



KEY QUESTIONS THAT HELP MOTIVATE DWI PROBATIONERS



Traffic Injury Research Foundation, *October 2018*

Introduction

Motivating individuals charged with or convicted of a driving while impaired (DWI) offense to adopt attitudes and behaviors that discourage repeat offending in terms of DWI, criminal or other driving offenses is a primary mission of the criminal justice system. To effectively encourage the acceptance and development of pro-social attitudes and behaviors there are strategic questions probation professionals can ask themselves related to a style and approach to supervising individuals who enter the criminal justice system due to a DWI arrest or conviction. These inquiries fall into the following categories: assessments, working relationships and motivational interviewing; and, behavioral interventions based on reasonable, fair-minded sanctions and meaningful incentives.

Assessments

Assessments are the first step in motivating probationers to change the way they think or behave in the world around them.

It is nearly impossible to motivate someone to comply with court-ordered conditions or initiate change in the way they think about or behave in the world around them if there is no consensus on what needs to change. A thorough assessment helps pinpoint primary areas that are barriers and/or supports for strategies to help individuals avoid offending. There are a variety of screening and assessment tools that help gauge individual recidivism risk, influencers of criminal attitudes and behaviors, substance abuse or dependency, and mental health issues as well as one's resiliency and pro-social supports. Variability exists across instruments and assessment procedures, but these tools perform a critical role in helping to develop case plans informed by individual circumstances. Assessment is, therefore, the first step. Questions to ask prior to implementing any assessment process are:

- > What is the outcome that is sought?
 - > Does information from the assessment process provide important insights to develop strategies to attain the desired outcome(s)?
1. The abbreviation DWI (driving while intoxicated or impaired) is used throughout this report as a convenient descriptive label, even though some states use other terms such as OUI (operating under the influence) or DUI (driving under the influence), and in some states, they refer to different levels of severity of the offense. We have used DWI not only to maintain consistency throughout the report but also because it is more descriptive of the offense usually associated with drunk drivers.

- > Has a thorough criminal and driving history background check been completed?
- > Has the assessment tool been validated for the population (i.e., DWI) it is being used to evaluate? For example, does it take into consideration such factors like culture, gender, crime, substance abuse, mental health, past trauma and social supports.
- > Are there adequate resources to complete the assessment process and address the risks and needs? Are there trained or certified professionals that can conduct the assessment? Is the cost reasonable / affordable and who is financially responsible for the assessment?
- > Can the information derived from the assessment(s) be used to manage risk and encourage rehabilitation?
- > Have you shared and discussed the results of the assessment(s) with the probationer?
- > Are re-assessments scheduled to determine risk of re-offending in the coming months?

Working Relationships & Motivational Interviewing

A primary function of probation officers (PO) is to propel and foster pro-social attitudes and behaviors of those they supervise. There are two primary public safety and recidivism reduction purposes of probation: short-term management of criminal behavior and long-term behavior modification (Paparozzi and Hinzman 2005). Therefore, successful probation supervision consists of case management strategies that combine a balance of enforcement and social / casework activities (Paparozzi and DeMichele 2008). This dichotomy is well-recognized in the profession, but the orientation extremes of officers to either objective may create a philosophical and practical tension within and between agencies.

Nevertheless, POs that effectively balance these two roles do not indulge anti-social attitudes or behaviors nor do they come across as authoritative or heavy-handed. A balanced approach paired with evidence-based programs and principles can significantly increase positive outcomes. The enforcement role is relatively technical and consists of monitoring

compliance with court-ordered conditions among probationers. Providing an impetus for attitude and behavior change is not as easy and requires skillful approaches and an appreciation for the unique circumstances of and respect for probationers.



A working relationship is how probation officers and probationers connect, behave, and engage with each other. It is one of the main ingredients to initiating positive change in the lives of probationers. It is the respect and understanding between a PO and probationer that allows them to work together effectively. It is the means by which they can positively engage with each other, and effect beneficial change in probationers. If they develop trust in the probation officer, they are more likely to be genuine and more open to learning new pro-social behaviors and thinking patterns.

A working relationship between probation officers and probationers can be initiated and nurtured with motivational interviewing (MI) techniques. MI is a communication style requiring considerable training and practice that helps probationers resolve ambivalent feelings and insecurities to find the internal motivation they need to change behaviors. It is a practical and empathetic process that takes into consideration how difficult it is to make life changes. This technique helps probationers become motivated to change the behaviors that prevent them from making pro-social and healthier choices. It can also prime individuals for further, more specific types of therapies. Motivational interviewing works well with individuals that are unmotivated or unprepared for change as well as those that are angry or hostile. MI consists of five general principles:

2. As used here, empathy means the ability to understand and share the feelings of another and sympathy means feelings of pity and sorrow for someone's misfortune.
3. Seeking to understand a speaker's idea, then offering the idea back to the speaker, to confirm the idea has been understood correctly.

1. Express empathy not sympathy² through reflective listening³.
2. Identify discrepancies between the goals and values of probationers and current behavior.
3. Avoid argument and direct confrontation.
4. Adjust to probationer resistance rather than opposing it directly.
5. Work with the intrinsic motivations and values that the probationer possesses.

Questions probation officers should ask themselves to determine whether their relationship with probationers is conducive to motivating positive change include:

- > Do you respect the probationer?
- > Are you maintaining a balance between fair-minded enforcer of conditions of supervision and a promoter of change?
- > Are you genuinely engaged in the working relationship?
- > Do you recognize, appreciate and acknowledge the probationer's unique past and current circumstances?
- > Do you clearly convey these attitudes and understandings?
- > Do you employ reflective listening?
- > Are you able to recognize and convey the disparity between the behaviors that got the probationer in trouble and desired goals?
- > Can you identify the underlying motivations and values of the probationer?

Behavioral Interventions

Enforcing and reinforcing conditions of supervision are essential elements of effective behavioral interventions. Motivating probationers to comply with and complete sentencing conditions is a daily challenge for probation officers. Responding to probationer compliance and non-compliance may be viewed simply as the application of operant conditioning or the employment of positive and negative reinforcers.

- > **Positive reinforcement** involves the addition of a supporting stimulus following a behavior that makes it more likely that the behavior will

occur again in the future. When a favorable outcome, event, or reward occurs after an action that particular response or behavior will be strengthened.

- > **Negative reinforcement** is not punishment. Negative reinforcement involves the removal of an undesirable condition to strengthen a behavior. Negative reinforcement is when a response or behavior is strengthened by stopping, removing, or avoiding a negative outcome or aversive stimulus (e.g., drug tests, community service work, early release).
- > **Punishment**, on the other hand, involves either presenting or taking away a stimulus to weaken a behavior (e.g., time in jail, reducing free time).



Probationers appear to respond better and maintain pro-social behaviors for longer periods of time when learning new skills and making behavioral changes if they are approached with carrots rather than sticks. Behavioral scientists recommend applying a much higher ratio of incentives / encouragements to penalties / chastisements to better achieve sustained behavioral change. Research indicates that a ratio of four rewards / praises to every one punishment/ reprimand is optimal for promoting behavior changes. These incentives / reinforcements do not have to be applied consistently to be effective (as does punishment) but can be applied randomly. Therefore, it is important to ascertain what unique responses would motivate attitude and behavior change for each individual (see above "Working relationship and motivational interviewing").

Of importance, it should not be assumed that what is perceived to be punishing or rewarding for one probationer is equally punishing or rewarding for another. A common misconception in the criminal justice system is that what is considered punishing or rewarding for justice practitioners is equally punishing or rewarding for those being processed through the system. The National Drug Court Resource Center has published lists of incentives and

sanctions in increasing magnitude at <https://ndcrc.org/content/list-incentives-and-sanctions/>. The list is not intended to be exhaustive, but it does provide a good starting point for developing responses.

Probationers that have problems with responsible self-regulation of behavior are more likely to respond constructively to reasonable and reliable additional structure and boundaries. They may initially overreact to requirements for accountability, try to evade detection or consequences, and fail to recognize any personal responsibility. However, with exposure to clear rules that are consistently (and swiftly) enforced with appropriate and fairly-applied consequences, probationers tend to comply in the direction of the most rewards and least punishments. This type of extrinsic motivation can often be useful for beginning the process of behavior change. (Gendreau & Goggin 1995; Meyers & Smith 1995; Higgins & Silverman 1999; Azrin 1980; Bandura et al. 1963; Bandura 1996).

However, increasing incentives should not be done at the expense of or undermine the administration of swift, certain, and fair-minded responses for negative and unacceptable behavior. Behavioral science suggests that responses by the justice system to violations or accomplishments must be prompt or timely to have the greatest impact on behaviors.

Responses to negative behaviors should be anticipated, understood and timely to have the greatest impact.

These responses should also be transparent, anticipated and understood (certainty principle) by probationers to achieve ideal outcomes. Every violation and accomplishment must be met with an anticipated result. This eliminates perceptions among probationers that some violations have been excused or ignored, or achievements are not significant enough to be recognized. This knowledge is an integral foundation to guide the development of case plans with probationers. In addition to swiftness and certainty, responses should be proportionate to the infraction committed or goal accomplished by probationers in the form of a graduated approach to improve the perception that responses are reasonable, just and deserved (Hawken & Kleinman 2009; Kilmer et al. 2013; O'Connell et al. 2013). The implementation of swift, certain and proportionate responses to

reinforce or sanction behavior can be accomplished administratively by probation officers or judges, depending on state practices.

Questions to ask include:

- > What are the attitudes and behaviors that are to be changed?
- > Is it known what the probationer would consider punishing or rewarding?
- > What are some meaningful incentives and encouragements that can be employed to positively reinforce pro-social attitudes and behaviors?
- > Have responses to compliance and non-compliance been created with probationers during the case plan goal development process ensuring all are aware of what to expect?
- > Are responses to compliance and non-compliance tiered in relation to the importance of each behavior?
- > Is a ratio of four incentives / praise to one punishment / reprimand being utilized?
- > Is a response to compliance or non-compliance implemented swiftly?
- > What are some of the legally available incentives and sanctions (e.g., reduction of sentence or conditions, brief jail stays)?

Conclusions



Motivating individuals on probation for a DWI to change problem behaviors and anti-social thinking as well as reducing recidivism is a challenging endeavor that is a primary objective for probation officers. Affirmatively answering the posed questions provide a means to that end. The importance of utilizing appropriate assessments, developing an effective working relationship and

implementing behavioral interventions cannot be over-stated. All three activities properly applied are considered evidence-based practices that are supported by research. Individually these activities are important strategies to employ. However, for the best outcome, a comprehensive approach that uses all three activities concurrently is much more likely to produce greater compliance with conditions of probation and ultimately, reduce recidivism.

Appropriate assessment, effective working relationships, and behavioral interventions are important strategies probation officers can employ to motivate probationers to change problem behaviors.

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About the Working Group

The Working Group on DWI System Improvements is a prestigious coalition of senior members of organizations representing frontline professionals in all segments of the criminal impaired driving system (law enforcement, prosecution, judiciary, supervision, and treatment). This coalition was formed in 2003 to advance the recommendations stemming from the DWI System Improvements report series, previously funded by Anheuser Busch. During its 14-year tenure, this distinguished consortium has shaped the focus on and development of impaired driving initiatives in the United States with its unique perspective on knowledge transfer of critical research findings, as well as the translation of legislation, policies, and programs into operational practices. The Working Group is a recognized source of institutional knowledge and expertise that has become a valuable resource to practitioners, agency administrators, and policymakers across the country. The efforts of the Working Group on DWI System Improvements have served to identify critical system needs, to make needed educational materials available, to articulate the complex issues associated with program and policy implementation embedded within broader systems, to give voice to the concerns of practitioners in the impaired driving system and to identify achievable solutions.

Since 2004, the Working Group has met annually to produce much-needed educational primers, policy documents and guides for justice professionals to help strengthen the efficiency and effectiveness of the impaired driving system for dealing with persistent impaired driving offenders. These documents can be accessed at www.dwiwg.tirf.ca.

- > 2004 – Working Group on DWI System Improvements: Proceedings of the Inaugural Meeting
- > 2006 – A Criminal Justice Perspective on Ignition Interlocks 10 Steps to a Strategic Review of the DWI System: A Guidebook for Policymakers
- > 2007 – Screening, Assessment, and Treatment: A Primer for Criminal Justice Practitioners Improving Communication and Cooperation
- > 2008 – Impaired Driving Priorities: A Criminal Justice Perspective

- > 2009 – Impaired Driving Data: A Key to Solving the Problem Funding Impaired Driving Initiatives Understanding Drunk Driving
- > 2010 – Effective Strategies to Reduce Drunk Driving
- > 2011 – Performance Measures in the DWI System
- > 2012 – Impaired Driving in Rural Jurisdictions: Problems and Solutions
- > 2013 – DWI Dashboard Report: A Tool to Monitor Impaired Driving Progress
- > 2014 – DWI Dashboard Strategic Guide: Addressing Gaps in the DWI System
- > 2015 – Post-Conviction Services for DWI Offenders: Building Community Partnerships

Traffic Injury Research Foundation

The mission of the Traffic Injury Research Foundation (TIRF) is to reduce traffic-related deaths and injuries. TIRF is a national, independent, charitable road safety institute. Since its inception in 1964, TIRF has become internationally recognized for its accomplishments in a wide range of subject areas related to identifying the causes of road crashes and developing programs and policies to address them effectively.

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ISBN: 978-1-988945-71-2



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This initiative was made possible by a charitable contribution from Anheuser-Busch.