjective and based heavily on a clinician's judgment.
- > It is unclear whether and to what extent the knowledge of staff members regarding the use of risk assessment instruments is objectively measured at hiring or on an ongoing basis.
- > **Programs and services.** The onus is on offenders to call and register for remedial programs, and agencies that deliver them report that there is a portion of offenders who never enroll or complete the program in order to be eligible for re-licencing.
- > Jurisdictions generally offer two separate remedial impaired driver programs and both are typically developed with a research foundation that guides program content and structure. They are offered in multiple locations to best accommodate all residents of a jurisdiction. Programs for first offenders are approximately one-day in length whereas programs for repeat offenders are two days, are more intensive, and are delivered using several different strategies. A few jurisdictions also have other private programs that offenders may elect to enroll in as part of a plea agreement, to avoid jail, or in lieu of the provincial program.

- > Due to small numbers of participants, few jurisdictions offer gender or culturally-sensitive programs, or services for offenders with deficits in executive function.⁴ While most jurisdictions offer referral services and engage in the quality control of services, few of them provide follow-up services. There are also some barriers associated with the availability of services including: lack of transportation, inaccurate information about services, and cost.
- > **Participant characteristics.** Based upon focus group discussions with staff, program participants across Canada are perceived to share some common characteristics, including:
 - » a majority of offenders do complete the requisite program;
 - » offenders would not otherwise seek treatment services if not for their conviction;
 - » many are “embarrassed” (that they were caught);
 - » most delay participation in programs;
 - » offenders initially minimize their substance use; and,
 - » they engage in unlicensed driving to some extent.
- > Differences include:
 - » BAC levels ranging from low to high;
 - » a range of reported drinking behaviours with different diagnoses;
 - » different levels of involvement with drugs; and,
 - » different stages of change at the time of program entry.
- > Additionally, staff members perceive that there are growing numbers of participants from other jurisdictions in Canada, women and younger drivers. Some drivers may not become re-licensed for extended periods of time.
- > **Caseload and resources.** The number of participants served by remedial impaired driver programs varies from a few hundred offenders each year in smaller jurisdictions up to several thousand offenders in larger jurisdictions. In recent years, it appears that the number of participants has grown across jurisdictions and this is believed to be a function of changes in impaired driving laws and administrative penalties in particular. Programs targeted towards convicted impaired drivers exiting jail are generally much smaller. It is estimated that 70-85% of offenders who are mandated to participate do so.

⁴ According to the Encyclopedia of Mental Disorders, the term executive function “describes a set of cognitive abilities that control and regulate other abilities and behaviours. Executive functions are necessary for goal-directed behaviour. They include the ability to initiate and stop actions, to monitor and change behaviour as needed, and to plan future behaviour when faced with novel tasks and situations. Executive functions allow us to anticipate out-comes and adapt to changing situations. The ability to form concepts and think abstractly are often considered components of executive function”.

- > The number of programs delivered and locations where these programs are delivered vary according to jurisdictional size and the number of participants. Larger jurisdictions in Canada may offer programs in more than 30 locations; it may be ten locations or less in smaller jurisdictions. There are more first offender courses in more locations relative to fewer programs for repeat offenders in fewer locations. The average number of participants can range from 10 to 40 participants. Each program employs several clinicians and the number of courses delivered may vary across clinicians.
- > It is estimated that clinicians spend 20 to 30 hours with clients depending on their needs.
- > **Instruments and data collection.** The risk assessment instruments that are utilized by remedial impaired driver programs across Canada are selected according to available research evidence and the specific goals of the program. Due to the strengths and weaknesses associated with many available instruments, a majority of jurisdictions rely on several instruments during the assessment process to produce a more complete picture of an offender. In many jurisdictions staff members also rely on other sources of data or information to create the most complete picture of the offender.
- > Some of the most commonly used instruments include:
 - » ADS (Alcohol Dependence Scale);
 - » RIASI (Research Institute on Addiction Self Inventory);
 - » AUDIT (Alcohol Use Disorders Identification Test);
 - » IDTS (Inventory Drug-Taking Situations);
 - » DAST (Drug Abuse Screening Test);
 - » MAST (Michigan Alcoholism Screening Test);
 - » SASSI (Substance Abuse Subtle Screening Inventory); and,
 - » Lifestyle measures.
- > A key factor in the selection of instruments is cost due to limited resources. There is a strong desire to adopt instruments that have been rigorously evaluated on impaired drivers.
- > It is essential that clinicians are able to establish a strong rapport with clients as they are the main source of information for the assessment. In some jurisdictions staff may be able to combine self-reported information with some objective data.
- > One gap that has been noted by staff members is that instruments and data collection procedures often do not measure and/or account for such factors as cognitive deficits, psychiatric disorders, or literacy, and often do not account for

ethnicity or gender. The lack of follow-up with offenders post-program is also a recognized gap. This makes it difficult for clinicians to gauge their level of effectiveness.

- > **Assessment outcomes.** In most jurisdictions, assessment outcomes are used to assign offenders to appropriate services and develop a tailored treatment plan to address their specific needs. Offenders may play an active role in its development to encourage a higher level of commitment and ensure objectives are achievable.
- > There may be additional recommendations for offenders post-program that are forwarded to the appropriate licencing authority, as required, such as alcohol/drug counselling services, self-help groups, medical consultation, employment counselling or mental health services. However, remedial program agencies have no authority or mechanisms to follow-up with offenders and those who fail to complete requirements are not re-licenced.
- > A key limitation of the assessment process reported by staff members is that they are often unfamiliar with the outcomes associated with the assessments they conduct and recommendations that they make in each case. This makes it difficult for them to determine whether their assessment and recommendations reduced future offending or for agencies to evaluate their programs.
- > **Outcome measures of program.** Several process evaluation measures are collected by remedial program agencies. These measures provide an indication of how well the program operates and insight into opportunities to strengthen the program. Rigorous internal quality assurance protocols are also often used to improve program design and delivery.
- > Outcome measures of impaired driver remedial programs are equally important to gauge the extent to which the program is meeting its objectives. Some key outcome measures are often tracked such as change in participants' attitudes, participant exit surveys, and follow-up surveys completed several months after the program. A key limitation is that there are few objective measures of effectiveness pertaining to future behaviour.
- > A key barrier to measuring effectiveness through an outcome evaluation is the inability to access information about participants' subsequent driver licencing status and events such as arrests or loss of licensure for alcohol offences. This is often due to privacy legislation and protection of personal information, as well as a lack of data automation.
- > **Program strengths and limitations.** According to focus group participants, there is strong consensus regarding the strengths associated with impaired driver remedial programs and services in Canada, as well as some limitations.
- > Strengths exhibited by some programs include:

- » individualized approach and diversity of available services;
 - » well-designed, research-based programs and services;
 - » quality assurance protocols;
 - » well-trained clinicians and program staff;
 - » affiliation with research institute or university; and,
 - » communication with other agencies.
- > Limitations exhibited by some programs include:
- » quality of risk assessment instruments;
 - » access to information;
 - » availability of time;
 - » availability of resources;
 - » lack of transportation options;
 - » implementation of new legislation;
 - » inconsistent awareness among justice professionals; and,
 - » lack of tailored remedial programs for youth.

Justice System Results

- > This section contains the results gathered from the criminal justice participants in the focus groups and individual interviews that were conducted in six jurisdictions across Canada representing several regions of the country. It also contains the results of a survey of 65 justice practitioners representing prosecutors, probation officers and defence counsel in six jurisdictions.
- > **Agency goals.** Focus group discussions revealed deterrence is a main objective of the justice system. Among lawyers, the main objective is deterrence of future offending. In contrast, the goal of probation agencies is to reduce recidivism among impaired driving offenders and to help reintegrate offenders into the community; there is a stronger emphasis on the former than the latter as a result of resources. Nationally, survey results showed that 97% of justice professionals in the six jurisdictions reported that the primary objective of the justice system is to deter/ reduce recidivism.
- > **Agency approach.** Approaches to sentencing impaired drivers, according to the nature of the offence and the BAC level, were fairly consistent across jurisdictions, although the level of consistency generally declined as the severity of the offence increased.

- > National results revealed that:
 - » 51% of respondents in the six jurisdictions reported that the typical sentence for a first offence with a BAC below .15 was a fine of \$1,000-\$1,500 with a one-year driving prohibition;⁵
 - » 40% of respondents indicated a fine of \$1,200-\$1,800 and a one-year driving prohibition for a first offence with a BAC above .15; and,
 - » approximately one-third (34%) of respondents reported that the typical sentence given to a repeat offender was a fine, jail and probation.
- > According to interviews with experienced practitioners in northern communities, the favoured approach of courts and probation agencies is to incorporate community perspectives in dealing with an offender and responding appropriately, mainly by leveraging offenders' strengths through client-centred strategies. This approach requires more training for court and probation staff to establish working relationships with each community, to learn the dynamics of the community and to have the community understand the goals and requirements of the court process and agree to be involved.
- > **Staff qualifications.** Academic qualifications and experience vary across justice practitioners (e.g., prosecutors, defence counsel, judges and probation officers) and according to professional requirements. While all professionals who practice law require a law degree, their years of experience or knowledge of impaired driving is frequently limited. There is more turnover among prosecutors than defence counsel (Robertson et al. 2008).
- > A majority of respondents were unaware of the tools used to assess risk in their respective jurisdictions. The following results are based on a limited number of responses from those who were aware of risk assessment instruments:
 - » Nationally, 19% of respondents reported that they were unfamiliar with the validity/reliability of the risk assessment tools employed in their jurisdictions.
 - » Less than half (48%) of respondents reported that they did not know who conducts the risk assessment of these offenders.
- > According to justice practitioners who participated in focus groups, very few impaired drivers undergo risk assessment in the criminal justice system. This may be one explanation for these results.
- > **Staff training and knowledge.** Knowledge and training among attorneys about impaired drivers is generally inconsistent and often a function of the types of educational opportunities that are available. National survey results show that 51% of respondents in the six jurisdictions reported that they are unfamiliar with remedial impaired driver programs offered in their jurisdiction, meaning that many

⁵ The Criminal Code of Canada requires that first-time impaired drivers receive a one-year mandatory driving prohibition.

attorneys are unable to provide accurate information to their clients about program requirements.

- > **Services.** Generally speaking, the level of service for individual clients in the justice system varies depending on needs. In some jurisdictions, impaired driving cases account for 30-50% of trial time; in others, impaired driving caseloads are smaller and account for 15-30% of charges filed or criminal caseloads (Robertson et al. 2008).
- > A very small number of impaired drivers undergo a risk assessment. Nationally, 58% of respondents reported that they do not know how long it takes to complete an assessment.
- > When assessments are ordered, the Level of Service Inventory⁶ (LSI) instrument is used and the assessment is part of the pre-sentence investigation (PSI). It may be completed by a social worker, a treatment professional, or possibly a probation officer. Focus group participants estimated that only 5% of offenders are assessed; survey results showed that nationally, 71% of respondents estimated that 0-10% of their impaired driver cases involved a risk assessment.
- > Criminal Code penalties for impaired driving offences are consistent across provinces and territories if a BAC is over .08 (or there is a refusal to provide a breath or blood sample). However, penalties for driving while disqualified for impaired driving do vary across courts from a fine to jail time.
- > More than one-third (38%) of respondents in each jurisdiction reported that they disagree that there are enough sentencing options available to manage the different levels of risk posed by impaired drivers; another 33% or more in each jurisdiction agreed that there are enough sentencing options available. Clearly opinions on this issue were inconsistent.
- > Nationally, 83% of respondents reported that returning to court was the main action available for offenders who breached a driving prohibition order or probation order.
- > According to interviews with experienced practitioners, impaired driver programs and/or services in northern Canadian communities are non-existent and criminal justice services are limited. In addition, when services are available, many communities have distinct traditions, cultures, languages and social structures, making it essential that courts and probation staff members are knowledgeable about different cultures and community practices.

⁶ The foundation of the LSI or LSI-Revised instrument is entrenched in social and psychological theories that explain the propensity towards criminal behaviour. It is a quantitative survey of attributes of offenders and their situations relevant to level of supervision and treatment decisions. Designed for ages 16 and older, the LSI-R helps predict parole outcome, success in correctional halfway houses, institutional misconducts and recidivism. The LSI-R has ten domains including criminal history, education/employment, financial, family/marital, accommodation, leisure/recreation, companions, alcohol/drug problem, emotional/personal and attitudes/orientation. The LSI-R can be used by probation and parole officers and correctional workers at jails, detention facilities, and correctional halfway houses to assist in the allocation of resources, help make decisions about probation and placement, make appropriate security level classifications and assess treatment progress. Although the original LSI was designed for use with probationers and parolees (Andrews 1982) it has proven useful with other community corrections samples and within prisons, jails and half-way houses, and forensic mental health clinics and hospitals.

- > There is no remedial licencing program that must be completed for those criminally convicted in northern communities, and few first offenders receive a probation sentence. Most impaired drivers are subject to probation following a jail term of 30-60 days for a second or subsequent offence. These communities rely upon an integrated case management approach to supervise offenders, meaning probation services, social services, treatment and mental health services are coordinated.
- > **Participant characteristics.** Information about impaired drivers that is available to court professionals to inform decisions varies. Nationally, a majority of respondents identified the main sources of information about impaired drivers as criminal history (97%), the arrest report (83%) and offender history (70%). The survey also revealed that approximately 18% of respondents in the six jurisdictions estimated that 21-30% of impaired drivers failed to comply with driving prohibition orders and/or probation orders.
- > **Caseload and resources.** Nationally, approximately 52% of respondents in the six jurisdictions reported there are sufficient court resources available to adequately adjudicate impaired driving cases. However, when queried about whether there were sufficient court resources to support other programs or services to deal with impaired drivers (such as risk assessment, treatment, and community services), nationally, 40% of respondents reported there are insufficient resources available. Other national results include:
 - » Almost one-quarter (23%) of respondents agreed that there are sufficient community resources or external services to support, assist, and/or monitor impaired drivers that are separate from the criminal justice system or remedial impaired driver programs.
 - » With regard to the availability of monitoring resources, 52% of respondents reported that impaired drivers are not adequately monitored in their jurisdiction to ensure their compliance with driving prohibitions or probation orders.
 - » More than half of respondents (62%) nationally reported that they believe a larger percentage of offenders should undergo a risk assessment.
 - » There are a number of factors that can impede the volume of or quality of risk assessments for accused drivers/offenders. These include: a lack of resources (74%), available time (65%) and financial costs (63%).
- > **Instruments and data collection.** The most common assessment instrument that is used across jurisdictions is the LSI. Offenders are also assessed with regard to family history of substance abuse and coping strategies.
- > A minority of respondents was aware of the risk assessment instruments used in their jurisdictions, and even smaller proportions were aware if these instruments

account for important differences across offenders relating to gender, cognitive deficits, ethnicity, psychiatric disorders or level of education.

- > Approximately half (51%) of respondents nationally reported that they did not know what kinds of information are generally gathered about offenders to inform a risk assessment with approximately 40% identifying criminal history and self-reported information. In sum, important gaps were observed in relation to the knowledge among criminal justice professionals concerning the types of information used for risk assessment purposes.
- > **Assessment outcomes.** Within the criminal justice system, assessment outcomes are important and, when available, these outcomes are often utilized in sentencing. Almost half (48%) of respondents reported that it is important that assessment reports are available in relation to sentencing.
- > Nationally, a strong majority (89%) of respondents reported that criminal history is given the greatest weight to inform sentencing recommendations and/or sentencing.
- > When queried about the most useful factors to predict recidivism among impaired drivers, 92% of respondents nationally reported that drinking/drug history was the most useful factor, followed by criminal history (85%).
- > **System outcome measures.** Nationally, 51% of respondents reported that they are aware of measures used in their profession to assess the overall management of impaired driving cases in relation to the outcomes that are achieved.
- > **Program strengths and limitations.** Focus group participants reported consensus regarding a few strengths associated with the use of risk assessments for impaired drivers in the criminal justice system, as well as some limitations.
- > Strengths include:
 - » emphasis on leveraging offender strengths; and,
 - » level of accountability.
- > Limitations include:
 - » limited access to research;
 - » lack of risk assessment instruments specific to impaired drivers;
 - » limited resources;
 - » use of mandatory minimums;
 - » perceptions about drunk drivers;
 - » communication across agencies;
 - » awareness of outcomes; and,

- » lack of youth-oriented programs and services.

Recommendations

- > Several recommendations to improve the risk assessment and management of impaired drivers in relation to remedial impaired driver programs and services in the driver licencing system, and the justice system emerged from focus group participants and survey responses.
- > Recommendations for remedial programs and services:
 - » Improve quality of risk assessment instruments that are utilized.
 - » Increase training for staff.
 - » Increase emphasis on prevention activities.
 - » Encourage the use of best practices.
 - » Strengthen program measures.
 - » Provide transportation options.
 - » Increase communication and information-sharing.
 - » Explore the need for tailored programs and services for younger participants.
- > Recommendations for the justice system:
 - » Consistent use of alcohol interlock devices.
 - » Target unlicensed drivers.
 - » Create affordable options for offenders.
 - » Increase communication and information-sharing.

Conclusions

- > It is unmistakable that the criminal justice and driver licencing systems employ the measurement of risk and apply risk assessment instruments using very different strategies and for different purposes. It is important to recognize these clear distinctions to ensure that these strategies are not only complementary but synergistic. Such distinctions are paramount to help shape the development of effective policies, processes and legislation designed to protect the public from these offenders in the short- and long-term.
- > Principle barriers to knowledge transfer of research regarding risk and risk assessment include: the lack of time, the lack of resources, the lack of access to publications, journals and academics themselves, and the heavy caseloads that define the environment that criminal justice and driver licencing practitioners encounter on a daily basis.

- > More widely available research would help increase understanding of risk in relation to impaired drivers and inform approaches to the use of these instruments. This is an essential priority in light of the sheer number of impaired drivers that are processed in each system annually and the profound economic and social costs of this issue.
- > Increased recognition among government officials of the value of risk assessments to inform the streaming of offenders into different interventions in both systems is also a critical need. Shrinking economies, reduced staff, and increasing pressures to provide the same, or higher, levels of service demand that agencies and jurisdictions make their best efforts to reduce recidivism (criminal recidivism and relapses to drinking and substance misuse). The pursuit of formal outcome evaluations, particularly of remedial impaired driver programs should be actively encouraged and strongly supported.
- > The importance of risk assessment cannot be underscored enough in light of recent trends towards escalating sanctions for low BAC drivers who are more often mandated to participate in remedial programs originally designed for criminal offenders. Evidence in the criminal justice literature suggests that applying intensive interventions to offenders who pose a lower risk of recidivating not only wastes resources, but can also have an undesirable effect – an increase in their likelihood of recidivism (Andrews et al. 1990; Lowenkamp and Latessa 2002; Lowenkamp et al. 2006). While this research is not specific to an impaired driver population, the findings certainly speak to the importance of proper risk classification and the potential dangers associated with mixing offenders with different levels of risk.

Notes

Notes



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