



CRITICAL DUI SYSTEM REFORMS: TREATMENT



Recognize that DUI offenders have treatment needs beyond substance use disorders (i.e., addiction) and increase responsivity by focusing on the diagnosis and treatment of co-occurring mental health disorders and trauma.

Call to Action

The crime of alcohol- or drug-impaired driving has a very obvious origin. Most people assume that individuals who are convicted of this offense, particularly those who are repeat offenders, suffer from either an alcohol or drug problem. After all, the consumption of substances is a requirement of this particular offense. Research has shown that approximately 25% of individuals arrested and 30% of individuals convicted of DUI are repeat offenders (Warren-Kigenyi and Coleman, 2014). This means that contact with the criminal justice system in and of itself, does not deter at least one quarter of all offenders. These individuals are highly resistant to behavior change and seem to be impervious to sanctions. In order to prevent recidivism and stop the revolving door more must be done to identify and address the underlying causes of impaired driving behavior which goes beyond focusing solely on addiction. Many repeat impaired drivers have previously been referred to or even completed treatment programs. In these instances, past approaches have proven largely ineffective in changing behavior as the impaired driving persists. In order to affect long-term behavior, change among the impaired driving population, every individual who enters the system for a DUI offense should be screened and assessed for substance use disorders as alcohol and drug issues are pervasive among these offenders. However, to ensure that all underlying or root causes of offending are identified, it is also important to screen and assess for mental health disorders and trauma. Failure to isolate these additional behavioral health needs will limit the effectiveness of treatment interventions and, subsequently, affect recidivism rates. The responsivity principle dictates that to achieve desired outcomes (i.e., behavior modification), treatment interventions must be tailored to the individual. If the system fails to diagnose significant issues or match offenders with quality providers that offer programming proven to address specific needs, then the responsivity principle is not being met. Jurisdictions should focus on building treatment capacity and expanding access to provide a large number of options to meet the needs of a wide variety of individuals.

Challenge/ Background

The screening and assessment of DUI offenders is imperative to determine individual risk level and treatment needs. Ideally, this process will be completed during the pre-trial phase and repeated again post-conviction by a clinician for diagnostic purposes. Research has consistently shown that DUI behavior is related to a multitude of factors including the presence of substance use disorders. In addition, more recent studies have identified high rates of co-occurring mental health disorders among this population that have historically gone unidentified and subsequently, untreated. In a study conducted by Shaffer et al. (2007), 45% of repeat DUI offenders were found to have a lifetime major mental health disorder other than alcohol or drug abuse or dependency. The failure to identify mental health disorders misses an opportunity to treat another root cause of offending and match offenders with the most appropriate services.





Challenge/ Background

The 2017 National Survey on Drug Use and Health (NSDUH) found approximately 18.7 million people had a substance use disorder (SUD) during the past year. Approximately 11.2 million individuals had a serious mental illness. Co-occurring disorders (defined as the presence of a serious mental illness and a substance use disorder), were present in an estimated 3.1 million adults which corresponds to 1.3% of the adult population. Research has shown that individuals with mental health disorders are more likely to also experience alcohol or drug dependency within their lifetime. Unfortunately, it is often difficult to identify and diagnose co-occurring disorders as the severity of the substance use and mental illness(es) often varies and symptoms can overlap. In other words, the symptoms associated with substance abuse can mask mental illness and vice versa. As a result, individuals who suffer from multiple disorders may not always receive a complete diagnosis and therefore, do not always receive treatment for all behavioral health needs.

Not surprisingly, rates of substance use disorders, mental health conditions, and co-occurring disorders are more prevalent among individuals who are involved in the criminal justice system. For example, the percentage of prison inmates with mental health disorders is much higher than that of free society. According to James and Glaze (2006), 61% of females and 44% of males in federal prisons and 73% of females and 55% of males in state prisons have mental health problems. The prevalence rates are even higher in local jails where 75% of female and 63% of male prisoners have a mental health problem. A substantial majority of these offenders also suffer from substance use disorders. Simply stated, the presence of co-occurring disorders within criminal justice settings are to be expected (Peters et al., 2015).

When dealing with the impaired driver population, the presence of both substance use disorders and mental health disorders should also be expected. Consider the following:

- 2/3 of convicted DUI offenders are alcohol dependent (Lapham et al., 2001) with 91% of male and 83% of female DUI offenders having met the criteria for alcohol abuse or dependence at some point in their lives (Lapham et al., 2000).
- 33% of male and 50% of female DUI offenders with an alcohol use disorder also had at least one other psychiatric disorder (Lapham et al., 2001).
- Female DUI offenders appear to have significantly higher psychiatric comorbidity relative to their male counterparts (LaPlante et al. 2008) with diagnoses of anxiety, depression, and bipolar disorder being common.
- Extensive histories of trauma (e.g., post-traumatic stress disorder) are also present among female impaired drivers (Peller et al., 2010; Robertson et al., 2013).
- Repeat offenders have higher lifetime rates of alcohol abuse and dependence, drug abuse and dependence, and psychiatric comorbidity than the general population (Nelson and Tao, 2012).
- 45% of repeat DUI offenders had a lifelong major mental health disorder and nearly 30% qualified for a past-year disorder.





Challenge/ Background

In many instances, these disorders contribute to criminal behavior and absent appropriate treatment, it is not surprising that many of these offenders recidivate. The failure to identify co-occurring disorders in the criminal justice system can also lead to negative consequences including: misclassification of risk levels, lengthier periods of incarceration, inappropriate or inadequate treatment referrals, poor treatment outcomes, missed re-entry opportunities, and increased risk of recidivism (Peters et al., 2008). The end result is an increased likelihood of future contact with the justice system which impacts public safety and increases the burden on society.

Barriers

The use of comprehensive screening and assessment in the criminal justice setting is needed to identify co-occurring disorders among DUI offenders. Unfortunately, very few assessments have been validated among this population and the majority of the tools that are currently used only assess for the presence of substance use disorders. The failure to use tools that identify mental health disorders and/or trauma is commonplace. In instances where practitioners see the need to screen/assess for mental health issues, there are few options other than employing a stacked approach. This means combining the results from several different instruments to attain a complete picture of the client's risk level and specific treatment needs. Perceived lack of tools that are specific to this population lead practitioners and treatment providers to use common instruments that may or may not be appropriate for DUI offenders. Moreover, it is likely that instruments that prioritize the identification of substance use issues will be the ones utilized because the predominant thinking is that addiction is at the root of DUI behavior. But as outlined in the supervision phase of the system, DUI offenders are unique and have a variety of criminogenic and treatment needs that can lead them down a pathway to offending. Even in the event that providers take the necessary steps to assess DUI offenders for co-occurring disorders or trauma, a lack of capacity and choice within the treatment system at the county-level can limit the services that are available to respond to these behavioral health needs.

Further complicating this issue is the reality that most treatment programs that are designed for DUI offenders focus solely on addressing substance use. In these programs, screening and assessment for co-occurring disorders is often not performed not only because instruments are not available, but because practitioners lack training or experience in the mental health sphere, and there is a general lack of recognition that mental illness is common among impaired drivers. State statutes and re-licensing requirements may also mandate that specific programs be completed which limits the options that are available. These mandatory programs are designed to address a broad range of issues but rarely offer care that is personalized to the individual. As such, offenders of differing risk levels with vastly different treatment needs could be placed within the same program which could have a negative affect on outcomes.





Barriers

Addiction is a lifelong, chronic disease and substance use issues are frequently compounded by the presence of mental health disorders or trauma. It is important to seek integrated care that addresses these issues concurrently as opposed to separately. Unfortunately, many providers will address one but not the other which requires clients to address their problems independent of one another. The drawback of this practice is that substance use and mental health disorders are often intertwined, and it is difficult to adequately address one while failing to focus on the other at the same time.

The lack of diversity or capacity in programming options can be problematic for clients who do not respond to more generic programming. As discussed in the treatment phase, individuals require different levels of care depending on the severity of their conditions. Also, not everyone is the same which means that while one treatment approach may work well for some impaired drivers, it will not necessarily yield positive results for others. Even among justice-involved populations, voice and choice is important when it comes to selecting appropriate treatment programs and providers. If client input or feedback is not elicited, then engagement in the therapeutic process could be low. Practitioners should be willing to listen to clients if they articulate that the current approach to treatment is inadequate. Those clients should be asked to explain why they are not responding to treatment and other available options could then be explored to determine if another program or provider might offer a better fit. Unfortunately, some communities, particularly those in rural jurisdictions, do not have a diverse range of treatment options and clients may only have a handful of interventions from which to choose.

The oversight and accreditation of treatment providers varies significantly from one state to another and in some jurisdictions, overregulation and underfunding of substance use treatment has led to a scarcity of providers. Few available treatment providers translate into a lack of choice for clients. Moreover, not all providers are created equal and quality can vary. If there are only a few providers who offer required programming within a jurisdiction, it may not matter whether the services they offer are well-received by clients. Providers may stop offering certain forms of treatment or interventions if the billing rates for these services are low or if the regulatory/licensure requirements are cost-prohibitive. The treatment system is often payer and regulatory-driven as opposed to being dictated by client needs and evaluation. While there are no easy solutions for these overarching problems, more can be done to evaluate services to identify interventions that produce better long-term outcomes among impaired drivers.





Strategies to Implement Solutions

To increase the level of responsivity and ensure that impaired driving offenders are connected with appropriate and quality treatment services, the following practices should be considered and pursued:

- Educate criminal justice practitioners about the prevalence of mental health disorders, co-occurring disorders, and trauma among DUI offenders.
- Encourage practitioners to screen all DUI offenders for both substance use disorders and mental health disorders and use this information to develop more targeted case supervision and treatment referral plans at the time of sentencing.
- Use screening/assessment instruments that are specifically validated among the DUI population and can identify co-occurring disorders within court programs, probation departments, and treatment programs. CARS is one option and it is available, free of cost, to any interested agency. Download at www.carstrainingcenter.org.
- Audit the treatment services that are available at the county-level and populate a list of preferred providers based on a number of criteria including services offered, reputation, accreditation/licensure, payment options, etc.
- Survey treatment providers to identify what types of treatment/programming they offer to DUI clients and identify which assessment instruments they use to determine individual treatment needs.
- Be familiar with state standards for treatment providers and ensure that the programs/interventions that clients are referred to adhere to these requirements.
- Identify different levels of care and match clients with the appropriate intensity of services.
- Identify a variety of different types of treatment modalities including cognitive-behavioral therapy, brief interventions, psychotherapy, etc. Understand the underlying philosophy/ideology that guides the care offered by individual providers. Some interventions will be a better fit for certain clients.
- Determine whether a client is most likely to benefit from individual or group therapy or a combination of both.
- Identify providers that utilize gender-sensitive approaches or offer female-only group therapy. Research shows that female DUI offenders respond better in these environments as it is more conducive to feelings of safety which facilitates information-sharing.
- Identify programs that offer integrated and comprehensive care options to DUI offenders. To obtain the best outcomes, treatment programs should address substance use and mental health disorders concurrently. Jurisdictions should focus on building treatment capacity and providing more care options which include programs that address mental health and use trauma-informed approaches.
- Identify treatment providers who have different cultural backgrounds and who utilize culturally-sensitive approaches within their practice.





Strategies to Implement Solutions

- Determine if clients have any barriers to treatment entry. If lack of insurance is an issue, practitioners should match clients with providers who have a variety of payment options and sliding fee scales. Through the Affordable Care Act, indigent individuals have expanded access to substance use treatment.
- Work collaboratively with clients to determine the types of treatment interventions that are likely to motivate them and facilitate behavior change. If a client indicates that current programming is not effective, identify specific issues and determine if another option might be a better fit.
- Re-evaluate treatment plans and referrals periodically to determine if further intervention is required or if dynamic needs have changed over time. It is also important to track client progress and recognize when specific goals are achieved as this can serve as further motivation to remain engaged in programming.
- Determine whether family or partners should be involved in the therapeutic process.
- Decide whether participation in recovery or peer support groups is beneficial for each client. For those individuals who are responsive to 12-step type programs, work with them to identify groups that are a good match. Be aware that these groups are not a replacement for therapy.
- Identify where diversity of services is lacking and encourage agencies to invest in either building treatment capacity to reduce program wait lists or offering more service options to meet a range of clients and their needs. Urban jurisdictions have more providers available and therefore, the focus in these areas should be on expanding access to quality services with demonstrated success.
- Increase the level of collaboration among courts, supervision agencies, and treatment providers. It is important that these entities have clear lines of communication and share information. While much of what is disclosed in treatment cannot be reported, treatment providers should remain connected with the agency that is responsible for supervising their clients as they are responsible for reporting on progress and whether individuals are compliant with their treatment conditions.
- Collect and analyze treatment outcome data. When determining where to refer clients, knowledge about the effectiveness of different types of programming can assist practitioners in making these decisions.





Stakeholders

When considering issues of responsivity and providing comprehensive and integrated care, multiple entities should be involved in these discussions. This includes but is not limited to policymakers at the state and local level who can support investment in building treatment capacity and expanding available service options, community leaders including coalitions that focus on expanding access to both substance use and mental health services for individuals who suffer from addiction and related issues, representatives from the agency or government department that oversees the accreditation, certification, and/or licensure of treatment programs and providers, agencies and facilities that offer varying levels of care (including detox, inpatient/residential services, intensive outpatient services, counseling, etc.), representations from the criminal justice agencies that commonly refer clients to treatment (e.g., pre-trial services, judges, community corrections agencies, etc.), prosecutors and defense attorneys, consumers (i.e., former clients and individuals in recovery who can offer insight into the treatment process from the patient perspective), and academic institutions or research organizations that can offer guidance regarding program evaluation

Legislative/ Policy changes

Providing guidance or commentary about the nature of treatment accreditation or oversight is beyond the scope of this project although it is important for jurisdictions to identify strategies to increase access to treatment in jurisdictions where there is a paucity of available options. Furthermore, if there are significant wait times for program entry, policymakers and practitioners should work collaboratively to identify ways to increase capacity. Appropriations are likely required to accomplish these goals. It might also be worth exploring how to generate more interest in education programs that lead to substance use and mental health counseling licensure. Part of the problem in addressing a lack of services is that in addition to limited program options, there might also be a limited number of licensed treatment providers in certain counties.

One of the most significant changes that jurisdictions can make to address responsivity and ensure that more offender needs are identified is to mandate screening and assessment be conducted among all impaired drivers. Some states have modified statute to require that screening and assessment be performed to inform sentencing decisions such as placement in intensive supervision programs and referral to treatment interventions. Jurisdictions that are considering this option should be cautious and employ a conservative approach as statute can be difficult to amend. As such, the language contained in law should be broad and policymakers are encouraged to avoid overly prescriptive provisions. As the rule-making process is typically easier to navigate, agencies can outline specific assessment requirements within state rules and program requirements. For example, an agency might specify that a treatment provider seeking certification to offer DUI programming must utilize assessment instruments that are validated specifically among the impaired driver population and identify substance use disorders and co-occurring mental health conditions. By taking this approach, agencies can point providers towards the assessment instruments that accurately identify DUI offender risk level and treatment needs, such as CARS. This approach was employed in the state of Colorado and the language used in their rules is discussed at the end of this section.





Additional Caveats

Responsivity requires that services be targeted towards offender risk/needs and match learning style. Impaired drivers should be paired with interventions that address their behavioral health issues and are likely to produce high levels of engagement in the treatment process. While certain approaches and programs have proven to be successful among this population, many providers do not track data to identify whether the services they offer produce long-term behavior change among DUI clients. In general, there is a lack of agreement about the outcome measures that should be used to evaluate treatment effectiveness. One common measure that providers report is treatment completion (i.e., what percentage of clients successfully complete all program requirements). However, this may not provide enough information to determine whether a treatment approach ultimately has an impact on behavioral health issues. Other potential measures that should be taken into consideration include:

- Rates of abstinence from substance use 6, 12, and 24-months post-treatment;
- Improvements among a variety of psychosocial variables (e.g., employment, school, relationships);
- Overall improvement in physical health;
- Overall improvement in mental health;
- Recidivism rates following completion of treatment (for DUI as well as other criminal offenses);
- Average amount of time between treatment completion and relapse.

The more data that treatment providers are able to collect about clients and their long-term success as defined by either recovery, improvement in quality of life, improvement in daily functioning, reductions in recidivism, etc., the more informed justice practitioners can be when referring clients to various programs. Approaches or programs that are proven to be unsuccessful or fail to meet stated objectives typically do not receive additional funding. To hold the treatment system and individual providers accountable, more consideration must be given to the type, quality, and outcomes of the services being offered to impaired driving offenders.

Innovation in Action

Several states are progressive as it relates to treatment programming for justice-involved populations. Colorado is one state that has been a leader in the specialty court and treatment spheres and has arguably established one of the most robust treatment frameworks for repeat impaired drivers in the country and their experience can serve as a best practice model. In Colorado, different levels of treatment are required based on identified clinical severity indicators. The number of prior DUI offenses on an individual's record are also considered when making placement recommendations. A variety of treatment levels are available to DUI offenders and the entire treatment framework is regulated by the [Office of Behavioral Health](#) (OBH) which requires evidence-based practices be used for both assessment and treatment. Traditionally, DUI services fell into two primary levels and placement was largely a function of the outcomes of a comprehensive clinical assessment performed by providers. Level I and Level II DUI education and therapy ranged from 12-24 hours of education and 42-86 hours of treatment over a 5 to 10-month period. The treatment intensity for these program options is based on the American Society of Addiction Medicine (ASAM) levels of care.





Innovation in Action

OBH recognized that the existing treatment framework may not be adequate for repeat DUI offenders as research began to reveal that these offenders present with unique treatment needs. As such, OBH began to evaluate whether a more in-depth clinical assessment should be required for this offender population and if the nature of treatment services offered should be expanded to be even more comprehensive. The passage of HB 15-1043 in 2015 which designated fourth and subsequent DUI convictions as felonies presented an opportunity to modify the existing treatment framework and develop new requirements for services for this high-risk offender group.

The [Level II 4+ treatment program](#) (signifying that the population targeted by the program are fourth and subsequent offenders) was developed by an interagency workgroup of the Colorado Task Force on Drunk & Impaired Driving in response to the passage of the felony DUI legislation. OBH was designated with the authority to create the program and establish rules and the program became effective in July 2017. Clients are typically referred to the program via the courts or probation although they can seek voluntary admittance. Clients who enter the program must complete a minimum of 180 clinical contact hours over a minimum of 18 months and demonstrate that they have adopted and utilize core competencies. Level II 4+ consists of a combination of education and treatment strategies that are determined by the results of screening and clinical assessment. All treatment decisions are based on the results of the clinical assessment and clients are subject to mandatory alcohol and drug testing to monitor substance use.

When developing the program rules, OBH staff wanted to ensure that the language was specific enough to direct providers to the use of a specific assessment instrument. Due to the recognition that the repeat DUI population has high rates of co-occurring mental health disorders and that generic assessment instruments are inadequate for accurately assessing risk and needs among this population, providers are required to use tools that meet specific criteria. The language contained in Level II 4+ rules states that “agencies shall utilize an assessment tool specifically designed to address co-occurring mental health issues in the impaired driver population.” There are additional assessment provisions, but the preceding language essentially requires that treatment providers seeking certification to serve Level II 4+ clients must use the Computerized Assessment and Referral System (CARS) as this is the only validated tool that meets these criteria. Since the launch of the program in the summer of 2017, there is near statewide coverage of service providers. Through Level II 4+, Colorado became the first state to integrate CARS within a large system and require providers to receive training on the administration of the tool (this was provided by Cambridge Health Alliance staff to approximately 200 providers in August of 2017).





Innovation in Action

Other states are encouraged to follow Colorado's example and consider requiring mandatory assessment. The language used in the Level II 4+ rules can be replicated in statute or rules in other jurisdictions to guide practitioners in selecting the most appropriate screening and assessment instruments for the impaired driving population and, specifically, high-risk and repeat impaired drivers. The addition of treatment programming that focuses on comprehensively addressing substance use disorders, mental health disorders, and trauma among these offenders is an important development that will likely lead to reductions in the number of first offenders who return to the system and reductions in recidivism among high-risk populations who may not have had adequate assessment and treatment in the past.

Resources

[Computerized Assessment and Referral System \(CARS\)](#)

[Impaired Driving Risk Assessment: A Primer for Practitioners \(Robertson, Wood, & Holmes, 2014\)](#)

[Library containing various mental health and impaired driving articles and poster presentations \(Cambridge Health Alliance\)](#)

[Screening for Risk and Needs Using the Impaired Driver Assessment \(NHTSA, 2014\)](#)

[Screening and Assessment of Co-occurring Disorders in the Justice System \(SAMHSA, 2015\)](#)

[Co-Occurring Substance Use and Mental Disorders in the Criminal Justice System: A New Frontier of Clinical Practice and Research \(Peters et al., 2015\)](#)





CRITICAL DUI SYSTEM REFORMS: TREATMENT



Facilitate early entry into appropriate treatment programming to address substance use and/or mental health issues in real-time as opposed to later in the criminal justice process.

Call to Action

The criminal justice system is structured in such a way that individuals are presumed innocent until proven guilty and cannot be sentenced absent a guilty verdict or judgment. Most defendants in impaired driving cases are released pending trial or the resolution of their case which means that they remain in the community. While conditions are commonly required for individuals who receive pre-trial release, these requirements tend to be oriented towards protecting public safety and therefore, relate to monitoring. In some jurisdictions, DUI defendants may be referred to pre-trial services agencies or programs that conduct screening and assessment. This information can be used by the courts later in the criminal justice process (e.g., sentencing) and is shared with the prosecution and defense counsel. Given that defendants are presumed innocent and have yet to be convicted of DUI, the court is limited in its ability to compel these individuals to enter into treatment. The completion of screening and assessment can be required but if the findings of this process indicate that treatment is warranted, there is limited authority to mandate participation in specific programs.

There are many pathways to treatment but for justice-involved individuals, entry into treatment is typically a function of the sentence in their case. In other words, once a conviction is entered, the judge orders the newly convicted offender to complete programming. The judge may make a direct referral or require that an offender undergo further assessment to determine the most appropriate intervention based on individual needs. Probation agencies might also have the authority to refer individuals to treatment programs as part of the supervision plan. In many states, completion of remedial education and/or treatment programs is also a common requirement of re-licensing. As such, there are several avenues that can lead impaired drivers to enter into treatment. Unfortunately, coercive or mandated treatment happens at the tail-end of the judicial process after a disposition has been rendered. As highlighted in the court phase, DUI cases can take months or, in some instances, in upwards of a year to resolve due to court backlog, continuances, scheduling issues, and stalling tactics. By the time a case makes its way to the sentencing phase, a great deal of time could have passed between the initial DUI arrest and the conviction. The long delays between the point of DUI arrest and sentencing misses an opportunity to intervene with individuals who have significant substance use and/or mental health issues. During this interim period, these issues may increase in severity which can increase the risk that defendants who are released pending case resolution continue to consume substances and drive under the influence. To prevent this from happening, jurisdictions should identify opportunities to offer and incentivize treatment at the pre-trial stage. The sooner that an individual can be screened/assessed and matched with interventions, the faster that his/her behavioral health needs can be addressed.





Challenge/ Background

The inability to compel individuals to enter into treatment voluntarily is an issue that is not easy to resolve. While most states have involuntary commitment statutes for individuals with significant mental health issues who present a danger to themselves or others, the same provisions do not exist for individuals who have substance use disorders. In other words, an individual cannot be forced to enter into treatment until they have been convicted and sentenced. Courts have the authority to impose meaningful sanctions when offenders are non-compliant with the conditions of their release or sentence. For convicted DUI offenders who fail to adhere to treatment requirements, including failing to attend mandatory sessions or failing to demonstrate progress/significant behavior change, the court has the ability to step in and impose additional sanctions. This 'stick' approach is one way to increase compliance. Research has consistently shown that coerced or court-mandated participation in treatment produces outcomes that are comparable to or, in some instances, better than voluntary treatment, even though offenders may be highly resistant to behavior change at the outset of their involvement in programming. Being able to get individuals into appropriate treatment programs is one of the most important steps on the path to rehabilitation and recovery; subsequent engagement in the process and behavior change are also desired and necessary.

Unfortunately, by the time individuals are mandated/coerced to enter into treatment programs, the extent of their issue(s) may have increased, and their condition may have deteriorated. In the interim period between arrest and conviction, the severity of substance use and/or mental health problems may worsen, which places high-risk individuals at greater risk of continuing to drive impaired or engage in other risky/anti-social/criminal behaviors. As noted in the discussion regarding the challenges of supervising this offender population, impaired drivers frequently lack insight into their behavior. This means that they fail to understand the seriousness of DUI offending and they may also believe that their level of substance use constitutes "normal" or acceptable levels of consumption when in reality, they meet the criteria for substance use disorders. Continued substance use and a lack of intensive monitoring during the pre-trial phase can most definitely lead to conditions that result in additional impaired driving episodes which places the public at risk. It is not uncommon to have individuals who have multiple DUI cases making their way through the system in staggered fashion. If these arrests occurred in multiple counties, it can sometimes be difficult to track and lead the court to impose pre-trial detention.

The pervasive lack of insight and general level of denial that is common among impaired drivers can be difficult to overcome. These thought patterns and other anti-social characteristics make it difficult to motivate these individuals and move them towards readiness for change. Research has shown that DUI offenders fail to draw connections between their substance use and negative life consequences. Surprisingly, it is common for probation officers and treatment providers to report that repeat DUI clients claim that they do not have a drinking and/or drug problem or that they lack issues that require intervention even though their multiple contacts with the criminal justice system suggest otherwise.





Challenge/ Background

To voluntarily submit to treatment there must be some degree of motivation on the part of the individual and this is not always present among impaired drivers, particularly those who have been through the system multiple times. In fact, high-risk/repeat impaired drivers will frequently decline the opportunity to engage in intensive treatment programming in lieu of a period of incarceration. The former is viewed as a more onerous commitment and some of these individuals are more inclined to 'do their time' instead of engaging in the level of self-reflection or completing the work necessary to change behavior and enter into recovery. Treatment can be difficult, and some offenders are simply unwilling to commit to the process. Therefore, even when the criminal justice system can seemingly coerce participation in treatment, high-risk offenders may fail to comply.

Strategies to Implement Solutions

While a conviction can act as a stick, more can be done early in the criminal justice process to incentivize voluntary entry into treatment programs. Perhaps the best way to facilitate entry into treatment pre-conviction is to educate practitioners about the importance of identifying and addressing substance use disorders and mental health issues. This is not limited to prosecutors and judges. Law enforcement officers, pre-trial services, and defense counsel should each be educated about basic treatment principles and be made aware of the interventions that are available within their communities.

DUI defendants cannot be mandated into treatment, but practitioners have multiple opportunities to encourage these individuals to consider counseling, therapy, or other forms of treatment as one way to demonstrate a commitment to changing behavior and taking responsibility. It should be made clear that participation in treatment is not an admission of guilt as some defendants may be under the assumption that the court will view their entry into these types of programs as proof of a drinking and/or drug problem. Criminal justice practitioners should provide DUI defendants with consistent information and be willing to discuss their treatment options. It might also be productive to offer to directly connect individuals with treatment providers as a way to learn more about what the process entails and to increase comfort level and buy-in. While this approach may not be successful the first time, individuals might change their minds over time, particularly if defense counsel encourages them to consider the potential benefits associated with participation in treatment.

By making individuals aware of their behavioral health issues and offering to facilitate meetings with various treatment providers who offer services tailored to defendants' needs, a case can be made that there is nothing to lose by at least considering treatment as a viable option. Furthermore, practitioners can outline how various interventions could be beneficial and ultimately improve an individual's overall quality of life (including ability to function on a daily basis, physical health, and mental health).





Strategies to Implement Solutions

As noted, all criminal justice practitioners who have contact with DUI defendants should be educated about the importance of treatment in reducing recidivism and addressing individual problems. It is also important to have a list of available treatment services within the community compiled so that these practitioners can share this information with clients. A common barrier to treatment is lack of awareness/knowledge regarding where individuals can seek help. It is not enough to merely identify specific issues; the system must do a better job of bridging the gap between identifying needs and connecting individuals with services. The following DUI system practitioners should be the target of educational initiatives:

Law enforcement – officers have initial contact with individuals who are arrested for DUI and as the first point of system interaction, they can suggest that arrestees who display signs of substance abuse or other behavioral health issues connect with service providers. While suspects may not be inclined to take advice from law enforcement (or be in the position to internalize the information that is being shared), it is important to plant ideas early and often. Many jurisdictions have established programs that allow officers to refer individuals who present with signs and symptoms of mental distress to community treatment resources or agencies that have experience addressing these issues. If officers become familiar with treatment resources and networks within their county, they can share this information with individuals who are arrested for impaired driving. Lists of treatment providers can be kept on-site at the county jail and other correctional facilities where defendants are held. If screening and assessment is conducted as part of the booking process or in advance of the first appearance/arraignment, this presents another opportunity to encourage defendants to seek treatment for potential substance use and/or mental health issues.

Pre-trial services – the pre-trial phase presents an even more significant opportunity to intervene and connect individuals with treatment providers. Many jurisdictions require screening/assessment at this intercept and pre-trial agencies might have dedicated staff who are responsible for performing this function. The screening and assessment process can provide objective data/findings to individuals about their level of substance use and the presence of mental health issues and trauma. In reviewing the outcomes of assessment with defendants, pre-trial staff can initiate a dialogue about their history of behavior and any past contact with the criminal justice system or involvement in treatment. This is an opportunity to encourage defendants to begin thinking about their behavior and whether underlying issues might contribute to poor decision-making. Again, many of these individuals lack insight into their behavior, they may never have considered that they suffer from a substance use disorder or mental health conditions. If an assessment indicates that these issues are present, and the findings are reviewed in a non-judgmental and transparent manner, it could help move a previously resistant defendant closer to readiness for change. At a minimum, these individuals may begin to contemplate whether they have issues that might require future attention.

Pre-trial services should be well-positioned to refer individuals who are interested in pursuing treatment to various providers within the community. Defendants cannot be compelled to enter these programs, but the initial connection can be established. Pre-trial services can also follow-up with defendants and encourage them to consider pursuing treatment options as recommended by the assessment. The easier the process is for defendants to navigate (i.e., the less hoops that individuals have to jump through and/or the fewer barriers they encounter), the greater the likelihood that they may pursue treatment.





Strategies to implement solutions

Defense counsel – as the one actor within the adversarial process that is squarely on the side of defendants, recommendations made by defense counsel are likely to carry more weight with impaired drivers. Defense attorneys may advise their clients to voluntarily enter into treatment while the case is pending to demonstrate to the court that they are taking responsibility for their actions and are proactively attempting to change their behavior. While this may seem self-serving and is often done to curry favor with the court, the end result is entry into treatment. In instances where the prosecution has a solid case and the probability of conviction is high, defense counsel can suggest that DUI defendants enter into and comply with treatment as a strategy to seek leniency at the time of sentencing. Also, for individuals whose condition is clearly deteriorating, it is likely that stabilization is needed in advance of their next hearing in court and defense counsel might work to get their clients into treatment. For these clients, detoxification may be required so they appear presentable in front of the judge and/or jury.

Ultimately, the motive for entering treatment is less important than the work that is done while in the program. Defense attorneys can play a role in encouraging their clients to enter treatment while their cases are pending. For this reason, defense counsel should be given information about the treatment providers and programs that are available within their community. Defense attorneys are in a position to be a strong advocate for treatment participation and it is imperative that they be kept abreast of which interventions are most appropriate for their DUI clients.

In addition to educating actors within the criminal justice system about the importance of early interventions, there are other practices that can be employed to help facilitate connections with treatment programs. The following strategies should be considered, particularly within the context of pre-trial supervision and participation in pre-trial programming:

- Require screening and assessment of all DUI defendants either post-arrest or pre-trial.
- Utilize screening and assessment tools that are validated among impaired drivers to ensure that these instruments accurately identify risk level and treatment needs.
- Utilize screening and assessment tools that identify the presence of substance use disorders, mental health disorders, and trauma. The [Computerized Assessment and Referral System \(CARS\)](#) is the only available DUI assessment that provides in-depth information about specific treatment needs.
- Review assessment findings with clients and engage in non-judgmental dialogue about their issues. Encourage clients to consider entering into treatment if the assessment indicates that intervention is necessary.
- Encourage these individuals to think about their past behavior in light of the assessment findings and question whether substance use or mental health issues might be tied to offending or other risky behaviors.
- Educate clients about the treatment process and indicate what options/ programs are best suited to their needs as indicated by the assessment.





Strategies to implement solutions

- Facilitate connections between clients and treatment providers. Provide clients with a list of options and empower them to reach out to several before selecting one.
- Encourage clients to ask questions about treatment and respond to these questions honestly. Dispel any misperceptions and address concerns.
- Indicate that participation in treatment will not guarantee a favorable outcome or leniency in DUI cases.
- Describe to clients how treatment can help get them get their life back on track.
- For clients who are required to report to pre-trial services multiple times for monitoring purposes, pre-trial staff should use this as an opportunity to remind them about their assessment findings, reiterate the benefits of treatment, and provide them with a list of options.
- Encourage clients to discuss treatment with their defense attorney.

To reduce DUI recidivism, individuals who are identified as having or are at-risk of developing substance use disorders and/or mental health disorders must be paired with targeted treatment interventions. Participation cannot be mandated pre-conviction but there are opportunities for practitioners to make DUI defendants aware of their issues and facilitate contact with treatment providers within the community. At this early stage, individuals should be encouraged to start thinking objectively about their behavior and choices and whether behavioral health issues have negatively affected their lives. If multiple people relay to these individuals that they should consider entering treatment, it may lead to further reflection. Practitioners should help motivated clients navigate this process and eliminate as many barriers or challenges to entry as possible. Treatment cannot be coerced at the time of arrest but hopefully through education, encouragement, and facilitation, more DUI defendants will explore treatment options as their cases progress through the justice process. Regardless of defendants' motivations for entering treatment programs, if this leads to behavior change and helps initiate recovery, then everyone within the criminal justice system should support the decision as this is an important step towards the protection of public safety.

Stakeholders

All criminal justice practitioners should be educated about the importance of screening and assessment, impaired driving offender needs, and treatment options for this population. To facilitate entry into treatment pre-conviction, practitioners that have early contact with DUI defendants should encourage these individuals to consider treatment options particularly when the case involves a high-risk or repeat offender who presents with a history of behavioral health needs. Law enforcement, pre-trial service agencies, prosecutors, defense counsel, judges, and any supervising authority should be aware of the services that are available in the community and how to refer an individual to these interventions.





Legislative/ Policy Change:

Individual rights of defendants prevent policymakers and the courts from compelling treatment participation absent a conviction, but there can be policy changes made within pre-trial services to facilitate the identification of defendants' behavioral health needs early in the criminal justice process. These agencies should be educated about the availability of instruments such as CARS and be made aware of the benefits associated with the tool. CARS is available free of cost and is the only DUI-specific instrument that can provide practitioners with diagnostic information about co-occurring disorders among this offender population. If pre-trial agencies have the authority to utilize this instrument, they should consider requiring its use among DUI defendants. If these agencies have limited staffing and resources, they should consider using either version of the CARS screener and potentially limiting its use to repeat impaired drivers who are at heightened risk for substance abuse and psychiatric conditions. It may not be possible to force DUI defendants to consider participating in treatment, however, the first step in the process of connecting people with services is to identify the presence of substance use and mental health issues and this can be accomplished through strong screening and assessment practices.

Innovation in Action:

An example of robust screening and assessment at the pre-trial phase can be found in Lackawanna County, Pennsylvania. The Lackawanna/Susquehanna Office of Drug and Alcohol Programs (LSODAP) was established in 2010-2011 and provides comprehensive prevention, intervention, and treatment services to clients who are involved with the criminal justice system. Through the management of a network of contracted treatment providers, a continuum of care ranging from outpatient counseling to inpatient rehabilitation and case management is offered to individuals in need of substance use and mental health interventions. LSODAP maintains a list of behavioral health providers who offer treatment services within the county and updates this list on a regular basis as the provider network expands and/or the services that are offered change over time.

In addition to facilitating connections with treatment providers, LSODAP serves as the lead agency responsible for the planning, implementation, and support of the county's treatment courts. Each individual charged with impaired driving in Pennsylvania is required to complete an alcohol and drug evaluation called the Court Reporting Network (CRN) at the pre-trial stage of the criminal justice process. Based on the outcomes of the evaluation, the state may require the completion of a more comprehensive assessment. In addition to the CRN, LSODAP case managers utilize CARS. Initially selected to serve as a CARS pilot site in the summer of 2016, the agency was interested in learning more about the mental health needs of the impaired driver population. As part of participation in the pilot, case managers agreed to utilize all three versions of CARS (both screeners and the full assessment) for a duration of three months. Completion of the screening or assessment of these clients was coordinated through the County DUI Coordinator and Case Management Supervisor at the Lackawanna County Pre-trial Unit utilizing existing referral protocols; clients agreed to complete the assessment process on a voluntary basis. Given the level of general satisfaction with the performance of the tool as well as the identified value of being able to accurately identify client mental health needs, the agency opted to continue to utilize instrument following the end of the pilot project. Other jurisdictions should consider integrating screening and assessment practices comparable to this process as a means to identify DUI defendants' behavioral health needs early within the criminal process and facilitate targeted referrals to community treatment entities.

