



## POST-CONVICTION SERVICES FOR DWI OFFENDERS: BUILDING COMMUNITY PARTNERSHIPS

**Working**  
**Group** on DWI System  
Improvements

## The Traffic Injury Research Foundation

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# **POST-CONVICTION SERVICES FOR DWI OFFENDERS: BUILDING COMMUNITY PARTNERSHIPS**

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# 1. INTRODUCTION

Driving while impaired (DWI)<sup>1</sup> has been a priority road safety issue for two decades, and it continues to receive significant attention nationally. Although impaired driving fatalities have declined during the past several years, reaching a low of 9,943 deaths in 2014, fatality data recently reported by the National Highway Traffic Safety Administration (NHTSA) for 2015 revealed an increase of 3.2% in the number of persons killed in alcohol-impaired crashes. This represents an increase of 322 lives lost and is a pressing concern. To date, much of the previous decline in alcohol-impaired road fatalities can be attributed to improved countermeasures (i.e., programs and policies) aimed at changing driving behavior with an emphasis on prevention and deterrence. To illustrate, the Federal government has encouraged states to reduce blood alcohol limits, adopt zero tolerance laws for young drivers, and increase the use of sobriety checkpoints and alcohol ignition interlocks. The primary focus of these efforts has aimed to improve prevention and deterrence at the front-end of the justice system in the areas of detection, arrest, prosecution and sentencing.

Of concern, far less attention has been devoted to programs and policies to supervise and rehabilitate offenders that are sentenced even though these strategies are integral to ensure that DWI offenders do not continue to repeat their risky behavior. To this end, post-conviction services are an essential component of a successful criminal justice process. It is these services that directly and effectively address mental health and substance abuse issues that are common among offenders, as well as re-shape the attitudes and behaviors of those individuals who pose the greatest threat of re-offending when they get behind the wheel of a vehicle.

To be sure, research shows that a majority of convicted DWI offenders will never again be detected driving under the influence of alcohol or drugs. However, it cannot be assumed that all DWI offenders will simply change their behavior because they have been caught committing this illegal act and are sanctioned for this offending behavior. This is especially true among offenders who had a high blood alcohol concentration (BAC) of .15 or greater at the time of their arrest, that have had more than one DWI conviction, or that have past history of criminal or traffic violations (Lowe 2014). Lasting behavior change is far more complex and must provide offenders with the tools and skills to make and sustain pro-social changes in their lives.

Myriad laws have been passed to address DWI offenses during the past two decades. Federal and state statutes by their very nature tend to create a generalized, one-size-fits-all succession of approaches to dealing with crime in an effort to protect the common good for the greatest number of people. But while these legislative initiatives are driven by good intentions, they most often are prompted by a high profile

<sup>1</sup> 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.

case and the public outcry that follows. In many instances, such approaches are reflective of a “worst case scenario” fear of what might occur in the future instead of events and situations that are more likely to occur. Further, legislative responses are often considered from the perspective of what would deter an average person from a criminal act, as opposed to the different realities that actually motivate and influence the behavior of offenders. Additionally, there is inconsistency in how probation departments supervise DWI cases. Some jurisdictions place high-risk offenders on dedicated caseloads with relatively low numbers while others may place them on “record only” caseloads requiring little interaction with probation staff.

Notably, there is no single post-conviction approach that can be effective for all DWI offenders. Research shows that persons convicted of DWI are heterogeneous (Robertson et al. 2014). During assessment, they often present with different and complex personal issues that are or will be roadblocks to successful court-ordered compliance and their rehabilitation. These barriers to success may include substance misuse, abuse or addiction, mental health issues, under- or unemployment, lack of a support network, inadequate living arrangements and insensitivity to gender identity, race and culture. It must be underscored that each of these issues can and do confront offenders post-conviction.

The bottom line is that while DWI offenders may share common characteristics, their cases are not identical, and the solutions to rehabilitate them are complex and costly. Individuals convicted of a DWI offense, and the agencies tasked with helping them rehabilitate and remain law-abiding, face resource challenges that make their transition toward pro-social and healthy living challenging. To date, most but not all of the financial resources directed toward the DWI problem have been primarily allocated toward prevention and detection. In sharp contrast, the necessary strategies that occur post-conviction have been under-funded despite the fact that evidence shows these solutions have the greatest potential to re-shape behaviors by individuals who contribute to the largest proportion of deaths and injuries. This problem is further compounded by federal, state and local policies that emphasize utilizing available services surrounding the charge rather than providing resources to develop services that are better-suited to the needs of individual offenders and that are more likely to improve outcomes.

More positively, there has been a growing push by legislators, criminal justice professionals, mental health and substance abuse providers and researchers to not only reduce the size of the incarcerated population, but in some cases, to redirect the cost-savings to community-based alternatives. The impetus for this change in priorities has been driven, in part, by the unaffordable cost of prisons and jails. To this end, the Justice Reinvestment Initiative (JRI) funded by the Federal government and some philanthropic foundations has assisted states and localities that are trying to reduce their use of incarceration with a stated goal of redirecting the savings from incarceration to community-based programs and efforts. Although community-based alternatives may indeed be more affordable than incarceration, it is imperative that care is taken to ensure that affordable strategies to manage this population of offenders are not interpreted as a need to develop homogenous alternatives. While it is too early to determine whether the potential cost-savings resulting from reductions in the use of incarceration will find its way to community alternatives, it must be underscored that the failure to do so may result in no net decrease in the incarcerated population, combined with a concerning increase in crime.

Many DWI offenders share common risks for re-offending. They also face challenges to making behavioral changes to overcome past criminal and/or traffic offenses, lower educational attainment, substance abuse and/or mental health issues, lack of permanent housing, and employment challenges which limit their income. Since many offenders are in low paying jobs with few financial resources, they are in fact the “working poor,” meaning they are not poor enough to qualify as indigent or for reduced service fees. In essence, people released from incarceration often return to the community ill-equipped to lead pro-social lives. This problem is compounded as they are confronted by under-resourced and/or poorly designed services to assist them. Nevertheless, there may be an opportunity with present efforts such as JRI to develop community-based services and opportunities that are more demographically appropriate, relevant and supported by research.

To provide insight into this problem and begin to fill this gap, the Working Group on DWI System Improvements explored opportunities to strengthen linkages between DWI offenders and community-based services during the 12<sup>th</sup> Annual meeting of the Working Group which was held October 12<sup>th</sup>-14<sup>th</sup>, 2015

in San Diego, California. This report contains the proceedings of this meeting and is designed for criminal justice professionals to increase knowledge and understanding of common community services that may be available, and ways that these services can be leveraged to help mitigate the risks of re-offending and the criminogenic needs of DWI offenders; those behaviors, attitudes and challenges that contribute to aberrant behavior. The following types of community-based services are discussed in this report;

- > supervision services;
- > substance abuse and mental health services;
- > vocational/educational programs;
- > employment services;
- > housing services; and,
- > transportation services.

Each of these services that can help to support and assist DWI offenders to be compliant with sanctions and supervision, and promote the development of pro-social skills, are described in terms of the following features:

- > ways that the service can assist DWI offenders;
- > challenges and caveats to forming partnerships with these service agencies; and,
- > practical strategies to help criminal justice agencies work with local agencies to enhance services to support DWI offenders.

Although this document is mainly focused on ways to augment post-conviction services for DWI offenders, much of the content is certainly applicable to other types of offenders.

## About the Working Group

The Working Group on DWI System Improvements is a prestigious coalition of senior leaders of organizations representing frontline professionals in all segments of the criminal DWI 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 drunk 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, and to give voice to the concerns of practitioners in the DWI system and 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 DWI system for dealing with persistent impaired driving offenders. These documents can be accessed at [www.dwiwg.tirf.ca](http://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



## 2. COMMUNITY SERVICES FOR CONVICTED IMPAIRED DRIVERS

Impaired driving offenders frequently possess a variety of complex problems related to personal life circumstances and deficits in life skills. These conditions, when compounded with substance misuse and mental health issues, can be barriers to compliance with court-ordered conditions of supervision and rehabilitation. As such, it is essential that these characteristics are acknowledged during sentencing and throughout the period of supervision in order to support and equip offenders with tools and services that enable them to be compliant and change their behavior. In other words, there is some responsibility on the part of justice professionals to make sure that offenders are indeed able to be compliant with sentences that are imposed, and to ensure they are reasonably able to comply with conditions.

The good news is that there are often a range of services at the community level that can help offenders manage and overcome these barriers. Unfortunately, offenders may be unaware of the availability of these services, or unable to access them without guidance and support. Courts and community supervision professionals can play an important role in filling this gap by increasing their own familiarity with these types of services, and establishing working relationships and partnerships with agencies that deliver community services. This knowledge can contribute to improved outcomes by linking offenders with essential services and increasing their ability to comply with conditions of supervision.

This section provides an overview of community services that are most needed by offenders and that are commonly available in many communities, although the breadth of services offered may vary. It is underscored that many of the issues described in this section are common among all offenders, and are not specific to DWI offenders alone. Types of services that are considered include:

- > supervision services;
- > substance abuse and mental health services;
- > vocational/educational programs;
- > employment services;
- > housing services; and,
- > transportation services.

Each service is described in terms of the ways that it is relevant to address basic needs of offenders (i.e., the issue), important caveats and challenges that supervision professionals should be aware of as relationships

are established, and strategies and practices that can be employed to work cooperatively with these service agencies. Some examples of practices and resources are also shared.

## 2.1 Supervision Services

### 2.1.1 The issue

Nationally, persons convicted of a DWI offense account for a significant proportion of the criminal justice supervision population. In this regard, supervision services may include probation<sup>2</sup>, parole, diversion and other types of formal supervision. Among the almost 3.8 million adults on probation in the United States, 13% were convicted of a DWI offense (Kaeble & Bonczar 2017), and data from 2013 revealed that among those convicted of a DWI offense, approximately eight percent had been convicted of multiple DWIs (Glaze & Kaeble 2014). Although this represents a large population of probationers, generally the results of the risk assessment tools used by probation departments often indicate that DWI offenders are at low risk of re-offending (i.e., recidivism). This is due to the fact that common risk assessment tools have been validated on a criminal population, but not necessarily an impaired driving population. As a consequence, risks that are more typical among impaired drivers may not be routinely identified using traditional risk assessment tools, and as a result, impaired driving offenders are frequently perceived as being at low-risk for recidivism. Ultimately, this means that these offenders may not receive the level of resources or attention that is warranted.

The fact that most DWI probationers have committed a misdemeanor offense, which in most states results in a maximum probation sentence of one year or less, also contributes to the paucity of programs and resources that are available to them. In particular, it is difficult to implement robust strategies designed to bring about lasting behavior change due to the short time span to deliver them. Furthermore, many probation departments also have responsibility for other probationers convicted of more serious, felony offenses. In practice, this means that felony offenders warrant greater attention because: 1) they are on probation for much longer periods of time with more restrictive conditions of supervision and 2) the perceived seriousness of their offenses as well as their perceived risk to re-offend (e.g., assault, auto theft, burglary, sale of drugs, gang involvement, sexual abuse) garners more concern from the criminal justice system.

Moreover, individual probation officers may have a variety of probationers who have committed a wide range of offenses on their blended caseload, and DWI offenders may be just a fraction of the population of probationers they are supervising. The lack of a specific expertise in dealing with the DWI population can create challenges in addressing their unique issues. Stagnation in funding and budget reductions means that these officers also must contend with declines in resources which make it increasingly challenging to effectively manage large caseloads, and accommodate the variable workloads and demands associated with individual cases.

The proliferation of supervision conditions placed on DWI probationers also has workload implications and increases demands on supervision agencies as well as local jails. The sheer inordinate number and unnecessary conditions of supervision make it difficult for a supervision agency to focus on core issues of each probationer and to effectively track their compliance. All too often, DWI offenders (especially those that are under-employed or unemployed) are keenly aware of the impossibility of abiding by all of the conditions of supervision, as a consequence of life circumstances and skill deficits. They also recognize the sometimes insurmountable costs of supervision fees, electronic surveillance fees, treatment costs, fines and surcharges. To this end, it is not uncommon for offenders to opt instead to serve their time in jail or prison rather than face the likelihood of failure on community supervision. This cyclical pattern resulting from critical gaps also places more pressure on jail population management while increasing the burden on taxpayers to fund their incarceration.

**DWI offenders may opt to serve time in jail because they recognize their inability to abide by all of the conditions of supervision as well as the sometimes insurmountable costs of supervision fees, electronic surveillance fees, treatment costs, fines and surcharges.**

<sup>2</sup> The term probation is used throughout the document as a generic term representing any form of community supervision.

Of course there are some strategies that acknowledge practical barriers facing offenders that can impede to compliance with court-ordered sanctions. In particular, DWI courts have shown promise and some have proven to be quite successful. However, despite their remarkable growth throughout the country, there are an inadequate number of courts that provide such programs for DWI offenders because not only are those programs resource-intensive, but in many cases, smaller jurisdictions do not have the population density to warrant such services or make them available in a sustainable fashion. More recently the development of regional DWI courts in Michigan that share resources have shown promise, but much more work is needed before such courts may be available across the United States. Moreover, the implementation of DWI courts still requires supervision services and the means to carry-out court sanctions and sentencing requirements.

### 2.1.2 Challenges & caveats

There are four important caveats that are highly relevant to criminal justice practitioners because each one provides important context to understand the delivery of supervision services for DWI probationers. Each of these caveats is briefly summarized below.

#### > **Appropriate level of service**

Most notably, it is cost-prohibitive and ineffective to provide the same level of services to all offenders. Of concern, it can be detrimental to over-service offenders and apply more intensive supervision that is not warranted based on their risks and needs (Bonta et al. 2000; Reich et al. 2016). As such, practitioners must make determinations regarding which offenders will receive a higher level of services based on available information. To illustrate, high-risk and repeat DWI probationers that have a BAC of .15 or higher, and those that have multiple DWI convictions, often have a criminal and/or traffic offense history involving other types of offenses as a juvenile and/or as an adult that increases their risk of recidivism. These offenders are in greatest need of supervision and behavior change strategies. They also may present with mental health and mood adjustment problems (e.g., depression, chronic unemployment) (Lowe 2014).

However, it also should not be overlooked that first offense DWI probationers may have core deficits as well that may impede their ability to comply with supervision conditions. The challenge is that they may not self-identify as criminal or having a substance abuse or mental health problems for a variety of reasons. As a consequence, on the basis of self-reported information, and in the absence of a history of other criminal or traffic offenses or interactions with the substance abuse or mental health services, it can be difficult for supervision professionals to accurately determine their level of risk to re-offend or needed services to change behaviors. Hence, asking probing questions about past history can be beneficial to ensure that offenders who possess core deficits in key areas are not overlooked.

#### > **Inconsistent expectations and responses**

Often, communities have divided perceptions about impaired driving behavior. At one end of the spectrum, there are many people who have had a friend, relative or acquaintance that has been charged with DWI. In sharp contrast, more people would have limited knowledge about or interactions with persons charged with other crimes such as burglary, sexual abuse or assault. On this basis, DWI offenders are not likely to be perceived as serious criminals by most individuals who consume alcohol, and no doubt, those who do drink and drive but have not been arrested may see themselves

**It is difficult to accurately determine the risk of first DWI offenders to re-offend or the services they need to change behaviors.**

fortunate to have avoided detection for a DWI offense. At the other end of the spectrum is a vocal

population of advocates (many who have been affected personally by DWI crashes) who have increased public awareness about the dangers of driving while impaired, and have pushed for more serious consequences for convicted DWI offenders. At present, these consequences often include, but are not limited to, significant jail time, loss of driving privileges, increased fines, surcharges, alcohol or electronic monitoring, victim impact panels and alcohol education or treatment programs. This situation has made it challenging to reach general consensus about effective strategies to manage DWI

offenders, and this duality of perceptions has resulted in inconsistencies in how cases are adjudicated and supervision is conducted. As such, these competing perspectives can increase the complexity of decision-making about supervision strategies for justice professionals.

### > **System complexity**

DWI probationers are often court-ordered to participate in programs or services as well as pay fines and other costs. These requirements vary but may include the clerk of court for payment of fines and surcharges, attorney fees, substance abuse or mental health services, insurance companies, electronic monitoring companies (e.g., ignition interlock, alcohol monitoring), driver licensing agencies, transportation arrangements, employers, family and probation staff. Indeed, there are more costs associated with the supervision of DWI offenders than most individuals on community supervision. This issue is compounded when criminal justice agencies work in silos and do not recognize the full impact of these costs on offenders. Many probationers may have little or no past experience with these agencies or processes but they must learn to navigate this maze of complicated and disjointed systems quite quickly in order to be compliant. Moreover, rarely do these myriad entities coordinate or facilitate their processes so that probationers can complete the labyrinth of paperwork, questions, referrals and delays, and schedule appointments. Although it would be onerous for even the average person to successfully complete these processes, procedures and paperwork, there is often a misperception and acceptance that offenders are able to independently navigate these complex systems and staff, often in a limited time span, while maintaining employment, and managing family obligations.



This would be a daunting challenge for anyone, and in particular, individuals struggling with substance abuse or mental health issues, who lack transportation, and work shift work or are not permitted to take time off work to fulfill these tasks. Yet, when probationers do not complete them on time, they are considered non-compliant and may be brought back to court for violating the conditions of supervision. Additionally, when there is a failed treatment attempt or lack of progress in treatment, it is most often blamed on the patient as opposed to the type and quality of services offered that were poorly connected to the probationer's needs.

In sum, the importance of properly assessing the ability of offenders to comply with conditions, and supporting their ability to do so though systemic coordination is essential to improve outcomes. To this end, probation departments need to do a better job of assessing the treatment approach and recognizing when programs are not well-matched to probationers, or inconsistent with their circumstances, rather than assuming that offenders are merely non-compliant.

### > **Jurisdictional differences**

There are often significant differences in the availability and accessibility of services across larger, urban, densely populated areas as compared to less populated, rural areas within regions and states. There are more rural areas than urban centers, and rural locations are often ill-equipped to deliver programs and countermeasures which have largely been designed for urban centers. These distinct variations in services have an impact on the ways that supervision strategies for DWI probationers are delivered, and substantially influence sentencing and supervision decisions.



To illustrate, urban areas may provide myriad options such as neighborhood-based probation offices, mental health and substance abuse treatment, health care providers, educational and vocational services, employment services and opportunities, housing, interlock service centers, and public transportation. These options make it easier for probationers to locate appropriate treatment services (including culturally and

gender sensitive options), schedule visits with their probation officer, find and maintain employment as well as avail themselves to alternate transportation should they not be permitted to drive. Additionally, while still not the norm, probation departments may have the capacity to provide specialized DWI supervision officers with reduced case numbers who are well-versed and knowledgeable about DWI probationers as well as their specific risks and needs. Of course, multiple treatment options may provide many benefits, but may also create some disadvantages by allowing probationers to “treatment shop” for those that are the least onerous, but perhaps not the most effective option. Multiple service providers of other services may also create a confusing maze that can be challenging for probationers to navigate. Public transportation may be limited in its scope and distance and may have erratic scheduling.

Conversely, rural areas present a different set of challenges such as limited and/or inaccessible services compared to those listed above. There is virtually no public transportation. Probation officers are more likely to be “expert generalists” because they lack the ability to specialize with a varied yet limited number of any one offense type placed on probation with their office. Thus, their caseloads consist of a variety of different probationers with disparate offense histories, risk levels and wide variance of needs.<sup>3</sup> Finally, limited services can create a “one-size-fits-all” solution and practitioners may not have the knowledge or expertise to provide tailored assistance to DWI probationers or subsets of this population.

Collectively, these caveats to the delivery of services for probationers have important implications for their ability to comply with sentencing conditions. Awareness of these issues is essential to inform decision-making by supervision professionals. Not only can this knowledge help them anticipate barriers to compliance that offenders may encounter as supervision strategies are selected, but it can also provide insight to better gauge reasons for non-compliance and opportunities to work with offenders to ensure their success.

### 2.1.3 Strategies

Effective supervision strategies are essential to make the best use of limited resources and reduce the likelihood of DWI offenders continuing their involvement in the criminal justice system. While there are competing philosophies regarding the sanctioning of DWI offenders, and some challenges associated with consistently delivering appropriate services, the importance of ensuring that offenders are actually able to comply with court-ordered sanctions should not be under-estimated. This section highlights key features of effective supervision strategies that should guide decision-making, and some of the essential characteristics of each.

#### > Tailor supervision conditions

As previously mentioned, a majority of DWI offenders are classified as misdemeanors. This means that their period of supervision is of short duration (often less than one year). Therefore, court-ordered conditions of supervision must be achievable in the allotted timeframe, and those conditions that have the greatest probability to have a successful outcome should receive priority. Imposing conditions that will be impossible for offenders to comply with does not serve the public interest or improve public safety. To this end, it is important to consider whether conditions of supervision are realistic, relevant and/or supported by research, or the three “R’s” of conditions.

- » Realistic: Conditions that are realistic are those that probationers can adhere to or complete, and that can be effectively monitored and enforced in practice. This means that probationers can be realistically expected to complete the condition within the supervision period, and they have the wherewithal physically, mentally, financially, and have available transportation to actually fulfill the condition. At the same time, it is critical that probation departments and staff have the time, tools or resources to enforce the condition.
- » Relevant: Conditions of supervision should be relevant to the crime or the circumstances of probationers. For example, suspending the license of a probationer who has full-time employment 30 miles away in an adjoining county, and who has no access to public transportation, may make

<sup>3</sup> Specialized DWI caseloads are uncommon in urban & rural jurisdictions.

it impossible for them to earn money to pay court fines and fees, or maintain housing. As such, requiring an ignition interlock as a condition of a driver's license may be more appropriate in this case.

- » Research-supported: Efforts to match offenders to appropriate interventions that acknowledge their personal situation should be a consideration in decision-making in relation to sentencing. To illustrate, it would not be appropriate for a woman who has a history of physical abuse to be expected to succeed in a substance abuse treatment program that includes men and women, and that uses a highly confrontational approach. Similarly, it may be more achievable for probationers with substance abuse and addiction issues to successfully complete alcohol treatment than to sustain abstinence, particularly when research shows that relapse is an expected occurrence during recovery for addicted individuals. At the same time, pro-social activities should be encouraged and reinforced because they can protect against relapse. The bottom line is that it is important to carefully consider the types of conditions that are imposed in accordance with characteristics of probationers, and to ensure that the conditions of supervision do not interfere with pro-social activities (e.g., employment, family stability, community organizations), and inhibit naturally occurring protective factors to reduce recidivism.

**Pro-social activities should be encouraged and reinforced because they can protect against relapse.**

#### > **Use consistent responses to non-compliance or progress**

Probation departments are encouraged to work with the courts to ensure they are able to respond to non-compliance as well as progress by probationers, and utilize those responses swiftly, with certainty, and in a proportional fashion.

- » Swiftly responding to either identified non-compliance or progress through either sanctions for non-cooperation or incentives for completing court-ordered supervision conditions is the most effective and research-supported way to efficaciously demonstrate to probationers behavior that is acceptable or unacceptable. In other words, sanctions / consequences, or incentives serve as an immediate stimulus that probationers can unambiguously connect to an undesirable or desirable behavior. To this end, the sooner the consequence or incentive is applied following the behavior, the more likely that offenders will connect the behavior with the outcome (Paternoster 1989). Some examples of the swift use of incentives are drawn from the alcohol interlock programs in Minnesota and Michigan. For example, in Minnesota, the cost of monthly fees is reduced by 10% for every month offenders do not have any program violations. Similarly, in Michigan, DWI court participants are reimbursed some costs of participation for every month they are compliant.
- » Certainty refers to the importance of probationers clearly understanding what responses to reasonably expect for engaging in a behavior that is non-compliant or compliant. Of importance, the certainty principle requires that probationers understand the range of responses that will be utilized in response to their behavior whether those consequences are sanctions or rewards (Paternoster 1989).

To this end, responses to behaviors need to be applied with consistency if swiftness and certainty are to be effective in deterring unwanted behavior or instilling desired behaviors (Hawken & Kleiman 2009; Grasmick & Brylak 1980; Paternoster 1989). It is critical that every violation of probation and every achieved benchmark is linked to an anticipated response from either probation officers or the courts when it first occurs. Ignoring these behaviors by failing to respond is a clear indication that these behaviors will be ignored or deemed unimportant. Moreover, the consistent application of responses makes it more likely that probationers will view anticipated responses as fair, just and appropriate rather than arbitrary and inconsistent. In this regard, research clearly demonstrates that the perceptions that responses are just or fair enhances compliance among probationers as well as deters future criminal behavior (Paternoster et al. 1997).

- » Proportionality refers to the importance of responses to non-compliance and compliance being applied in a graduated manner to improve perception among probationers that responses are fair, just, and deserved to deter undesirable behavior or encourage desired behaviors (Taxman et al. 1999). The use of balanced and appropriate responses to a given behavior, and the severity or importance of that behavior, is more easily recognized by probationers. Conversely, excessively harsh sanctions or overly generous incentives conveys to probationers that responses were undeserved.

It is also beneficial when proportional responses account for each probationer's risk to re-offend based on an actuarial assessment tool as well as their identified criminogenic (treatment) needs. To this end, reliance on the identified risk factors and criminogenic needs can help probation officers focus responses to maximize the probationer's ability to change behavior and attitudes with a response that considers his/her learning style, abilities and motivation to change. This is often referred to as the Risk-Need-Responsivity model (Andrews & Bonta 2010; Andrews & Dowden 2006). In short, sanctions and incentives should be individualized, yet proportionate. Ideally appropriate sanctions and rewards will differ depending on the individualized risk and needs of the probationer (Marlowe et al. 2008).

### > **Build stakeholder partnerships**

It is immensely beneficial for probation departments to develop good working relationships with and knowledge about community service providers. The successful supervision of DWI probationers (especially those deemed high-risk and/or high-need) is rarely dependent solely on probation officers. More often than not, success is realized when the supervision agencies and service providers work together to provide needed and comprehensive services. In this regard, it is equally important that probation officers verify that the service(s) was accessed by the probationer, and that the delivery occurred. As such, sharing of information between entities can help ensure that a probationer's individual needs are being met and that he/she is being held accountable for the required follow-through.



As a starting point, it is useful to create a resource map to identify relevant services that are available in any probation delivery area. In other words, conducting an analysis of available services can help probation departments more efficiently link probationers with applicable services. An example of a resource map is provided in Appendix A.

Key questions that should be asked as a resource map is created include:

- » What services/service providers are available?
- » What types of services or scope of services do they provide? What strategies do they employ to deliver services (i.e., evidence-based)?
- » What is the primary population for the services?
- » Where are they located and what contact information is available?
- » What are the hours of operation?
- » What payment options are offered (e.g., private insurance; self-pay, sliding scale)?
- » What is their capacity to meet demand for the services in a given area? Are there wait times for services?

Discussion between probation departments and service providers about their respective objectives and appropriate outcomes can help ensure that activities are coordinated to reduce duplication and ensure that probationers are able to comply with the respective requirements of each agency. In particular, questions regarding approach, staff qualifications, evidence of effectiveness and copies of curricula are important in relation to treatment providers.

## 2.2 Substance Abuse and Mental Health Services

### 2.2.1 The issue

It has been well-documented that persons involved with the criminal justice system often present with substance abuse and/or mental health issues at a rate greater than the general population. This is certainly true of DWI offenders (Shaffer et al. 2007; Lapham et al. 2001; Wieczorek & Nochajski 2005; McMurrin et al. 2011; Maxwell & Freeman 2007). As such, it is vitally important that determinations are made whether DWI offenders have a substance abuse or mental health issue (or whether they present co-occurring disorders), the nature of the issue, and potential interventions that can best address it. Other health-related problems should also be identified at this time. However, it should not be assumed that all DWI offenders (especially first offenders) have a need for substance abuse or mental health treatment. For example, not all impaired drivers are addicted to alcohol, just as not all people addicted to alcohol are impaired drivers. For this reason, the administration of short, validated screening instruments at the earliest possible time after arrest (e.g., at time of booking; as part of pre-trial release evaluation) is essential to gauge whether or not a more comprehensive, clinically administered substance abuse and/or mental health assessment should be completed by a certified assessor.

**Not all impaired drivers are addicted to alcohol, just as not all people addicted to alcohol are impaired drivers.**

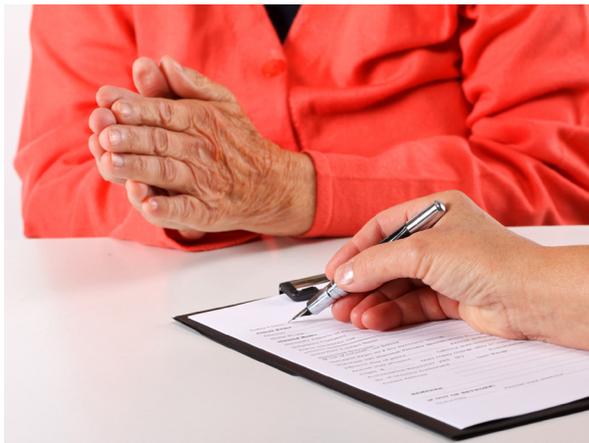
In cases where treatment is indicated, the lack of appropriate treatment or the lack of services are real impediments to behavior change. Similarly, inadequate insurance coverage or insufficient personal funds to pay for treatment can also make treatment cost-prohibitive for offenders, or, at a minimum, limit their treatment options. Moreover, when treatment is available to offenders, the inadequate or non-existent sharing of information between the courts and the treatment providers can make it more challenging to adequately supervise offenders. This is often due to the lack of information-sharing policies or protocols

### 2.2.2 Challenges & caveats

There are five key challenges that must be acknowledged to inform the delivery of substance abuse and mental health services. These issues can provide insight to shape the selection and delivery of appropriate services for DWI probationers. Each of these challenges is briefly summarized below.

#### > **Lack of screening to determine and prioritize issues**

Early screening for substance abuse or mental health issues requires jail, pre-trial or pre-sentence supervision staff to administer the questionnaire in a timely manner. However, in many jurisdictions, there is inadequate staff to consistently screen offenders and this can ultimately nullify, greatly abridge



or delay this screening process. When resources are scarce, even when screening occurs, other relevant individual deficits related to cognitive functioning, physical health, employment and housing may also be overlooked during the screening process. Of concern, failing to detect such issues can significantly impact the ability of probationers to benefit from substance abuse and mental health services when they are offered.

In instances when a clinical assessment is completed and treatment is indicated, it may then be difficult to locate and secure access to services that are most appropriate based on the assessment outcomes.

This gap warrants attention since the delivery of a treatment program that is a proper fit for an individual can make the difference between success and failure. Just as it would not be advisable to see an orthopedic surgeon for a sinus infection, so too is it imperative that efforts are made to ensure that the substance abuse or mental health treatment is designed to address a patient's unique issues, including being culturally and gender sensitive. While this

can be particularly difficult to accomplish in rural areas with limited treatment options, the objective should not be overlooked.

A related consideration as a treatment approach is selected is to acknowledge that relationships may have been damaged during the arrest and adjudication of a DWI offense. As such, the ability of a treatment intervention to help offenders maintain support from significant others during the treatment process should be considered.

> **Myths about information-sharing**

The limited or non-existent exchange of information between probation departments and treatment providers who serve DWI offenders can be a barrier to the effective delivery of services that acknowledge their case histories and characteristics. To illustrate, treatment providers must often rely on self-reporting by patients about their issues and circumstances. While they often require comprehensive information about persons who are court-ordered to complete treatment so they can deliver the most appropriate services, generally providers are not apprised of the risk to re-offend, criminal history, or other relevant information such as social history, employment status, or court-ordered restrictions and requirements. Conversely, attendance and progress in treatment can shape supervision conditions, however, supervising agencies may not receive information from providers regarding the nature of the patient's treatment regimen, attendance, the results of drug or alcohol testing or progress as well as any past trauma. The bottom line is that this resistance to sharing information is often a result of not fully understanding state and federal privacy laws that safeguard personal information and solutions that make this sharing of information possible while protecting personal information (Matz 2014). This gap in information-sharing policies and protocols is counter-productive to successful court accountability and treatment outcomes, and often results in two entities working in parallel or even at cross-purposes.

> **Cost of treatment**

For probationers that have been assessed as needing substance and/or mental health treatment, the cost associated with receiving treatment is often a barrier to obtaining services. More recently, the passage of the Affordable Care Act (ACA) and the creation of health insurance exchanges in nearly 40 states have provided an opportunity for more people to have treatment costs covered, at least in part, by insurance. However, it can be difficult for offenders to find a service provider that can help them enroll for health care. While some providers are indeed starting to provide enrollment services that are fee-driven, it can still be difficult to incentivize enrollment among offenders who may be reluctant to engage in treatment, particularly when the enrollment process can be confusing and time-consuming. As such, more work is needed to emphasize the benefits of enrollment and recognize all costs of supervision facing offenders in order to overcome obstacles to participation.



In states where there is no health insurance exchange, the challenges of funding treatment can be even greater. For individuals who are uninsured and under-employed or unemployed, the financial burden can be untenable. The cost for treatment may consequently be borne by the sentencing jurisdiction. Depending on the state, this may result in a battle between state and county agencies to determine which agency or agencies are financially responsible since the cost of treatment may be assumed by one or the other agency depending on the nuances of state and county financing policies. In these instances, offenders are less likely to access needed services, and their risk of recidivism remains high.

> **Inadequate capacity**

The demand for treatment has for several years exceeded the capacity of treatment providers in many parts of the country. As mentioned above, the enactment of the ACA has allowed people who have enrolled in a health exchange to have (maybe for the first time) access to substance abuse or mental health treatment. Prior to enactment of the ACA, many offenders were unable to afford health

insurance coverage, but they were also ineligible for Medicaid. As a consequence, chronic health problems were undiagnosed, and substance abuse and mental health treatment was unavailable to them. Positively, the ACA has redressed this problem (Mistak 2015). Still, unfortunately the demand for treatment often exceeds the capacity of many treatment providers. This situation has created an ability for some providers to be more selective about to whom they will accept for treatment. People with criminal records or those that are reluctant to enter treatment may not be their priority to accept as new patients, hence such services may remain unavailable if the challenge is not overcome.

> **Problem complexity**

It is not uncommon for persons involved with the criminal justice system to present more than one issue to be addressed. Individuals may have co-occurring substance abuse and mental health disorders that are compounded by histories of trauma, lack of support networks, and under-employment. Unfortunately, most treatment programs are designed to address one of the issues, but not the others, or they address these issues separately as distinct problems, as opposed to in tandem. This silo-approach to services can negatively impact outcomes, and the failure to address related problems can contribute to relapse and recidivism.

### 2.2.3 Strategies

This section highlights seven strategies that can help to establish and/or strengthen linkages between courts/probation departments and substance abuse and mental health treatment providers, and improve workflow.

> **Establish information-sharing protocols**

Courts and court personnel (probation officers) are strongly encouraged to work cooperatively with treatment and other service providers to develop information-sharing policies and protocols. Treatment and prevention strategies that are evidence-based create the potential to enhance public safety, and improve health and labor outcomes for offenders and for society (Merrick et al. 2017). Such partnerships can improve information-sharing between entities and ensure that these protocols conform with state and federal privacy laws, and reduce the likelihood of unexpected changes due transitions among elected officials or management. A detailed guide that contains a framework for the sharing of protected health information in relation to corrections and re-entry was prepared by the American Probation and Parole Association (<http://www.appa-net.org/eweb/docs/APPA/pubs/CRPHIPFIS.pdf>). Notably, this guide provides recommendations to agencies regarding issues related to the protection, handling and exchange of protected health information between corrections and health providers in compliance with Federal laws.

More specifically, agencies may also work to develop a written Memorandum of Understanding (MOU) with individual agencies that clearly delineate the responsibilities of each agency/signatory, and describes how supervision requirements can be managed in conjunction with the delivery of services by providers. Key features of MOUs include:

- » agency objectives and responsibilities;
- » requirements of supervision;
- » sharing of information;
- » designated contacts;
- » timeframes; and,
- » shared performance measures.

The objective of an MOU is to clarify proper procedures and ensure adherence to them. At its most rudimentary level, a process for probationers/patients to sign a release of information that legally allows key information to be exchanged is a foundational component of these documents.

Ideally, agencies should also consider ways that the development of automated exchanges of information can be pursued to permit more efficient referral and reporting processes that protect personal information. One example of practice involving a computer interface between a probation department and mental health provider is available from Arizona (Appendix B – Intergovernmental Agreement between Health Care Agency and County Jail). Another example of practice is drawn from the Hampden County Re-entry Project in which data from the Sheriff’s Department was shared with

community providers based on zip code. The objective was to increase understanding among providers of the history and needs of offenders prior to their release in the community. This automated system enabled providers to be informed that offenders have been referred and are scheduled for release, and shares non-classified, non-confidential assessment data that can inform the delivery of services. Information about this initiative can be found at <http://hcsdma.org/public-resources/362-2/#Principle18>. This project has helped ensure that serious and often unmet health needs among offenders are addressed and ongoing treatment is provided. It has also facilitated the establishment of relationships between offenders and health centers and health care providers.

### > **Coordinate activities and strategies**

Although it is important to develop state level coalitions to address substance abuse and mental health, it is often easier to create coalitions at the community or regional level because of local relationships and shared context. These partnerships are also more apt to be responsive to local issues and priorities.



An MOU between the probation department/court and local substance abuse and/or mental health providers, as mentioned above, could also be further developed to define the expected roles of each entity within a jurisdiction. Common features of a MOU include descriptions of procedures such as the referral process and responsibilities, general expectations regarding communications between parties (including sharing written plans for clients and case conferences), definition of roles and services, and anticipated outcomes. One example of an MOU between a probation department that supervises DWI offenders, and a mental health provider is available in Appendix D. The objective of this agreement is to deliver timely, integrated services

to reduce incarceration and institutionalization. The MOU designates an authorized person from each agency as the primary contact and describes their respective responsibilities. More specifically, probation officers coordinate with and assist specialized teams to deliver justice system services, housing, employment, mental health and alcohol and drug treatment services. These probation officers are also able to work within the offices of the mental health services agency.

In summary, it is important that strategies to address substance abuse and mental health issues in concert with probation supervision are not solely focused on available services, but that such strategies are also considerate of individual needs.

### > **Facilitate health exchange enrollment**

The passage of the Affordable Care Act and the enactment of insurance exchanges in nearly forty states have allowed previously uninsured individuals to access and afford healthcare; including substance abuse and mental health treatment. A guide is available to probation and parole agencies to help them connect people with health insurance opportunities. This guide describes five ways that officers can share knowledge about basic information and special rules that may be applicable. It also highlights five ways that officers can help probationers and parolees apply for coverage. To access the guide, visit [www.marketplace.cms.gov](http://www.marketplace.cms.gov).

To facilitate the ability of probationers to access this coverage, justice entities are also encouraged to work with appropriate entities in their state that coordinate health exchange enrollment such as:

- » offices of behavioural health; and,
- » regional behavioral health authorities.

Coordination with these entities enhances the ability of uninsured individuals with a DWI conviction and an identified substance abuse or mental health issue to access the desired or required treatment while building collaboration to address shared challenges. Often, providers of treatment services are knowledgeable about the enrollment process. Alternatively, a local jurisdiction may consider having

the probation department or other government entity establish a navigator<sup>4</sup> program (Section 1311(i) of the ACA). A navigator is a person or organization that is trained and able to assist individuals, identify options, complete eligibility and enrollment forms, and purchase health insurance through the state's health insurance marketplace<sup>5</sup>. Of note, the time dedicated by agency staff to this process is a reimbursable effort through the ACA.

### > **Understand the challenges**

The benefits of ongoing, cross-professional training between justice entities and treatment providers, or just the sharing of information that provides a better understanding of their respective roles with and knowledge of DWI offenders are underscored.

To illustrate, treatment providers could assist law enforcement agencies and probation departments with training regarding different categories of addiction and mental illness as well as the identification and responses to individuals with a mental illness. One example of this

practice is that the Virginia State Police require officers to complete a training course (Crisis Intervention Training) to deal with persons with mental health issues and disabilities. Visit: <http://www.fairfaxcounty.gov/police/inside-fcpd/042115chiefcitmessage.htm> for more information.

**Cross-professional training between justice entities and treatment providers could provide better understanding of their roles with and knowledge of DWI offenders.**

In the same vein, law enforcement agencies could instruct probation departments and treatment providers regarding their arrest procedures to highlight important safety issues as well as mandated practices. Alternatively, probation departments could increase awareness about their use of risk/need assessment processes and practices regarding compliance with supervision conditions.

More generally, regardless of agency, increased awareness about the incidence of traumatic brain injuries (TBI) and psychological trauma (often referred to as post-traumatic stress disorder) within the criminal justice population (Ardino 2012), and the impact of these conditions on individual cognitive functioning, physical disorders and aberrant behaviors, is much needed. To this end, research shows that a history of trauma is prevalent among female impaired drivers (Robertson et al. 2014), and it is estimated that the prevalence of TBIs in prisoners may be as high as 60% (Bridewell & MacDonald 2014). In addition, the consistent delivery of all training in relation to culturally sensitive practices is also encouraged.

### > **Respond to identified needs**

The tandem or concurrent delivery of services to persons who possess multiple issues can improve outcomes. Therapeutic approaches that tackle co-occurring disorders, and that are specific to drug of choice can have positive benefits but are less often available. For example, although a history of trauma is prevalent among female impaired drivers, rarely do screening tools acknowledge trauma, and services to deal with trauma which has triggered their substance abuse are rarely provided. As a consequence, relapse is common since alcohol treatment targets a symptom of the problem as opposed to the root cause. Moreover, a DWI conviction may have had a deleterious impact on the offender's relationships, meaning that these individuals may lack a support network that can provide transportation to appointments, help with employment, or assist with child care. Service providers need to recognize that couples and/or family counseling may be necessary to maintain positive, pro-social support networks that reinforce positive behaviors.

Similarly, substance abuse and mental health treatment providers must be able to recognize and effectively address the distinct needs and associated differences related to culture and gender that are present in their service area. This is the first step towards the delivery of treatment protocols that are sensitive to and successful with various populations. In this regard, probation departments should seek out and connect with representatives from the various sub-groups within a probation population, as

<sup>4</sup> An individual or organization that is trained and able to help consumers, small businesses, and their employees as they look for health coverage options through the Marketplace, including completing eligibility and enrollment forms. These individuals and organizations are required to be unbiased. Their services are free to consumers.

<sup>5</sup> The "health insurance marketplace," is a shopping and enrollment service for medical insurance created by the Affordable Care Act in 2010. In most states, the federal government runs the Marketplace (sometimes known as the "exchange"). It can be accessed online at HealthCare.gov. Some states provide their own Marketplace at different websites. Accessed from: <https://www.healthcare.gov/glossary/>

well as justice system stakeholders within the service area. The establishment of advisory committees can assist in ensuring services provided are culturally and gender-sensitive with, perhaps, the added benefit of informing appropriate practices and responses in the justice system.

## 2.3 Educational & Vocational Services

### 2.3.1 The issue

People convicted of DWI are heterogeneous, and their characteristics are as varied as the general population. As such, the educational and vocational skills and abilities of these offenders are equally diverse. However, research shows that a large portion of them have educational and vocational deficits as compared to a general population, that are often related to learning disabilities. The illiteracy, limited reading and math capabilities, and unrealized vocational skills manifest themselves in unemployment, under-employment and challenges complying with court-ordered conditions. Frustrations and failures resulting from these limited skills may lead to cycling in and out of the justice system. A lower level of educational attainment and lack of vocational skills are common characteristics of people involved with the justice system (Robertson et al. 2014).

As a consequence, encouraging the development of pro-social behaviors and compliance with court-ordered conditions (e.g., payment of fines, fees) is a daunting task when gainful employment, a precursor to success, is difficult to secure and maintain because of a learning disability, low educational attainment, and lack of skills. Of equal concern, among offenders who are able to secure a job, they may only be qualified for low-paying positions (i.e., under-employment) or limited to employment within a limited geographical area due to a lack of public transportation. To this end, initiatives for DWI offenders to improve their educational and vocational abilities are an often over-looked strategy to prevent repeat offending.

### 2.3.2 Challenges & caveats

The effects of limited or low educational attainment on the ability of offenders to successfully comply with conditions of supervision, or complete required programs are profound. In essence, failure to complete secondary school restricts opportunities to change life circumstances and is a barrier to offenders adopting new habits and behaviors to avoid future interactions with the justice system. Some of the most common barriers that can impede the ability of offenders to access and benefit from programs to complete educational or vocational programs are briefly described below.

#### > **Limited focus on educational attainment and vocational skills**

The low level of risk assigned to DWI offenders combined with the limited time that this population of offenders may be under court supervision often results in limited attention to or focus on their academic and vocational abilities. Most often, other conditions of supervision such as payment of fines, completion of a victim impact panel or community service are designated priorities, although these conditions do little to help offenders change unwanted behaviors. Conversely, academic and skill development is a prerequisite to gainful employment which can reduce recidivism among DWI offenders but participation in these programs is not consistently required.

#### > **Inadequate screening for academic deficits**

Screening tools for offenders are not designed to identify academic or vocational deficits. Too often it is assumed that probationers have the ability to read and comprehend written materials, do basic math problems or learn a work-related skill. However, in many cases, a lifetime of coping with such deficits has meant that these individuals are often able to present themselves as competent through learned compensation for their deficits. It is not until offenders are faced with situations that are new to them, as may be the case with probation supervision, that these learning deficits become more obvious. Yet offenders are often perceived as being non-compliant when conditions of supervision are not met, when in reality, they may lack the knowledge or skills that are needed to comply.

> **Stigma**

Individuals with identified deficits may have spent their lifetime masking these deficits through well-developed defense mechanisms to avoid the embarrassment of appearing incompetent or unable to complete basic tasks. As a result, convincing them to address their deficits through educational or vocational interventions where their deficits are made obvious may be a daunting challenge. Acquiring an ability to overcome learning disabilities (that may have been the source of ridicule in the past) or facing the challenge of learning vocational skills may risk exposure of one's vulnerabilities and be considered too risky of a venture. Further, past failures in academic, vocational or work settings may be an impediment to engagement.

> **Inaccessible resources**

Educational and vocational resources, particularly in rural areas, may be limited and not meet the needs of individuals referred by the justice system. In locales where the resources are available, finding transportation to the site as well as a schedule that works for referred individuals may be problematic. Many educational and vocational programs are offered on-line (at least in part), but access to a computer and high-speed internet is essential. The cost to attend classes may also present a barrier, particularly when faced with having to pay several court-ordered fines and fees.

### 2.3.3 Strategies

There are several critical steps associated with the development of strategies to establish linkages between probation agencies and educational and vocational services, as well as other types of community services. Some of these steps are summarized below and links to relevant examples are provided.

> **Identify gaps**

Probationers that are unemployed or under-employed can benefit from support to help them overcome barriers to the successful completion of supervision. As a first step, assessing the skills of probationers in terms of reading comprehension, writing ability, and mathematics competency and/or aptitude can help identify probationers who have no apparent chance to improve their employment situation. Failing to acknowledge these conditions can in turn make it difficult for them to improve their living situation. Regardless of motivation, probationers who are subject to an environment where negative behavior is reinforced by peers and life circumstances facilitate bad behavior are unlikely to break the cycle of offending.

Screening of offenders for basic skills with support from a local school or general education diploma (GED) program can help increase understanding of the needs of probationers, and provide important information that can be used to identify needs and create a relevant and realistic case plan. For example, this knowledge can ensure appropriate referrals are provided that can improve their educational and vocational abilities while increasing their likelihood of successfully completing their terms of probation and becoming pro-social community members.

> **Engage community partners**

Public awareness and understanding of educational and vocational deficits among offenders is low. Similarly, the recognition of the importance of educational attainment and vocational skill development in reducing recidivism is not well-understood. One way to overcome this gap is to share information regarding the value and benefits of developing academic and vocational skills of probationers. This can be achieved through editorials, informational brochures and through presentations at service clubs, and church groups. Through these efforts community members can be recruited to serve as tutors and mentors, and many probation departments welcome community volunteers. Also, the Chamber of Commerce and local businesses and industry may see the value in providing resources that help develop people to fulfill workforce needs.

A more structured approach can involve the development of partnerships and regular meetings with community college and vocational school leaders to develop and maintain strategies that facilitate low-cost assessment and learning opportunities for probationers. Such partnerships can also be utilized to create a successful initiative to provide a screening protocol. Additionally, these institutional leaders are

knowledgeable and can help probation departments create linkages with available resources through various funding avenues.

> **Provide access to online alternatives**



Consideration of web-based sites that provide access to online learning portals for General Educational Development (GED) testing preparation or other desired post-secondary coursework for individuals who do not have access to a computer or computers with the necessary online capacity is essential. Often local libraries, community centers, places of worship and schools are able to provide the needed capacity. Probation departments may also be able to provide needed access.

One note of caution associated with online, web-based educational services is that, alone, they are not a practical solution to accommodate persons with literacy issues, so alternatives to these tools that can serve persons with literacy issues should not be overlooked.

> **Learn from other jurisdictions and sources**

Organizations such as the Correctional Education Association (<http://www.ceanational.org>) have resources that can assist jurisdictions in providing educational services to probationers. In addition, there are several jurisdictions around the country that have developed the capacity to provide educational opportunities by forming partnerships with community colleges.

- » **“Forward Motion” (New York).** The Westchester County (NY) Probation Department has established a program tailored to meet the needs of women convicted of DWI. They developed a partnership with Westchester Community College. A liaison from the school helps the women through the application process that will facilitate coursework toward a certificate, license or associate of arts degree.

Women between the ages of 21-45 and whose risk assessment results show that needs outweigh risk are eligible for the program. Offenders must be classified as Level I or Level II and stable in their sobriety. Several criteria are used to identify eligible offenders, and lacking a GED or college education is one of these criteria. Of note, the women enrolled in this program had inquired about higher education opportunities, and the completion of an educational program became a specific goal of their case plan. To fill this need, Westchester County Probation approached several colleges to request assistance, and two colleges responded. While distance was a barrier for one college, Westchester Community College offered discounted tuition. However, many probationers were unable to afford the costs. Further discussions with the college President resulted in the creation of liaison service that could be utilized by probation officers to facilitate the registration of probationers at no cost. Participants normally qualify to have their tuition fees covered through a total financial aid award (FAFSA) which they do not have to reimburse, or they qualify for total vocational vouchers through ACCESS. Since its inception, 27 women have completed an educational program and 18 women have completed an advanced educational program at Westchester Community College.

- » **Tulsa Drug/DUI Court (Oklahoma).** This program has successfully created a paid educational/vocational coordinator that assists participants in attaining higher literacy levels, obtaining their GED and pursuing higher educational goals at Tulsa Community College or other institutions. The coordinator also assists probationers in securing employment. Nearly all program participants secure at least a GED with many participants beginning work toward vocational certificates or college degrees.

Operated by the Community Service Council, these court treatment programs are an alternative to incarceration and a minimum of 18 months duration. Participants are required to attend regular court appearances, treatment appointments, supervision visits and random drug testing. In addition, graduates receive opportunities to advance their education, return to the workforce, or pursue their career during their time in the program. More information about this program can be accessed at: <http://csctulsa.org/drugdui-courts-2/>.

- » **STRIDE (Connecticut).** This program at Quinebaug Valley Community College was created in 1999, and it operates in correctional institutions for all types of offenders. To date this program has served more than 1,800 offenders. This program is a good example of potential strategies to involve partners and secure funding for educational programs for offenders. QVCC started the program with a federal grant, but it now receives funds from the state due to its effectiveness.

The program created partnerships with the Department of Corrections, Department of Labor and Social Services, faith communities, non-profit organizations and other community colleges in the state. Teachers from community colleges teach five courses that are offered each year; and classes are conducted twice a week for ten weeks in the institution. Instruction includes academic subjects as well as employment and social skills. More information about this program is available at: <http://qvcc.edu/stride-benefits/>.

## 2.4 Employment Services

### 2.4.1 The issue

Persons who were employed prior to an arrest and/or conviction for DWI may find their prospects to maintain employment comprised, whereas those who were previously unemployed often experience even more profound challenges securing a job. A common consequence associated with being detained in jail either immediately after arrest or as a result of a conviction is job loss due to an unexcused absence or because of the arrest or conviction. Additionally, people with criminal convictions often are restricted by various state laws from working in myriad professions which substantially limits their options for gainful



employment. This is one of the more significant collateral consequences<sup>6</sup> of a criminal conviction, and each state has different restrictions that have an adverse impact on future employment, although they may sometimes be similar in nature. Often these restrictions are inconsistent from one state to another. More information about state-specific collateral consequences is available from the American Bar Association at: <http://www.abacollateralconsequences.org/map/>.

Employment restrictions are generally based on the severity of the crime (i.e., felony vs. misdemeanor), may be associated with specific types of crimes (e.g., sexual abuse, burglary, embezzlement, DWI), or may be all-inclusive of any criminal conviction. Further, prospective employers may also require a criminal background check prior to employment, and their criteria regarding criminal history for employment may be more restrictive than other employers.

In addition, maintaining or seeking employment may be difficult or impossible for individuals that have had their driving privileges revoked. Often they do not have reliable transportation to seek a job or to attend the place of employment regularly. This lack of employment or under-employment

creates financial hardship for probationers making it difficult to pay fines, fees (e.g., supervision, alcohol interlock, alcohol education, treatment) as well as increased insurance premiums. This resulting unfavorable employment situation often creates a financial burden for family members and may initiate stress in relationships that amplifies the consequences of a conviction.

### 2.4.2 Challenges & caveats

There are four substantial challenges that can severely impact the ability of offenders to secure employment. While the nature of these challenges may vary in urban as compared to rural jurisdictions, each of these issues can detract from potential job prospects, and become an impediment to probationers successfully completing supervision.

<sup>6</sup> Collateral consequences are additional civil state penalties that attach to criminal convictions that are mandated by statute. They are separate indirect consequences of the conviction beyond such sanctions as incarceration, fines or probation.

> **Lack of anonymity**

Arrest and conviction records have become increasingly accessible to the public and employers. Among some employers, an arrest record (even without a known conviction) may be enough reason to decide not to hire an individual. In fact, there are numerous companies and websites that provide (for a fee) criminal histories that have been obtained by searching a variety of publicly available databases. Unfortunately, many times the information provided in these databases is not current or complete. These inaccuracies are sometimes due to criminal justice stakeholders not entering data in a timely or complete manner, as well as the timing of the of the data extraction by the company. For example, a database may indicate that an individual was arrested, but it may not indicate whether they were convicted or acquitted. This could be because a disposition has not yet been determined, or no one entered a disposition, or there was no further action taken beyond the arrest (i.e., the individual was released without being formally charged), or they were found not guilty. The proliferation of companies and websites that extract criminal history information and the employers that rely on this information makes it difficult, if not impossible, to ensure incorrect information is removed or amended in all databases. This situation can result in probationers not being considered for a potential employment opportunity as a result of erroneous criminal history information.

**Numerous companies and websites provide inaccurate criminal histories to the public and employers for a fee.**

DWI offenders may also be unable to obtain and maintain employment due to concerns among employers about litigation (e.g., if the probationer must drive a vehicle as part of their job). To this end, many employers fear potential litigation resulting from employees harming another individual while working for them. This amplified fear of a lawsuit stems from concerns among employers that an employee's character or competency can be called into question based on their previous DWI conviction.

> **Conflicting priorities**

Court-ordered sanctions and conditions can also be a barrier to offenders securing and maintaining employment after a DWI conviction. For example, arranging assessment appointments, attending treatment, meeting with a probation officer, bringing a vehicle with ignition interlock to a distant vendor and completing community service work can create conflicts with work schedules. This is a particular hardship for people that have jobs that require rotating shift work, and these demands can also result in employers terminating their employment due to repeated requests for time off.

> **Job loss post-conviction**

Even short periods of detention or jail following a DWI arrest or conviction, or a probation violation, can have deleterious impact on the employment, housing and finances of probationers. Research has shown that even very short periods of incarceration have serious negative effects, and consequences often including job loss, residential instability, loss of social supports and financial impacts (Lowenkamp & VanNostrand 2013; Lowenkamp et al. 2013). More recently, studies have shown that pre-trial detention results in varying levels of disruption across several indicators of functionality; specifically employment, residential stability, issues related to dependent children, and financial circumstances. This study also revealed that, with few exceptions, the longer defendants were held pre-trial, the more substantial the effects, with higher rates of instability across almost every indicator (Holsinger 2016).

These consequences are particularly profound for individuals working in low wage jobs performing unskilled labor because they are easily replaced. The inability of probationers to post bond, or the absence of pre-trial release options in a jurisdiction can compound the undesirable consequences in terms of employment.

> **Consequences of criminal conviction**

As part of state statutes or practice, an increasing number of jurisdictions utilize longer "look-back" periods for criminal history (i.e., the period of time for which prior criminal convictions are counted). Look-back periods may range from as little as three years, to as much as 10-years; in some jurisdictions

the look-back period may be the lifetime of an offender. For example, an offense may be charged as a felony offense if an individual has three prior convictions in a five-year period. In addition, Federal laws have also limited state practices related to diversion programs that may result in a criminal charge being removed if an offender successfully completes an approved program such as a DWI Court program. As a result, convictions for DWI can have a long-term impact on employment opportunities for those convicted.

More recently, several states have passed legislation that increases a DWI charge to a felony offense if a minor child is in the vehicle. This has resulted in some female impaired drivers with no criminal history being convicted of a felony offense which can have an impact on their employment opportunities (Harris and Keller 2005; Okun and Rubin 1998).

### 2.4.3 Strategies

Awareness and understanding regarding the effects of a conviction on potential employment opportunities is an essential step towards developing strategies to mitigate or overcome potential barriers to employment. Once there is clear recognition of what types of employment are available versus unavailable to DWI offenders, opportunities to facilitate employment opportunities can be pursued. Working with local employers, trade schools, and community organizations are important features of any strategy, and examples of practice are also provided below. In addition, it is important that efforts are made to ensure that offenders are able to secure employment (i.e., and are not prohibited) in relation to the vocational opportunities offered to them.

#### > **Understand exclusions for employment**

A DWI conviction may make some types of jobs off-limits for an offender. For example, a person who is employed as a bus driver or has a Commercial Drivers License (CDL), and is subsequently arrested or convicted of DWI, may be dismissed by their employer. Hence, courts and probation staff are encouraged to familiarize themselves with types of jobs that are prohibited on the basis of a DWI conviction. In addition, court and probation staff should also utilize this information when determining conditions of supervision (which may include a requirement for employment such as a DWI court program), and to help direct probationers that are actively seeking employment so they do not futilely pursue jobs they are ineligible to perform.

#### > **Work with employers to create opportunities for meaningful employment**

Not all current employers will dismiss employees following a DWI conviction, just as not all employers will reject a job candidate on the basis of a conviction. However, it is important to ensure employers are educated about the importance of probationers maintaining employment and communicating to

**Employment is an important pro-social factor in the rehabilitation of individuals.**

them what steps are being taken to address illegal behavior. It

is underscored that employment is an important pro-social factor in the rehabilitation of individuals. Conversely, loss of employment or inability to secure employment can exacerbate their capacity to lead a pro-social life and participate in society. Therefore, it is important that a comprehensive effort to effectively address DWI behavior should include educational outreach to employers and employee assistance programs through presentations and information pamphlets regarding the importance of helping people who have been convicted of a DWI maintain employment.

Also, probation officers and departments are encouraged to work with the employer of a probationer to encourage job retention and reassure them that the probation department is working (ideally with their assistance) to hold the employee accountable and ensure offending behavior is addressed. In this regard, it is equally helpful to clearly explain the court-ordered requirements that must be fulfilled and conditions of supervision by which the probationer must abide such as alcohol testing and curfews.

#### > **Limit or ameliorate incarceration as is practicable**

Efficient and effective plans to help probationers avoid or minimize disruptions in employment associated with brief stays in jail can ensure they are able to retain employment and reap its pro-social

benefits. Developing strategies to keep people from being unnecessarily incarcerated such as pre-trial release with supervision, without relying on financial bonding, as well as having in place appropriate post-conviction supervision strategies can help ensure that employment is maintained. Another strategy for those that are incarcerated but are employed is to create work release programs that allow them to attend work during their jail sentence.

> **Document and share successes**

Providing probationers with a certificate of completion that can be shared with current or prospective employers can assist individuals that have successfully completed their court-ordered conditions to maintain or secure employment. These certificates are useful for probationers to demonstrate to employers that they have been rehabilitated, and can be a pre-emptive way to address any potential worries of an employer. Examples of strategies to share successes are located in Appendix E.

## 2.5 Housing Services

### 2.5.1 The issue

A DWI arrest or conviction can result in defendants or offenders being incarcerated. In turn, any period of incarceration can result in the loss of housing due to inability to pay rent, make a mortgage payment or separation from a significant other due to the criminal behavior. The arrest or conviction coupled with incarceration may also result in lost employment, which makes it quite difficult to secure new housing or pay for it. The strain on personal relationships after the DWI arrest or conviction also places considerable strain on spousal and family relationships. This can ultimately contribute to disruption in or the end of the relationship and also create a need for new, separate housing. Of concern, lack of stable housing can be an impediment to effective rehabilitation and adherence to court-ordered sanctions and conditions because it diverts focus toward finding housing as opposed to complying with court-ordered activities.



### 2.5.2 Challenges & caveats

Stable housing is an essential prerequisite for probationers to be eligible for probation as well as to comply with the myriad requirements of supervision. Probation departments must be able to locate probationers in order to supervise them in the community, track and verify their activities, and apply reinforcements as well as sanctions as appropriate. However, there are a number of barriers that make it challenging for offenders to secure stable housing, and these are briefly described below

> **Inadequate and/or unaffordable housing locations**

The inability of persons who have a criminal record and/or have completed a term of incarceration in jail or prison to secure housing is a common problem. Limited or no income and an absence of supportive family or friends exacerbate this predicament. In particular, offenders who have served a lengthy sentence in prison may find that the neighborhood with which they were familiar may have changed significantly. Additionally, the inability to secure housing can be magnified in rural areas where there may be fewer housing options. When potential housing can be located, it is often not affordable with limited financial resources.

> **Unstable living arrangements**

Persons who have lost their housing or are now looking for housing after a period of time in jail or prison, may find themselves in any number of temporary living situations. These transitory, day-to-day accommodations may include shelters or moving from the home of a relative or friend to another. The lack of stable living arrangements creates the paradoxical conundrum that individuals may not

have an address to put on a work application so it is harder to be hired. At the same time, without employment, he/she cannot afford a stable place to live. This also makes it difficult for a probation officer and treatment providers to keep track of him/her.

In some cases, particularly if coming out of a prison, there may be the option of a halfway house to ease the transition back into the community. However, these short-term living arrangements may be in communities or locales that are unfamiliar to the individual and not near the area where it may be more suitable or practical for them to live in the long-term.

### 2.5.3 Strategies

Concerted effort and coordination between probation departments and a wide range of community partners is a primary feature of successful strategies to mitigate the inability of offenders to obtain suitable housing. This section provides insight into the variety of ways that probation departments have helped facilitate affordable housing opportunities for probationers, and examples of practice are shared.

#### > Engage community partners

Work with community leaders (e.g. housing authorities, non-profit advocacy groups, faith-based organizations, landlord associations, Chambers of Commerce, city and county housing developers) to create housing options that provide a stable place to live in the short-term on an emergency basis to help ease the transition from jail or prison, or to meet the needs of individuals who have lost their housing. It is important that communities look beyond short-term solutions and do not overlook the need for longer-term, sustainable housing strategies. To this end, the availability of stable housing (short-term and long-term) after serving a jail or prison sentence or consequentially losing one's place of residence as a result of a DWI conviction enables offenders to place a greater focus on employment (maintaining or obtaining), and compliance with conditions of supervision (including court-ordered treatment), as well as make more permanent arrangements for housing. Some jurisdictions and private agencies provide sober living options in multiple unit buildings or provide halfway houses to ease the transition. For an example of a comprehensive housing and employment approach, see RS Eden located in the metropolitan Minneapolis and St. Paul, Minnesota (see: [www.rseden.org](http://www.rseden.org)).

**Create housing options that provide a stable place to live in the short-term on an emergency basis to help ease the transition from jail or prison, or fill the need for someone who has lost his/her housing.**

#### > Make re-entry<sup>7</sup> a reality

Effective re-entry strategies should be deployed to aid the effective transition, particularly to those individuals who have served an extended time in jail or prison. Elements of effective re-entry include:

- » Develop a checklist for people leaving jail or prison of tasks to be accomplished and appointments to be kept or made. The list should include telephone numbers and addresses. (See Appendix C for a pre-release plan template).
- » Designate a community-based representative to work with individuals immediately (no longer than three days) upon release.
- » Provide stability through housing and employment.
- » Provide community support.
- » Ensure that there is accountability and supervision.
- » Encourage and/or require service providers to coordinate their efforts for each case to facilitate the ability of offenders to comply with the requirements of supervision.

<sup>7</sup> Re-entry is a broad term used to refer to issues related to the transition of individuals from prison or jail to the community either with or without community supervision.

- » Create partnerships with Housing and Urban Development or similar state or local agencies (especially in urban areas) or Farmers Home Administration (FHA) in rural areas. Also, local faith communities should be approached for potential assistance with housing and other services.
- » Help them connect with AA/NA/Marijuana anonymous networks to provide support.

## 2.6 Transportation Services

### 2.6.1 The issue

Many individuals convicted of DWI have their driver's license suspended or restricted to specialized usage, or limited to a specific vehicle with an alcohol interlock device installed. Enforcement to detect unlicensed drivers is limited or non-existent; these drivers are often able to drive without being stopped by police. As a consequence, numerous restricted or unlicensed drivers are willing to risk detection rather than dispense with the hassle of continuously trying to find transportation to their destination. Further, many people will accept a license suspension and drive illegally rather than pay the fees associated with the installation and maintenance of an alcohol interlock.

Conversely, those individuals who abide by a license suspension may find themselves hampered by the inability to drive. This is a particularly acute problem in rural areas. However, even in urban areas with public transportation, there can be challenges based on geographic coverage and schedules. The inability to drive can also cause hardship in getting to work and appointments while placing a burden on family members and friends who are continuously asked to provide transportation.

### 2.6.2 Challenges & caveats

The ability of offenders to attend the series of appointments, programs, and locations that are associated with supervision requirements as well as employment is largely dependent on the availability of transportation services. The consequences associated with limited or no transportation options are profound, and can ultimately shape their success or failure with supervision conditions.

#### > **Limited enforcement**

Too often, the highest risk DWI offenders are those that drive illegally after license suspension. Even when they are given the choice of a license suspension or installing an alcohol interlock, they often choose the license suspension rather than paying for the interlock device because they are cognizant of the reality that they can likely avoid detection while driving with a suspended license. There simply are not enough resources to effectively ensure compliance, particularly when alternative transportation options are limited or non-existent.

#### > **Inadequate public transportation options**



For those individuals who have had their driving privileges suspended and hope to rely on public transportation to get around, there are caveats. In particular, public transportation (e.g., buses, trains) may not operate during the time periods when the individual must travel. For example, offenders who are randomly prompted to submit a urine screen for alcohol or drugs in early morning may not be able to get to the testing facility before going to work. Similarly, shift workers may not be able to get home late at night when their shift ends, and scheduling gaps are a prominent challenge for offenders performing shift work. Even when services may be available, they may not be reliable which can result in offenders coming to

work late, or being unable to get home if transportation does not adhere to schedule. These challenges are compounded for those offenders who must also attend treatment sessions or accommodate the schedules of a childcare facility. Female offenders have further noted that safety concerns are prevalent in

relation to public transportation when drop-off and pick-ups are in potentially unsafe neighborhoods, and they must walk a considerable distance between drop-off and their final destination, or do so during late night hours (Robertson et al. 2014).

### **Absence of alternative transportation options**

Public transportation may not even be an option in areas with limited to no public transportation services. Thus, people who want to adhere to their driving restrictions may find themselves relying on

**Public transportation may not even be an option in areas with limited or non-existent public transportation services.**

friends, co-workers or relatives to transport them to work, appointments, complete errands or to pick-up children. Not only can this strategy put a strain on

relations but it may not be the most reliable way to function daily. If an arranged ride driver is sick or otherwise unable to accommodate one's need for transportation, it can create circumstances where the person is scrambling for an alternative solution or is in an untenable situation of having to forego meetings and scheduled appointments or community services that are required or not easily re-scheduled. This can result in additional sanctions for non-compliance.

### **2.6.3 Strategies**

There are no easy solutions to overcome the paucity of transportation options. As such, the availability or lack thereof is an important consideration during the development of probation case plans.

Acknowledgement of transportation options can help to avoid offenders being unable to comply with requirements and facilitate their successful completion of court-ordered conditions. This section highlights key features of a strategy to establish transportation solutions for offenders.

#### **> Facilitate the ability to drive safely**

Consider adopting one or more interventions that enable offenders to retain driving privileges under specific conditions, such as the 24/7 Sobriety Program which originated in South Dakota. In this program DWI offenders are allowed to keep their driving privileges as long as they report for a breathalyzer test twice daily at a local blood alcohol testing site (Kilmer et al. 2013, Loudenburg et al. 2010; Kubas et al. 2015).

Another option to drive safely involves the use of alcohol interlocks in lieu of a total suspension of a driving license. A growing number of jurisdictions require the installation of an alcohol interlock to enable DWI offenders to retain their driving privileges. A close look at the total cost of installation and maintenance of these devices as well as license reinstatement fees should be part of any strategy to encourage the use of this technology. Visit [www.aic.tirf.ca](http://www.aic.tirf.ca) for more information about alcohol interlocks. It is important to note that the objective of a 24/7 sobriety program is to control and monitor alcohol consumption whereas interlocks are designed to separate drinking and driving.

#### **> Use technologies to facilitate safe driving options**

Local and state efforts directed at DWI prevention and response initiatives should discuss and employ strategies that will encourage and effectively enforce driving restrictions. When utilizing alcohol interlocks, it is important to track odometer readings as well as do spot checks at the place of employment or at appointment locations to ensure offenders are only operating the vehicle in which the technology has been installed. Spot checks can also be utilized to determine if individuals with a suspended license are driving illegally. The perception of a likelihood of detection can serve as a valuable deterrent.

#### **Provide access to public transportation in urban areas**

Create a method to provide travel vouchers, tokens or riding passes to people where public transportation is available and that are in difficult financial situations. This could be included in a services package provided by treatment providers, or willing employers could provide riding passes that are paid for through automatic deduction from a paycheck.

> **Develop transportation alternatives in areas without public transportation**

Work with local faith communities or volunteer services to provide regular or emergency transportation. Some DWI courts have arranged for volunteer drivers and jurisdictions that have such a court, may be able to arrange transportation or start this type of support service. Many jurisdictions have some level of assistance provided by non-profit entities to supply transportation for people in need of this service.

> **Incentivize compliance**

Consider an incentive strategy that reduces the time of license restriction for ongoing compliance and/or completion of selected court-ordered conditions. Vouchers, tokens and riding passes could also be used to reward compliant behavior. Setting of indicators of success for various tasks or conditions that need to be adhered to or completed can be an effective way to encourage compliance and support successful movement toward pro-social behaviors.







### 3. CONCLUSIONS

A great deal of attention and resources have been allocated to the prevention of impaired driving and countermeasures to address the problem. These efforts have been successful in helping to reduce the number of fatalities related to impaired driving. Nevertheless, impaired driving behavior remains prevalent and the number of alcohol-related fatalities continues to be unacceptable. Conversely, the attention and resources allocated for DWI offenders post-conviction (particularly those who have a high-BAC or are repeat offenders) has lagged significantly in comparison. The provision of comprehensive post-conviction services to DWI offenders who are at high-risk to continue to drive impaired is essential to achieve further reductions in alcohol-related road deaths and injuries.

To this end, the onus is on criminal justice practitioners to ensure that supervision conditions are balanced and directly related to the offending behavior. Moreover, it is imperative that offenders have a reasonable ability to actually comply with these conditions. The imposition of myriad and complex costs, programs, and enrollment processes that offenders must navigate, often without transportation, in addition to securing basic necessities such as housing and employment, makes it challenging for offenders to comply. These barriers to success is often readily apparent to offenders, and it undermines any motivation they may have to make substantial lifestyle changes.

As such, consideration of more holistic approaches to assessment that acknowledge fundamental deficits that detract from the ability of probationers to successfully complete a period of supervision are much-needed. Research has repeatedly shown that common characteristics among impaired driving offenders include substance abuse and mental health issues, low educational attainment, and under-employment involving unskilled labor and low wages or unemployment. Additionally, male offenders are often single, separated or divorced and have a history of volatile relationships. More generally, lack of stable housing is common among many types of offenders. Female impaired drivers also share many of these characteristics, and are often the sole financial support and caregiver for children. They also often present with a history of trauma, and many lack a support network (Robertson et al. 2014).

Most notably, there is evidence to suggest that strategies that make it too challenging for offenders to successfully comply ultimately undermine public safety, and discourages even the most motivated and well-intentioned offenders. The six post-conviction services selected and defined by the Working Group on DWI System Improvements provide a template for successful interventions with this population. Perhaps Dan Cain of RS Eden (Minnesota) said it best during this Working Group meeting, "It is not our responsibility to place an offender on the path to a level playing field, or even to move them along that path once they are on it. Instead, it is our responsibility to ensure that such a path exists. Exclusion does not enhance public safety. Over the long haul, it compromises it."



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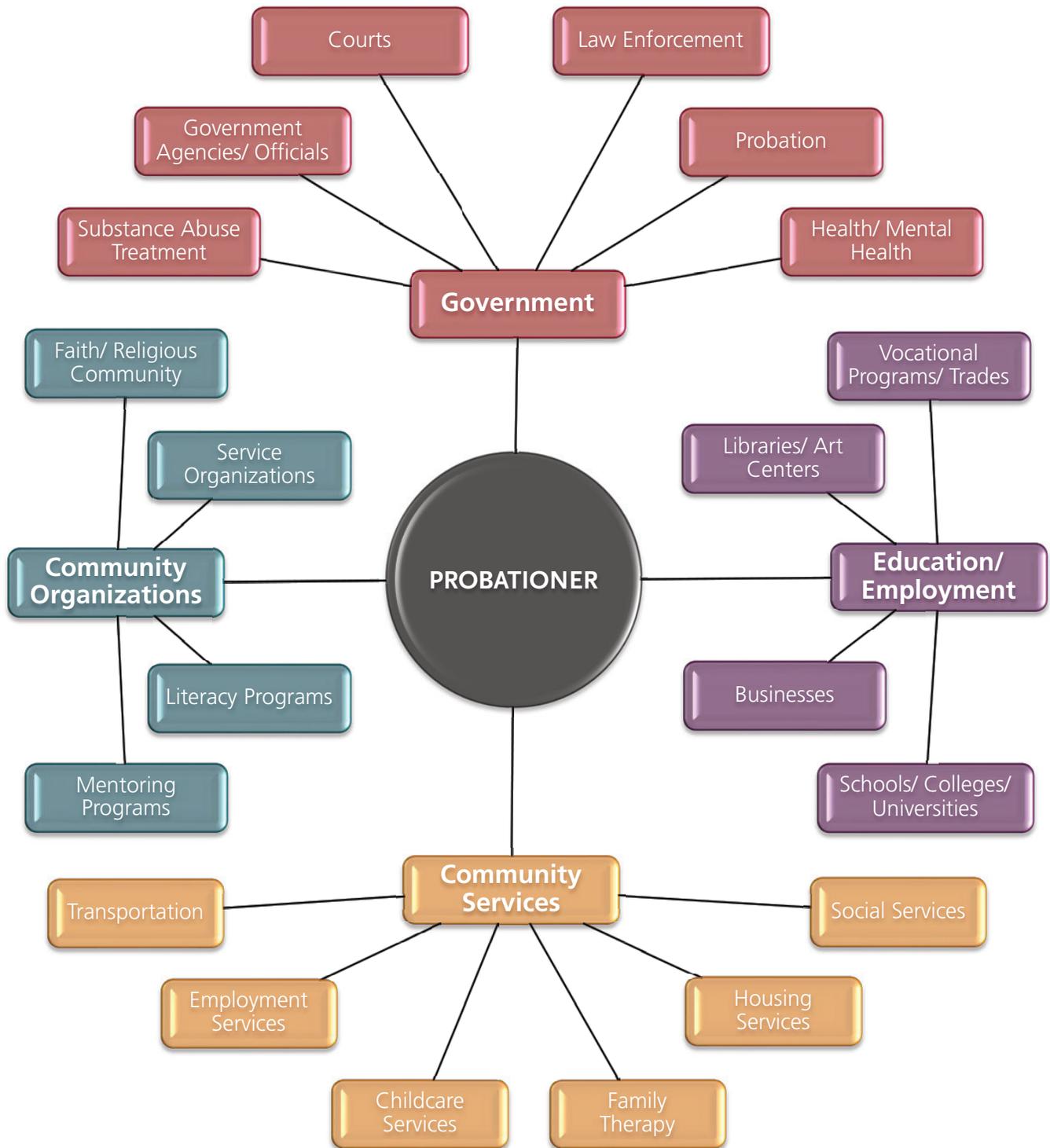
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# APPENDIX A: COMMUNITY RESOURCE MAP



# APPENDIX B: INTER-GOVERNMENTAL AGREEMENT BETWEEN HEALTH CARE AGENCY AND COUNTY JAIL

## INTERGOVERNMENTAL AGREEMENT TEMPLATE BETWEEN HEALTHCARE SYSTEM AND JAIL FACILITY

XXXXX Health-care System

And

XXXXX County Jail District

This Intergovernmental Agreement is between XXXXX Jail District (DISTRICT), a political subdivision of the State of XXXXX and the Health-care System (HCS).

### RECITALS

HCS is duly authorized to execute and administer Agreements under (cite statute) and

The DISTRICT is duly authorized to enter into this agreement under (Cite statute) and

The DISTRICT is responsible for the oversight management and the provision of healthcare services to detainees in the custody of the Sheriff's Office and contracts with an outside healthcare vendor for the provision of healthcare services; and

The medical services program in the XXXXX County Detention Facility is included in the DISTRICT'S healthcare component and is a Covered Entity for the purposes of compliance with the Health Care Insurance Portability and Accountability Act (HIPPA); and

Individuals are not eligible to receive HCS benefits while incarcerated; and

Suspension, rather than termination of HCS benefits during any period of incarceration is economically efficient, and for individuals released from custody, facilitates continuity of care and minimizes the number of uninsured; and

The DISTRICT and HCS wish to enter into this Agreement in order to establish procedures to accommodate HCS eligibility suspension at the time of incarceration, reinstatement of an individual's enrollment upon their release from custody and transmission of match results to the District for DISTRICT's use in discharge planning for inmates about to be released.

HCS and DISTRICT agree as follows:

#### 1. Definitions:

- A. Incarcerated: for purposes of this Agreement an individual detained at the XXXXX County Detention Facility will not be considered incarcerated until: an initial court appearance has occurred and a minimum of 24 hours have elapsed since the time of the individual's detention.
- B. Member: an Individual who is eligible for Title XIX benefits or is enrolled with HCS, an HCS Contractor, or a state provider for medical or behavioral health services.
- C. No-pay Status: for the purposes of this Agreement HCS will not reimburse claims submitted for individuals while incarcerated.

**Purpose:** The purpose of this Agreement is for the DISTRICT and HCS to jointly develop and implement a system to match HCS data with the Districts inmate population data to facilitate the identification of Incarcerated individuals so that those individuals' Title XIX benefits may be suspended or placed on a no-pay status and so that those individuals will be immediately returned their pre-Incarceration status upon their release from custody.

## 2. Scope

### A. District Responsibilities:

I. Submit files on a daily basis (including weekends and holidays) by 5pm; electronically transmit, in a format agreed to by the parties, booking and release data for the preceding twenty-four hour period. If a daily file is missed, the information in the missed file will be included in the next daily file. Data transmitted includes, but may not be limited to, the detainee's booking number, name, date of birth, gender, time of booking or release, and if the detainee was released to another facility and name of facility. Social security numbers will not be transmitted, should they be required this Agreement will need to be amended to include a confidentiality clause. In the event there are no bookings or releases, District will transmit a file indicating "no records."

### II. HCS Responsibilities:

III. After 5pm each day, including weekends and holidays, utilizing the information provided by the DISTRICT, query its member database to identify individuals appearing in both data sources ("matches").

IV. Suspend or reinstate Member Title XIX benefit eligibility based on the Members Incarceration status at the time of the query.

V. Update eligibility information daily, including weekends and holidays.

VI. On the same day each query is performed, provide a copy of that day's query results to the DISTRICT identifying query results for each individual listed: a match, no match, partial match, rejected or invalid format of data.

VII. On the same day each query is performed, post results of the query on (indicate website) for DISTRICT'S retrieval for the purposes of discharge planning.

3. **Financing:** Each party will bear its own cost for the performance of its responsibilities as set forth in this Agreement.

4. **Term:** This agreement is effective on (indicate date) until terminated by either party.

5. **Disposal of Property:** Upon the termination of this agreement, all property involved shall revert back to the owner. Termination will not relieve any party from liabilities or costs already incurred under this Agreement, not affect ownership of property pursuant to this agreement.

6. **Indemnification:** Each party agrees to indemnify, defend, and hold harmless the other party from and against any and all claims, losses, liability, costs, or expenses (including reasonable attorney fees)(therein collectively referred to as "claims") arising out of bodily injury of any person (including death) or property damage, but only to the extent that such claims which

result in vicarious/derivative liability to the indemnitee, are caused by the act, omission, negligence, misconduct, or other fault of the indemnitor, its officers, officials, agents, employees, or volunteers.

7. **Insurance:** Both parties to this agreement participate in self-insured programs to address liability and loss issues arising from their operations. The parties agree that the general liability coverage and general liability coverage afforded by these self-insurance programs are sufficient to meet the purpose of this Agreement.
8. **Exercise of Rights:** Failure to exercise any right, power or privilege under this Agreement will not operate as a waiver thereof, nor will a single or partial exercise thereof preclude any other further exercise of that or any other right, power, or privilege.
9. **Compliance with Laws, Rules and Regulations:** HCS, the District and their subcontractors must comply with all applicable Federal and State laws, rules, regulations and Executive Orders, without limitation to those designated within this Agreement. The laws and regulations within the State of XXXXX govern the rights of the Parties, the performance of this Agreement, and any disputes arising from the Agreement. Any action relating to this Agreement must be brought by arbitration to the extent required by (cite statute) or in an appropriate court. Any arbitration award will be enforced in an appropriate court.
10. **Non-Discrimination:** Neither party shall discriminate against any employee of the other party or against the employees of District's contractor(s) employee, client or any other individual in any way because of that person's age, race, creed, color, religion, sex, disability or national origin in the course of carrying out each party's duties pursuant to this Agreement. Each party shall comply with the provisions of Executive orders (cite order) which are incorporated into this Agreement by reference as if set forth in full herein.
11. **ADA:** The parties must comply with all applicable provisions of the Americans with Disabilities Act (Public Law 101-336, 42 U.S.C. 12101-12212) and all applicable federal regulations under the Act, including 28 CFR Parts 35 and 36.
12. **Termination:** Pursuant to (cite statute), either party to this Agreement may terminate this Agreement without penalty of further obligation if any person significantly involved in initiating, negotiating, securing, drafting or creating this Agreement is or becomes at any time while the Agreement or extension of the Agreement is in effect an employee or consultant to any other party to this Agreement with respect to the subject matter of the agreement. The cancellation will be effective when HCS or the County receives written notice of the cancellation unless the notice specifies a later time.
13. **Records:** The parties agree to retain all financial books, records and other documents and will contractually require each subcontractor to retain all data and other records relating to the acquisition and performance of the Agreement for a period of five (5) years after the completion of the Agreement. All records are subject to inspection and audit by the parties at reasonable times. Upon request, the parties will produce a legible copy of any or all such records.

14. **Severability:** The provisions of this Agreement are severable. If any provision of this Agreement is held by a court to be invalid or unenforceable, the remaining provisions continue to be valid and enforceable to the full extent permitted by law.
15. **No Third Party Beneficiaries:** Nothing in the provision of this IGA is intended to create duties or obligations to or rights in the third parties not parties to this IGA or effect the legal liability of either party to the IGA.
16. **No Joint Venture:** Nothing in this Agreement is intended to create a joint venture between the Parties and will not be so construed. Neither HCS nor County's employees will be considered officers, agents or employees of the other or be entitled to receive any employment-related fringe benefits from the other.
17. **Notices:** Any notice required or permitted to be given under this Agreement must be in writing and must be served by delivery or by certified mail upon the other party as follows:
  - B. Notices to HCS will be addressed and mailed as follows:  
ADDRESS
  - C. Notices to DISTRICT will be addressed and mailed as follows:  
ADDRESS
18. **Extensions and Amendments:** This document contains the entire agreement of the parties. Any change, modification or extension of this Agreement must be in the form of a written amendment to this Agreement and signed by both parties. This Agreement may be extended as required by law for additional one-year periods by written amendment signed by both parties.

**NOW THEREFORE,** HCS and the District agree to abide by the terms and conditions set forth in this Agreement.

**IN WITNESS WHEREOF,** the parties hereto have executed this Agreement on the date and year specified below.

#### **SIGNATURES**

# APPENDIX C: PRE-RELEASE PLAN TEMPLATE



Traffic Injury Research Foundation

## Pre-Release Plan Template

Name	OID
Scheduled Release Date	Case Manager

What are your plans when you get out of prison and return to the community? This worksheet is designed to help you start thinking about and planning your release. You can use this worksheet to help you begin to work with your case manager to develop a release plan.

### Identification

Do you have a valid form of identification?

- > Social security card                      Yes    No
- > Birth certificate                            Yes    No    State: \_\_\_\_
- > State ID                                      Yes    No
- > Driver's license review                    Yes    No
- > Renewal - Must be valid-expired less than 1 year.

### Housing

Where are you going to live when you get out?

There are many factors to consider when deciding where you will live when you first are released:

- > Will your corrections agent (PO) approve where you plan to live?
- > Is it in the county where you are being supervised?
- > Will you be living around positive, supportive people or around negative influences?
- > How do you plan to pay rent and utilities?
- > Can you look for a job and/or get to work from where you plan to live?
- > Can you get to your support group and/or treatment program from where you plan to live?

Identify at least three potential locations of where you might live when you are released. Plan 1 should be a place that is "solid or definite". Plan 2 and 3 are alternative options.



**Plan 1:**

Where: (address or as much as you know)
Who lives there:
Possible issues:

**Plan 2:**

Where: (address or as much as you know)
Who lives there:
Possible issues:

**Plan 3:**

Where: (address or as much as you know)
Who lives there:
Possible issues:



**Transportation**

How are you going to get around once you are released?

- > Do you have a driver's license? Yes    No
- > Can you get to where you need to go by bus? Yes    No
- > Will you own a vehicle? Yes    No
- > What is your plan for getting to the places you need to go? Yes    No
- > Will you depend on others for rides (and are they dependable)? Yes    No

Use the space below to identify how you plan to get to all the different places you need to go.

**Personal Needs**

Think about how much money you will need to get started and how much you can afford.

Rent in metro areas can be expensive but transportation may be more accessible.

- > You will need first and last month's rent plus a damage deposit for new residences.
- > You still need to eat, buy clothes for an interview and work, get transportation, personal hygiene items, and recreation.
- > Do you have other expenses such as childcare or child support payments?
- > How do you plan to live and pay for things if it takes a month or two before you receive your first paycheck?

Use the space below to develop a simple budget up on your release.

Housing	\$
Utilities	\$
Food and hygiene items	\$
Transportation	\$
Monthly debts	\$
Insurance	\$
Recreation	\$
Other	\$
<b>TOTAL</b>	<b>\$</b>



Most individuals quickly need more than the clothing and other items they have when they leave prison. You will need to eat, have access to transportation, and acquire other necessities. You may get lucky and find a job quickly, but there are no guarantees. A good savings plan now can help you figure out how much money you will need to get started on a life outside prison.

How much money do you have right now in your inmate account?	\$
How much money do you have in your outside savings/ checking?	\$
How much money do you have in other types of assets?	\$
Add it all up to figure out how much money you have.	\$

How much do you spend right now on your personal needs? Write down how much each month you spend on canteen and how you usually spend your money.

### Employment

When you leave prison, you will find you have some ability, talent and skill for a variety of jobs. What are you looking for in a job?

- > Good wages? Yes    No
- > Benefits – vacation pay, health insurance, etc.? Yes    No
- > Hours that suit your needs, not those of the employer? Yes    No
- > Work that you actually like doing? Yes    No
- > Opportunities for more training and advancement? Yes    No

Everyone has some type of skill. You may be aware of your skills and talents, even if you have never seriously used them.

In the space below, write down what interests you and where you would like your job to take you.





## Traffic Injury Research Foundation

I am most interested in the field of:

- |   |                                       |  |
|---|---------------------------------------|--|
| <input type="checkbox"/> Construction                 | <input type="checkbox"/> Food service | <input type="checkbox"/> Repair/maintenance  |
| <input type="checkbox"/> Clerical                     | <input type="checkbox"/> Production   | <input type="checkbox"/> Transportation      |
| <input type="checkbox"/> Sales                        | <input type="checkbox"/> Retail       | <input type="checkbox"/> Wood work/carpentry |
| <input type="checkbox"/> Laborer                      | <input type="checkbox"/> Painting     | <input type="checkbox"/> Plumbing            |
| <input type="checkbox"/> Cleaning                     | <input type="checkbox"/> Hairdressing | <input type="checkbox"/> Lawn care           |
| <input type="checkbox"/> Other, please identify _____ |                                       |  |

Three jobs that would get me started in that field are:

1.
2.
3.

Three jobs that I can aim for are:

1.
2.
3.

Three ways I can start preparing for this type of work are:

1.
2.
3.

# APPENDIX D: HEALTH MEMORANDUM OF UNDERSTANDING

## TEMPLATE

### Memorandum of Understanding

**Between County of XXXXX Public Safety Group, Probation Department  
and County of Health and Human Services Agency**

#### Parties

This Memorandum of Understanding (MOU) is made by and between the County of XXXXX Public Safety Group, Probation Department, hereafter referred to as Probation, and the County of XXXXX Health and Human Services Agency (**NOTE-Indicate your jurisdictions mental health services provider**), hereafter referred to as HHSA, to provide integrated services to persons with serious mental illness receiving services through the Mental Health Services Act (**NOTE-Indicate your jurisdictions funding authority**).

#### Recitals

Probation provides a wide variety of services to the XXXXX community, including interventions, case management, and supervision of adults and juveniles who are at risk of entering the justice system or re-offending while placed on probation by the courts. Probation staff work in the community to help prevent criminal activity, and operate detention facilities for both adults and juveniles.

HHSA provides services and supports for children, adults and older adults with mental health challenges throughout the County of XXXXX. Services include outreach and engagement, mental health assessment, treatment planning, treatment case management, rehabilitation and recovery services.

HHSA receives Mental Health Services Act (MHSA) funds for the expansion of mental health services to children, young adults, adults and older adults living in XXXXX (**Note-Indicate state or jurisdiction**).

The Departments desire an agreement that will continue to support MHSA goals, including but not limited to, focus on young adults and adults with serious mental illness, maintaining expanding services programs that have demonstrated effectiveness in providing outreach and integrated services, provision of timely access to services, reduction of incarceration and institutionalization, and reduction of homelessness resulting in untreated mental illness.

THEREFORE, the departments mutually agree as follows:

#### 1. Administration of MOU

Each Department identifies the following individual to serve as the authorized administrative representative. Either Department may change its administrative representative by notifying the other Department in writing. Any change will become effective upon receipt of notice. Notice of the change in authorized representative should be sent to the address listed below.

**NAME AND CONTACT INFO. APD**

**NAME AND CONTACT INFO. HHSA**

## 2. Departmental Responsibilities

### 2.1. Responsibilities of Probation

- 2.1.1. Provide XXXXX Deputy Probation Officers (XXXXX F.T.E.) dedicated to fully participate in the identified MHSA program. **(NOTE: Indicate specific program type)** or to provide support to other support as necessary to other MHSA programs. The program contractors are XXXXXXXX.
  - 2.1.1.1. Probation shall assign Deputy Probation Officers as follows: **(NOTE- Indicate Officer program assignment (s))**
    - 2.1.1.1.1. Task supervision will be provided by the Contractor staff, but Probation retains the formal reporting duty to designated Probation staff.
- 2.1.2. Coordinate and assist XXXXX with support services, such as housing, employment, mental health, and alcohol and other drug services. Duties shall be assessed annually to determine if other duties or tasks are warranted.
- 2.1.3. Provide services to clients with serious mental illness both in custody and out, enrolled in programs, including, but not limited to: **(NOTE-Indicate specific services. For example, support and monitoring to individuals on probation, discharge planning, accompany clients to court appearances etc.)**
- 2.1.4. Provide data to HHSa in accordance with reporting requirements.
- 2.1.5. Ensure that Probation Officers have access to the following information:
  - 2.1.5.1. Access to the XXXXX area courts for date and time of court cases and their disposition, including Felony and Misdemeanors.
  - 2.1.5.2. Access to the XXXXX County Jail records for any custody time, past and present, including release dates.
  - 2.1.5.3. Access to the County Marshall for warrant information on outstanding and closed warrants.
  - 2.1.5.4. Access to the Sheriff for information on restraining orders issued by the courts on both Felony and Misdemeanor cases.
  - 2.1.5.5. Access for revenue and recovery for information on fines and restitution payment owed to the County.
  - 2.1.5.6. Access to past Probation records and clients family data for emergency contacts. In addition, the Probation Officer will contact other law enforcement agencies and attempt to clarify and solve problems the client might be experiencing.

### 2.2. Responsibilities of HHSa Under MOU

- 2.2.1. Perform all contract administration, monitoring, fiscal review, and corrective action (if necessary) for contracted services.
- 2.2.2. Coordinate with Probation any changes or modification to contracts or services named within.
- 2.2.3. Participate in meetings for the purpose of monitoring contracts, collecting data and ensuring compliance with contract stipulations.

2.2.4. Fund staff costs for XXXXX Deputy Probation Officer positions to support the XXXXX program based on cost applied from the HHSA.

**3. Compensation**

- 3.1. HHSA agrees to reimburse Probation for the identified Deputy Probation Officers' actual salaries and benefits incurred during the contract period.
- 3.2. HHSA agrees to reimburse Probation for Administrative Overhead, to be figured at XX% of salaries and benefits.
- 3.3. HHSA agrees to reimburse Probation for the actual costs of the following services and supplies, not to exceed \$XXXX per fiscal year:
  - 3.3.1. Vehicle maintenance
  - 3.3.2. Vehicle fuel
  - 3.3.3. Monthly service and access fees for XXX laptops
  - 3.3.4. Printing for business cards as needed
  - 3.3.5. Public liability insurance
- 3.4. Probation shall invoice HHSA on a quarterly basis for any reimbursement due under the terms of the agreement and submit to: (Indicate address)

**4. Amendments to MOU**

Either Department may propose amendments to this MOU by providing written notice of such amendments to the other Department. This MOU may be modified or amended only by a written document executed by Probation and HHSA.

**5. Scope of MOU**

This MOU only applies to the program described herein and does not set forth any additional current or future obligations or agreements between the departments except that the Departments may by written amendment amend the scope of this MOU.

**6. Term**

This MOU shall become effective on (DATE) and be in force through (DATE). Any amendments to this MOU shall be made by mutual agreement of the parties or terminated by mutual agreement of the parties or by 15 days written notification from either party. All terms and conditions of this MOU are subject to the continued appropriation and availability of funds for each party for the performance identified herein.

**7. Contact Information of Probation and HHSA staff is listed on the final page of this MOU, following the signatures, and may be updated as relevant.**

# APPENDIX E: STRATEGIES TO SHARE SUCCESSES

## *Certificate of Completion*

**In Recognition of Your  
Outstanding Achievement in  
Completing 25 sessions of**

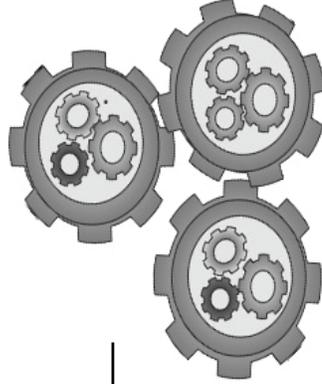
**Thinking For A Change**

***Participant name*** \_\_\_\_\_

DATE \_\_\_\_\_

CO-FACILITATORS \_\_\_\_\_

Thinking for  
a Change



**A Force for Positive**   
**CHANGE.**

# Certificate Of Completion

MAY IT BE KNOWN BY ALL WHO READ THIS THAT

\_\_\_\_\_

HAS COMPLETED 16 HOURS OF ADVANCED TRAINING IN  
**MORAL RECONATION THERAPY®**

PRESENTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 20\_\_\_\_

*[Signature]*

PRESIDENT AND FOUNDER



Correctional  
Counseling, Inc.



Included in SAMHSA's  
National Registry of  
Evidence-Based  
Programs and Practices

*The Maricopa County Superior Court, the Adult Probation  
Youthful Offender Unit and the Public Defenders of the  
Juvenile Transferred Youth Offender Program*

AWARD THIS CERTIFICATE OF RECOGNITION TO

*Insert name*  
*For successfully completing JTOP*

\_\_\_\_\_  
Judge Insert Name

\_\_\_\_\_  
Date

*JTOP is a partnership between: Maricopa County Adult Probation Department, the, Maricopa  
County Superior Court, and the Public Defender's Office.*

## DWI WORKING GROUP MEMBERS 2015

### **Robyn D. Robertson**

President and CEO  
*Traffic Injury Research Foundation*

### **Ward Vanlaar**

Vice President Research  
*Traffic Injury Research Foundation*

### **Leonard R. Jacob**

Former Director  
*Institute of Police Technology and Management*

### **Master Sgt. Johnny Poulos**

Director, Public Affairs Division  
*Mississippi Highway Patrol*

### **Honorable Michael R. McAdam**

Kansas City Municipal Court, Missouri Past-President  
*American Judges Association*

### **Paul L. Biderman**

Retired

### **Greg Hurley**

Senior Knowledge Management Analyst  
*National Center for State Courts*

### **Honorable Harvey Hoffman**

Eaton County, District Court, Michigan  
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### **Joanne E. Thomka**

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### **Tom Kimball**

Assistant District Attorney  
*Tennessee District Attorneys General Conference*

### **Cregor Datig**

Former Assistant District Attorney  
*Riverside County District Attorney's Office*

### **Carl Wicklund**

Former Executive Director  
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### **Dr. Jane Maxwell**

Senior Research Scientist  
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*The University of Texas at Austin*

### **Angela Coleman**

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*Virginia Alcohol Safety Action Program*

### **Tom Roy**

Commissioner of Corrections  
*Minnesota Department of Corrections*

## DWI WORKING GROUP PARTICIPANTS (2015)

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### **Judge Earl Penrod**

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### **Maryellen Pado**

Senior Director  
*Anheuser-Busch*

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