



The Working Group

on DWI System Improvements

dwiwg.tirf.ca

First Offenders

The education resources of the Working Group on DWI System Improvements are produced by the **Traffic Injury Research Foundation** with funding from **Anheuser-Busch**. The Working Group on DWI System Improvements is a prestigious coalition of senior leaders of organisations representing frontline professionals in all segments of the criminal DWI system (law enforcement, prosecution, judiciary, supervision, and treatment).

What are common experiences of first-time DWI offenders in the justice system?

- First-time DWI offenders often have limited understanding of criminal justice policies and procedures which may be gleaned from fictional depictions in books, on television, or in movies. The reality is that from the time they are confronted by law enforcement and suspected of driving while impaired, DWI offenders withstand a series of never-before experiences and processes which they may find difficult to understand. Each step in the process can create anxiety.
- For many first-time offenders, being charged with a DWI offense is often their first encounter with the criminal justice process. It can be challenging for them to navigate the criminal justice process which may seem overwhelming, disjointed, and confusing. The legal processes can be confusing and lengthy with legal terminology that is difficult to understand. Common concerns include:
 - What is going to happen next?
 - Am I going to jail?
 - Do I need an attorney?
 - What will my family/boss/friends think?

It can be challenging for first-time offenders to navigate the criminal justice process which may seem overwhelming, disjointed, and confusing.



- What are the financial ramifications?
- What do I do now?
- First-time DWI offenders may be ordered to pay a variety of fines and fees that may or may not have obvious relevance to their DWI offense. This often involves wide-ranging encounters with numerous staff and agencies throughout the many stages of the system.
- First-time DWI offenders must deal with predicaments they have not previously experienced, as well as make decisions they had not contemplated. Many of these decisions are associated with substantial and serious personal and financial ramifications. Thus, simply enduring the costs and experiences of going through the criminal justice process and its corresponding consequences is enough to successfully deter future impaired driving by most first-time DWI offenders.
- Nevertheless, justice systems should have in place appropriate procedures and assessments to help identify those first-time offenders who are at risk of committing future DWI offenses. Effective assessment results are an important component of the criminal justice system response to first DWI offenders, since all persistent DWI offenders were once first-time offenders.

What are the consequences of over-sanctioning first-time offenders according to research?

- Some jurisdictions believe harsh penalties for first DWI offenders effectively deter them from ever considering driving after drinking in the future. However, research clearly shows piling on financial penalties and supervision conditions for this population may unnecessarily disrupt prosocial activities and relationships that lead to positive outcomes. Over-sanctioning can also create a

Harsh penalties for first DWI offenders can have an adverse impact on recidivism, meaning these individuals are more likely to continue to offend.

hopelessness one can ever get out from under the consequences of their actions. Thus, the result is an adverse impact on recidivism, meaning these individuals are more likely to continue to offend (Gendreau 1995; Andrews & Bonta 1998; McGuire 2001, 2002).

- Furthermore, a prosecutorial policy that encourages over-sanctioning true first DWI offenders can lead to more trials and fewer convictions. Policymakers must realize that the DWI defense bar will often calculate the cost-benefit ratio of pleading to the standard first offense versus a not guilty plea and a trial. If the standard plea has overly harsh results then a trial (particularly a jury tried case) may be considered the better option.
- Consider, that the prosecutor already has a high burden of proof and DWI cases require extra care given the legal/scientific requirements of proving impairment. Trials are dynamic events. Mistakes can happen, witnesses can forget, paperwork can go missing and defense attorneys can minutely cross-examine prosecution witnesses. Even impaired defendants can be acquitted as a result. There is no treatment nor judicially ordered follow-up for an acquitted defendant. So, an overly harsh prosecution policy can have a negative community impact.



What are some of the general characteristics of first offense DWI defendants from public defenders' experiences?

First offense DWI defendants:

- a. Are more likely to be guilty of bad judgment and will not re-offend after experiencing the criminal justice process.
- b. Are young drivers with a high-BAC due to binge drinking.
- c. Believe they are not criminals, and "it was only a DWI."
- d. Have unrealistic expectations as to likely outcomes and wish to minimize the consequences of their actions with a pre-trial disposition such as diversion with no record of a conviction.
- e. Do not understand the process or know what to expect.
- f. Have a great deal of anxiety related to not knowing what comes next and have a palpable fear of court and jail.
- g. Do not understand what breath or blood evidentiary results mean or that there may be mandatory minimum penalties.
- h. Want to know when they can drive and get their license reinstated.
- i. Often assume once the license revocation period expires, they can drive legally.
- j. Are often unaware that "completion" of their sentence may require payment of all fines and fees or other steps to license reinstatement.

DWI offenders are more likely to be guilty of bad judgment and will not re-offend after experiencing the criminal justice process.



What educational materials does The Working Group on DWI System Improvements provide?

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, and to give voice to the concerns of practitioners in the DWI system and identify achievable solutions. The Working Group provides educational primers, policy documents, and guides for DWI system professionals to help strengthen the efficiency and effectiveness of the DWI system.

Key topics discussed on this site include:

- Impaired drivers;
- Impaired driving programs and policies;
- Strategies to improve the DWI System;
- DWI Dashboard; and,
- other special topics.

Each of these topics contains a series of fact sheets structured in a question and answer format which are available for free download and sharing (with attribution). These resources are designed to support the training efforts for agencies that work within the DWI system.

To view more fact sheets, or to get more information about alcohol, its effects on driving skills, and impaired driving, visit dwiwg.tirf.ca.



Acknowledgements

Production of this fact sheet was made possible through the sponsorship of Anheuser-Busch.



ANHEUSER-BUSCH

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 research 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.

Email: tirf@tirf.ca Website: tirf.ca
ISBN: 978-1-989766-64-4

© Traffic Injury Research Foundation 2020
Registered Charity No. 10813 5641 RR0001