



The Working Group

on DWI System Improvements

dwiwg.tirf.ca

Special Topics

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).

Perspectives of Public Defenders Navigating the DWI System

What are common issues experienced by public defenders in defending DWI defendants?

- Lack of uniformity across jurisdictions. Offenses that occur in one jurisdiction may be handled differently and have different outcomes than offenses occurring in another jurisdiction.
- Barriers to establishing rapport with defendants who may not view public defenders as qualified or legitimate attorneys.
- Often, the first-time public defenders meet with a defendant is after arraignment and less than 30 minutes before trial. Defendants are rarely prepared to participate effectively in their own defense due to limited understanding of criminal justice process, the relevant facts of the case, or the evidence to be presented.
- Defendants often assume all court entities share information that defendants or other government staff/agencies provided. Public defenders often require this information as part of court preparation, but defendants may not know it is needed or are unable to provide it.
- High turnover among public defenders. Most public defenders handling DWI defendants have limited experience with criminal defense generally, and DWI defense work specifically. Public defenders interact with defendants at various stages of the court process. The public defender assigned at each stage may change throughout the process.



- Public defenders feel unprepared for DWI cases because of limited educational opportunities that: identify and explain the characteristics of DWI defendants, teach the science of breath alcohol testing and technical evidentiary issues, or expound on evidence-based countermeasures.

Why is it important to understand the experiences of public defenders who represent impaired drivers with the criminal justice system?

The Sixth Amendment of the U.S. Constitution guarantees a person's right to counsel. However, there is a disparity in the quality of representation defendants can access often based on one's ability to pay. It is necessary to better understand the similarities and differences in experiences of private and public defense attorneys, as well as the perceptions and experiences of individuals tasked with representing low-income defendants who are eligible for a public defender.

Screening, Assessment, & Treatment

What is screening, assessment, and treatment?

Screening

- Screening is the application of a test to or investigation of members of a population to estimate the probability of their having a specific disorder. Screening is designed to identify who can be excluded from a more detailed examination for the presence of substance abuse issues, and who needs to be included for further examination or assessment. The process is conducted with DWI offenders to establish whether they have an alcohol use disorder (AUD) and/or a drug use disorder that may require some form of substance abuse treatment intervention.

Screening is conducted with DWI offenders to establish whether they have an alcohol use disorder (AUD) and/or a drug use disorder that may require some form of substance abuse treatment intervention.

- Traditionally, the screening process has involved the formal administration and scoring of a test/instrument. Increasingly, however, screening is also based on less formal methods and data collected from case files to more easily gain vital information about a defendant's/offender's substance use, abuse, or lack thereof. Use of actuarial-based tests almost always out-perform intuitive judgment when it comes to screening and assessment.

Assessment

- Assessment is a process for defining the nature and severity of a problem(s) and developing specific treatment recommendations and level of care for addressing the problem.
- Assessments are designed to:
 - determine the extent and severity of substance abuse problems;
 - determine the level of maturation and readiness for treatment;
 - ascertain related (co-morbid) problems, such as mental illness;
 - determine the type of intervention necessary to address the problems;



- evaluate the resources that can be assembled to help solve the problem(s), (i.e., family support, social support, educational and vocational attainment, and personal qualities such as motivation); and,
- engage the client in the proposed treatment process (SAMHSA 2005).
- Other factors specific to DWI offenders to consider during assessment include:
 - alcohol-related problems (including frequent and heavy consumption);
 - driving-related problems (prior moving convictions, collisions, license suspensions, reckless driving convictions);
 - criminal history;
 - high BAC at time of arrest;
 - refusal to provide a breath or blood sample;
 - prior DWI convictions (beyond a five-year window);
 - arrest during daytime hours;
 - marital status;
 - frequent job changes; and,
 - socially deviant personality traits (high levels of aggression, hostility, recklessness, thrill seeking).
- Assessments may also identify factors leading to potential gaps in services that can affect an offender's relapse and criminal recidivism. These factors include:
 - lack of social support networks;
 - unstable employment history;
 - poor health;
 - criminality;
 - unresolved legal problems;
 - inadequate housing;
 - lack of motivation to change; and,
 - a history of physical and sexual abuse, mental illness, learning disabilities, and other socio-psychological and criminogenic factors.
 - These variables are of major significance in suggesting the intensity and nature of the intervention needed (Allen 2003).

Treatment

- The purpose of treatment for DWI offenders is to help alleviate identified problems with substance abuse that they may have or be at risk of developing. Treatment is designed to lessen and prevent negative consequences of substance abuse (e.g., DWI) and, also to support the offender during times of relapse, and to get them *back on track*.



- Depending on the offender's screening and assessment results, substance abuse treatment may involve different techniques which may be but are not limited to:
 - **Brief interventions.** These range from providing advice to individuals to cut down on or quit drinking, to agreement on goals and objectives, to brief screening and feedback, motivational interventions, and contingency contracting. One simple form of brief intervention is sharing screening results.
 - **Detoxification.** A period of medical treatment, usually including counseling, during which a person is helped to overcome physical and psychological dependence on alcohol. The immediate objectives of alcohol detoxification are to help the patient achieve a substance-free state, relieve the immediate symptoms of alcohol withdrawal, treat any co-morbid medical or psychiatric conditions, and help prepare the patient for entry into long-term treatment or rehabilitation.
 - **Motivational interviewing or motivational enhancement therapy.** Motivational treatment approaches are one-on-one patient-centered, non-confrontational counseling sessions, which are may be used in at least three different stages of an offender's processing. First, they may be used to share screening or assessment information that is patient-centered and encourages the offender to create a plan of action which can range from reducing their drinking to seeking substance abuse treatment. Second, they may be beneficial to offenders who have been assessed as being unready to receive treatment. In such cases, the focus will be on facilitating an offender's readiness for self-change or motivation to treatment, to encourage the offender to accept their problem(s) through engagement. This should help offenders to understand the benefits of treatment for the problem, and then to access the services necessary to overcome it. Third, it is used throughout the supervision process to provide critical feedback to reinforce progress by helping offenders learn to *analyze* their own attitudes and behavior and determine how they can advance their behavioral change.
 - **Cognitive behavioral therapy (CBT).** CBT encompasses a wide range of psychotherapeutic approaches that deal with cognitions and beliefs to reduce problematic behaviors. Some of the approaches include cognitive therapy, rational emotive behavior therapy, reality therapy and multimodal therapy. All share the objective of identifying thoughts, assumptions, beliefs and behaviors that are related to negative emotions and underlying dysfunctional problems (e.g., drinking problems) and replacing these with more realistic and functional attitudes and behaviors.
 - **Group counseling.** This is abstinence-oriented counseling (intensive out-patient and traditional out-patient).
 - **Multi-program agencies vs. DWI-only agencies.** DWI offenders are not a homogeneous group and can present a range of potential problems with varying degrees of severity. Multi-program agencies are more likely than DUI/DWI-only agencies to offer comprehensive substance abuse assessment, comprehensive mental health assessment, individual therapy, and family counseling. Multi-program agencies were also more likely than DWI-only agencies to offer various service coordination and post-treatment services such as: case management; aftercare counseling; relapse prevention groups; discharge planning; and assistance obtaining social services.
 - **Pharmacological intervention.** It is generally agreed that greater use of pharmacological interventions could enhance treatment progress since it stabilizes the patient and creates a facilitating environment. This approach helps patients reduce drinking, avoid relapse to heavy drinking, achieve and maintain abstinence, or gain a combination of these effects.



- Treatment can be delivered under different models (i.e., harm reduction, behavioral model, gender or culturally specific). Treatment can take place within three main types of care: out-patient, non-hospital residential, and hospital in-patient.
- Treatment can be court-ordered, or a person may enter treatment voluntarily. However, many *voluntary* clients enter treatment under coercion from external pressures (e.g., from family, peers, courts and employers). Generally, coerced treatment has not proven to be detrimental to successful treatment.

Why is screening, assessment and treatment important to reduce DWI recidivism?

Research has consistently demonstrated that a significant percentage of DWI offenders is known to be alcohol dependent or to have issues related to alcohol abuse (Baker et al. 2002; Maruschak 1999; Yao, Voas, & Lacey 2018). So, an efficient and effective method is needed to determine the nature and extent of such problems, with referral to effective treatment available for those who need it. Without adequate information to guide decision-making in impaired driving cases, authorities rely solely upon traditional and popular short-term solutions, such as incarceration and the enforcement of probation supervision to address impaired driving. Treatment is a key component in the array of countermeasures needed to deal effectively with convicted impaired drivers. It is estimated that some 44% of the jail population have mental health disorders (Bronson & Berzofsky 2017). Furthermore, 60% of people on probation have alcohol or drug problems (Brooker et al. 2012). Significantly, impaired driving offenders account for almost 14% of the

Screening is an efficient and effective method to determine if DWI offenders are alcohol dependent or have issues related to alcohol abuse.

probation population (NSAC 2018). These statistics underscore the fact that approaches to impaired driving that do not address alcohol and other related problems will be limited in their effectiveness.

What are some of the implementation issues and barriers challenging those trying to effectively use screening, assessment, and treatment interventions?

- The level of resources allocated towards screening, assessment and treatment in a jurisdiction can limit the number of DWI offenders who can be properly diagnosed and treated. Challenges in this area include: the cost of screening and/or assessment, the quality of available screening instruments, the availability of staff to screen or professionals to assess offenders, the availability of treatment interventions, and the lack of aftercare following treatment.
- The quality and quantity of research (e.g. methodological weaknesses, unvalidated screening and assessment instruments, lack of treatment matching) relating to the screening, assessment and treatment of DWI offenders is insufficient and/or inaccessible to allow practitioners to:
 - identify and select reliable and accurate instruments that can identify and diagnose offenders with substance abuse issues;
 - ascertain which interventions or strategies are most appropriate to apply to this group; and,
 - select appropriate measures of effectiveness by which to evaluate success.
- There are also common myths, misconceptions or concerns related to screening, assessment and treatment which discourage justice practitioners from routinely applying these strategies as part of effective sentencing practices. Examples of such myths include:



- Screening is too time-consuming and human-resource intensive.
- Screening, assessment or treatment is too expensive.
- Coercive treatment is ineffective.
- Self-help programs qualify as treatment.
- Treatment is *soft on crime*.
- Offenders participate in treatment to avoid tougher sanctions.
- The use of medications to treat substance abuse is not appropriate.
- The *one-size-fits-all* approach to treatment is okay.
- There is a lack of support for treatment options in rural communities.
- Legislation pertaining to health and privacy may impede the effective delivery of treatment.
- Implementation and delivery of screening, assessment, and treatment protocols are inconsistent within and across jurisdictions.

How can implementation issues and barriers be overcome?

- Good research is critical to guide decision-making. There is a substantial need for more definitive and dependable research relating to the screening, assessment and treatment of DWI offenders. Such research would provide the basis for developing sound processing and sentencing strategies and guide the early identification of offenders in need of these forms of interventions.
- Education and cross-professional training opportunities are needed to assist practitioners to understand evidence-based, promising practices as they relate to screening, assessment and treatment of DWI offenders.
- Resource allocation should be considered a function of community decision-making among local justice professionals, who have the empirical knowledge of effective interventions and the best understanding of how their system works. These practitioners are well-suited to identify the impact impaired driving is having on their local communities and budgets beyond the justice system.
- DWI systems need to focus on providing comprehensive services. Research has consistently shown that combinations of interventions have better outcomes than single interventions.
- Simple strategies are important to consistently identify offenders in need of screening, assessment and treatment for alcohol abuse and related issues. Agencies should be encouraged, at a minimum, to use informal methods at every phase of the system and formal methods where appropriate and practicable.
- Decision-makers should ensure the use of streamlined and effective strategies to apply screening, assessment and treatment. This provides more and comprehensive information to improve decision-making throughout the processing of offenders, reducing recidivism and changing offending behavior. Such practices should also require limited time and be easily applied to facilitate an increase in screening, assessment and treatment.



- Facilitate information-sharing across agencies (e.g., courts, probation, treatment, service providers) to increase accountability among offenders and ensure interventions are effectively and appropriately applied. Increased information-sharing can reduce opportunities for offenders to fail to appear or *opt-out* of programs, while increasing the level of monitoring, which has been shown to improve treatment outcomes.

What system-wide strategies and treatment approaches have been shown to yield positive results?

System-wide strategies

- **High-visibility enforcement** or targeted enforcement efforts.
- **Traffic safety resource prosecutors (TSRPs).** TSRPs are usually grant-funded and provide guidance, support and training statewide to prosecutors in relation to impaired driving cases.
- **Increase all system staff training, support, and resources.** To improve the way strategies, programs and interventions are implemented and delivered, practitioners need up-to-date and research-supported information regarding guiding principles and the necessary skills. Training and educational opportunities should be delivered through a variety of sources, materials, and delivery strategies. Training and education in relation to the following topics can improve implementation of DWI responses:
 - DWI detection tactics;
 - uniform DWI training and certification;
 - pre-sentence report writing;
 - impaired driving prevention and intervention technologies; and,
 - strategic sanctions and interventions.
- **DWI courts.** Specialized courts provide accountability, supervision and treatment for impaired driving offenders. System practitioners should receive education on DWI court policies and practices. **Understanding the Ten Guiding Principles of DWI Courts created by the National Center of DWI Courts** can assist in the implementation of an effective court.
- **Multi-agency task forces.** Information-sharing and communication regarding experiences between practitioners can occur within a task force and help refine effective practices, allocate resources, and streamline strategies and programs. Training initiatives reaching across various professions and including diverse practitioners can better inform them about the implications their decisions can have on other segments of the system. The benefit of cross-professional training opportunities is viewed as a strategy to encourage collaborative approaches and improve communication so practitioners who process DWI offenders are not working at cross-purposes. See the Guide for Statewide Impaired-Driving Task Forces created by NHTSA.
- **Screening, assessment and treatment.** Staff need training on understanding and, if appropriate, administration of screening and assessment instruments. The increased availability and use of treatment interventions is a priority.

Treatment approaches

- **Gender and culturally sensitive strategies.** These specialized strategies account for the way people react to certain types of treatment based upon their gender, native language and cultural/ethnic



background. Practitioner education should include information regarding gender, culturally, and demographically sensitive programs and strategies. An understanding of which techniques will likely have a positive impact on different types of people is beneficial to match offender characteristics with suitable interventions.

- **Quality assessments.** Assessments help determine the nature of the intervention needed and determine whether the treatment intervention is having a positive impact on the involved population.
- **Medications.** If deemed necessary, the use of medications can help treat individuals who suffer from addiction or other mental health problems which have contributed to their offending.
- **Cognitive behavioral approaches.** These approaches identify thoughts, beliefs, and behaviors contributing to negative consequences and then work to correct and replace them with more acceptable ones.
- **Motivational interviewing (MI).** MI empowers the individual to recognize problematic behavior and devise a plan to alter it. This requires staff to be trained in and regularly assessed on their motivational interviewing skills.
- **Impaired driving technologies.** Technologies such as transdermal alcohol monitoring and alcohol ignition interlocks can be partnered with an appropriate treatment intervention to improve outcomes and ensure individuals cannot drive while impaired.

How can screening and treatment be made available during all phases of a system-wide response?

- Allow research-supported screening and assessment to guide decision-making related to treatment intervention.
- Provide education and cross-professional training to assist practitioners in understanding promising, evidence-based practices and promising practices as they relate to screening, assessment, and treatment of DWI offenders.
- Allocate resources to interventions and strategies that are proven or likely to work in the jurisdiction.
- Recognize that a variety of treatment services should be offered to address a range of offenders and their unique circumstances and issues. Varying approaches and combined interventions have the most desirable outcomes.
- To consistently identify those in need of treatment, fund the use of informal screening with validated tools at every phase of the system and ensure more formal assessments as appropriate.
- Streamline policies and practices to respond in a timely manner to offender needs and improve decision-making to reduce recidivism and change offender behavior.
- Create protocols enabling sharing of screening, assessment, and treatment information to help move offenders toward readiness for change and assist them in recognizing the consequences of their substance abuse and/or mental health issues. Also, share information across agencies to increase offender accountability and ensure interventions are effectively and appropriately applied.
- Throughout the course of any intervention, monitor offender behavior to hold them accountable for their problem behavior and recognize and reinforce successes to improve outcomes. Aftercare is necessary to provide offenders with ongoing support which will assist them in maintaining positive behavior changes and reduce opportunities for them to relapse or engage in other negative behavior.



Why is treatment an important component of DWI countermeasures and what treatment interventions are effective?

The purpose of treating DWI offenders is to help alleviate identified problems with substance abuse that they may have or be at risk of developing. Treatment is designed to lessen and prevent negative consequences of substance abuse (e.g., DWI) and, also to support the offender during times of relapse. Additionally, many DWI offenders are also diagnosed with a mental illness. No one treatment approach works for everyone. There are a variety of forms of treatment that can be effective with DWI offenders, including:

- motivational interviewing or motivational enhancement therapy;
- cognitive behavioral therapy;
- brief interventions;
- counseling/therapy (patient-centered or group);
- pharmacological intervention;
- detoxification; and,
- multi-program agencies.

Impaired Driving in Rural Jurisdictions

How is the impaired driving problem the same or different in rural jurisdictions compared to urban jurisdictions?

A closer examination of impaired driving laws, programs and policies in the United States reveals urban centers tend to be better equipped to implement proven strategies to reduce impaired driving as compared to their rural counterparts for a whole host of reasons.

What is a rural jurisdiction?

A main challenge inhibiting the discussion of impaired driving in rural jurisdictions has been the inability to adequately define the term *rural jurisdiction*. According to the American Community Survey, approximately 75 million Americans, or almost 25% of the population in the US, reside in rural areas (American Community Survey: 2016). In this instance, *urban* is defined as urban areas and/or groups of urbanized areas having 50,000 or more people and urban clusters having at least 2,500 people but less than 50,000 people. Moreover, both areas should have a core area with a density of at least 1,000 people per square mile. Areas that do not fulfill these requirements are defined as rural. Urban and rural jurisdictions can be modified by states or counties based on their local alignments. Thus, boundaries can be determined by state and local officials in cooperation with each other and approved by the Federal Highway Administration, leading to potential inconsistencies in how rural areas are defined by different states.

Urban areas have 50,000 or more people and urban clusters having at least 2,500 people but less than 50,000 people. Areas that do not fulfill these requirements are defined as rural.



What are demographic characteristics of rural versus urban populations?

Residents of rural areas are more likely to:

- drive,
- own multiple vehicles,
- retain their driving license as they age,
- not move,
- possess an advanced degree, although a smaller proportion has a bachelor's degree, and
- live below the poverty line (American Community Survey 2011-2015).

How do DWI Fatalities differ between rural and urban areas?

According to NHTSA's 2019 publication on the 2018 fatality data, 44% of all fatal crashes occurred in rural areas (NHTSA 2019). However, though rural jurisdictions account for nearly half of all fatal crashes, they often receive less funding and input than urban areas when states design and implement their countermeasures.

What are the challenges of implementing impaired driving strategies in rural jurisdictions?

- a. Lower public awareness and/or concern regarding impaired driving that is manifested in social norms and traditions while reinforcing the acceptability of and misperceptions about the risks associated with driving after drinking.
- b. Drinking and driving campaign messages are primarily tailored for urban areas.
- c. There is limited to no public or alternate transportation options in rural areas.
- d. It is difficult to organize and sustain rural advocacy groups with limited resources and dispersed populations.
- e. Lack of political or agency leadership to support implementation. Agency staff are faced with many competing priorities in the face of lower staffing levels, longer distances and fewer resources. Impaired driving receives less attention because of other pressing issues like health care, education or other types of crime. Also, familiarity with constituents creates a reluctance on the part of elected officials to impose penalties.
- f. Inconsistent consideration and/or lack of representation of rural jurisdictions during the creation of laws, programs and policies. Rural jurisdictions have limited ability to deliver statewide strategies of targeted enforcement, intensive supervision probation, ignition interlock programs, DWI courts, and specific treatment services for impaired driving offenders.
- g. Rural jurisdictions also have limited treatment providers and, thus, treatment options due to limited numbers of clients for desired appropriate approaches. Often this leads to a one size fits all dilemma.
- h. Fragmented authority across agencies and varying levels of independence create a structure and authority of agencies within rural jurisdictions making it difficult to coordinate activities, share information, and form partnerships. Agencies may be responsible to state, county or city governments.
- i. Staff workload and staff safety in rural areas are affected by large geographical areas and more distance to travel impedes response times and home visits. Agency staff are often responsible for responding to incidents posing all levels of risk and back-up may be several miles away.



- j. Native and Tribal Lands authority can be confusing, making it difficult to determine who can perform what functions in these jurisdictions. There may be gaps in technological and reporting capabilities.

What are the lessons learned to improve the delivery of programs and services in rural jurisdictions?

- a. State policymakers should consult with officials and advocates in rural jurisdictions to identify priority issues.
- b. Emphasize proactive/preventive activities. Prevention, education, and advocacy efforts are often the most easily achievable and affordable for rural jurisdictions. Prevention and education activities more frequently generate a higher level of buy-in and support from a broad cross-section of the community and are thereby perceived as less threatening or controversial. Programs in schools provide an important opportunity for prevention messaging, since schools are often at the center of communities and an important contact point for both youth and parents. Engage media to raise the visibility of impaired driving issues and to promote prevention strategies. To help media with messaging, provide scripted materials and resources that can be easily tailored to the local community.
- c. Transition from local to regional approaches and build partnerships. Establish regional task forces where the influence of regional leaders may help to generate greater buy-in and cooperation from local agencies.
- d. Create a continuum of messages and services that uses a systematic approach that considers the audience and uses several points of contact in messaging drivers.
- e. Make sure to engage agencies in strategy and program development. Include agency staff to help ensure programs and policies achieve goals and benefit from support from practitioners.
- f. Provide practitioners with data to demonstrate intervention effectiveness to motivate and get commitment from staff.
- g. Cross-train professionals. Provide staff with opportunities to learn different types of tasks that are outside of their immediate areas of responsibility can serve three important functions. Provide line staff with a broader and different perspective of their role.
- h. Bring services to communities and offenders. A decentralized approach to the delivery of programs and services can increase their accessibility and reduce the need for offenders to drive long distances.
- i. Increase the use of technologies and pharmacotherapies to overcome staffing, resource, and service delivery issues.
- j. Foster partnerships with local organisations and/or transportation companies for assistance in developing alternative transportation resources.

Services for Offenders

Download fact sheet **Post-Conviction Services for DWI Offenders: Building Community Partnerships**



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: 978-1-989766-74-3

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