

Effective Practices with High-Risk/High-Need Impaired Drivers

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Learning Objectives

- ✓ Explain the scope of impaired driving, including the driving skills affected by impairing substances
- ✓ Define evidence-based practices in sentencing and understand the risk-needs-responsivity model of sentencing and supervision applied to impaired drivers
- ✓ Determine effective pre-trial conditions for an offender charged with impaired driving
- ✓ Explain the evidence-based sanctions available for high-risk/high need impaired drivers

Why is it important?

Driving is “a complex activity requiring alertness, divided yet wide-ranging attention, concentration, eye-hand-foot coordination, and the ability to process visual, auditory, and kinesthetic information quickly.”

P. Larkin, *Medical or Recreational Marijuana and Drugged Driving*, 52 Am. Cr. L. Rev. 454 (2015)

The Big Four:

1. Judgment
2. Vision and visual perception
3. Muscular coordination
4. Reaction time

Impaired Driving by the Numbers

- ✓ In 2022, there were 13,524 alcohol-related traffic fatalities in the U.S - 32% of all traffic deaths
- ✓ 32 people in the U.S. die every day in impaired-driving crashes - one person every 45 minutes
- ✓ In 2019, 1,024,508 drivers arrested for DUI, with 121m impaired driving episodes
- ✓ An impaired driver gets behind the wheel and drives between 300 and 1,200 times before first arrest

Struggling with DUID Data

Labs may not test for drugs if driver has reached an illegal/per se blood alcohol level - stop limit testing

Many drivers who cause crashes have both drugs and alcohol/more than one drug in their system, making it difficult to know which substance had the greater effect

Data is reported inconsistently and difficult to correlate

Some drugs stay in the system for days or weeks after use

Lab variances

DUID offenders 5x more likely to reoffend as compared to DUI offenders

DUID where a scheduled prescription was the impairing drug reoffend much less frequently (about 17%) compared to those consuming illicit drugs (68%)

137.4m current alcohol users
61m past month binge drinkers (44.5%)
61.9m past month marijuana users (22%)
8.9m opioid misusers in the past year
48.7m SUD in the past year
 29.5m AUD
 27.2m DUD
 8.0m both

**Key Substance Use and
Mental Health Indicators
in the United States:
Results from the 2022 National
Survey on Drug Use and Health**



SAMHSA
Substance Abuse and Mental Health
Services Administration

In 2022, daily or near daily marijuana use exceeded daily alcohol use

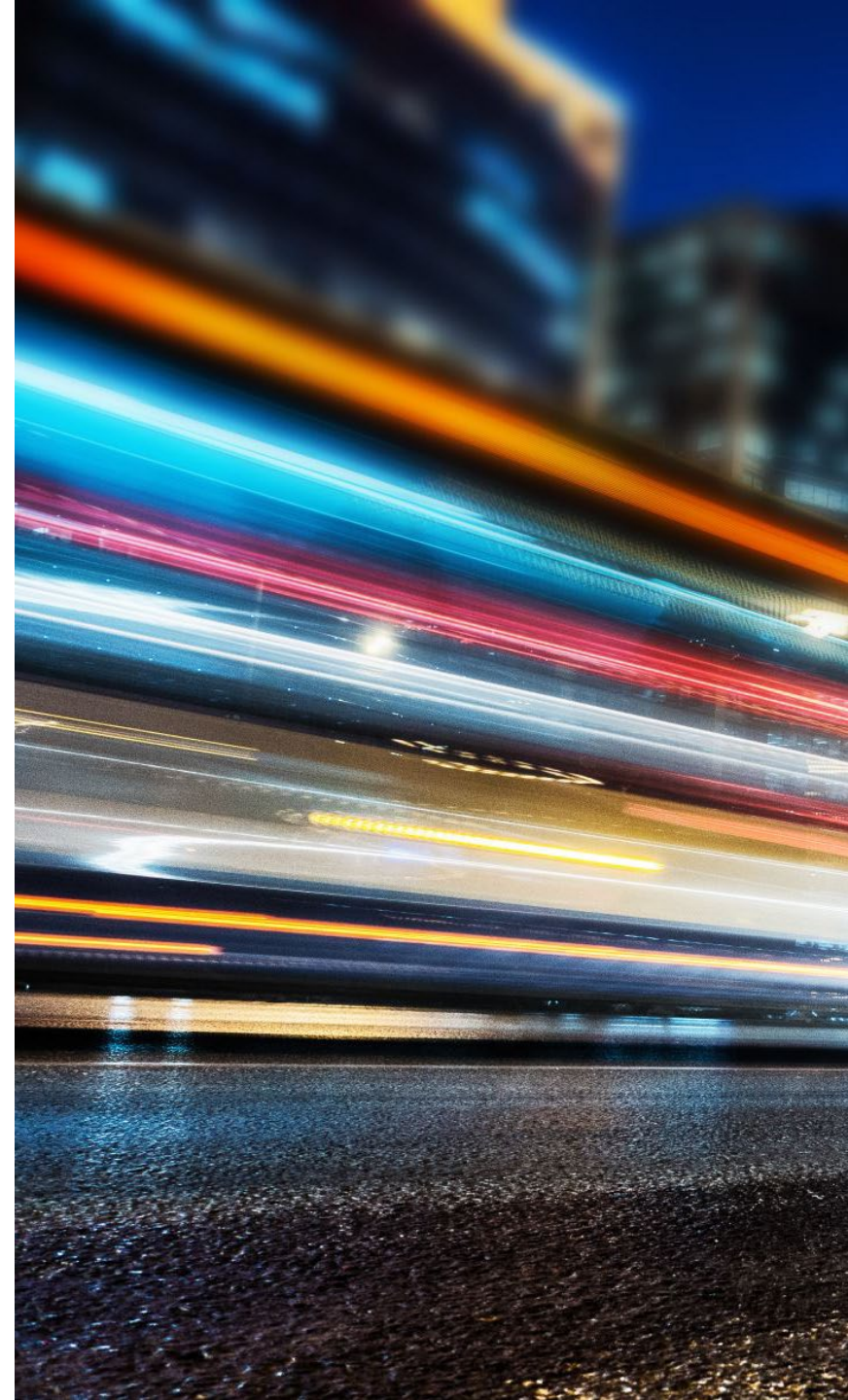


A bad combination

Alcohol use alone consistently associated with elevated motor vehicle collision risk, but cannabis use alone (at all levels) not *consistently* associated with elevated motor vehicle collision risk

Combining marijuana with alcohol results in impairment even at doses which would be insignificant were either drug used alone

Alcohol and cannabis in combination consistently associated with elevated motor vehicle collision risk





Impaired Drivers: Not the Usual Suspects

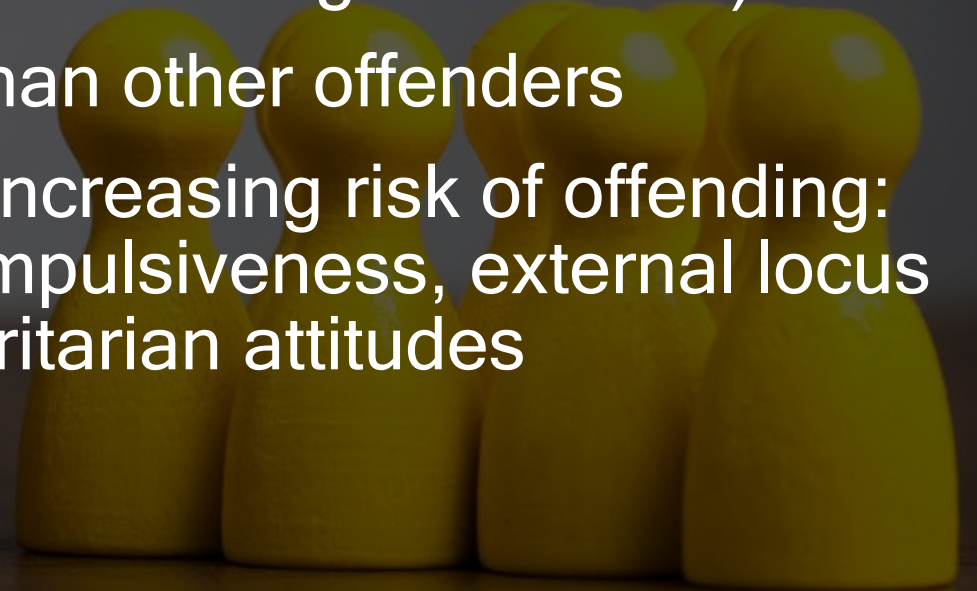
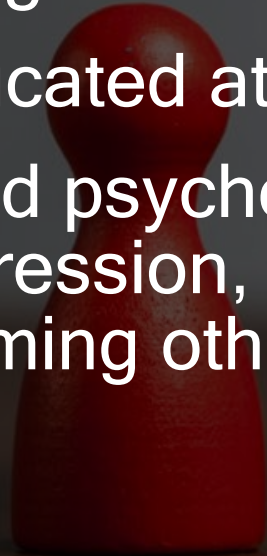
Impaired Driver Profile

Predominantly male (70-80%)

Between the ages of 20-45 (majority between ages of 20-30)

Employed/educated at a higher rate than other offenders

Personality and psychosocial factors increasing risk of offending:
irritability, aggression, thrill-seeking, impulsiveness, external locus
of control (blaming others), anti-authoritarian attitudes



Tend to score lower on traditional risk assessments

Often lack an extensive criminal history

Do not view themselves as criminals

High degree of denial - alcohol consumption is legal, highly prevalent and socially encouraged

Tend to be employed and may have a stable social network

But repeatedly engage in behavior that is dangerous



Co-Occurring Disorders

Study of repeat impaired drivers found 45% have a lifetime major mental health disorder

Mental health issues linked to impaired driving include:

Depression, bipolar disorder, conduct disorder, anxiety, anti-social personality, PTSD

High Risk Impaired Drivers:

Who are they?

Drivers charged with operating a motor vehicle with a BAC of 0.15 or higher and/or have multiple impaired driving arrests, and

Are highly resistant to changing their behavior despite previous exposure to consequences, treatment or education, and

Share common characteristics include aggressive, hostile and thrill-seeking tendencies

Sentencing

Instincts/experience

or

Evidence-based
practices?

Goals of Sentencing in Impaired Driving Cases

- ✓ Reduce recidivism
- ✓ Assist the defendant
- ✓ Improve public safety

Defining Evidence- Based Practices

Using research findings that are demonstrably effective to influence practices and to improve the quality of decision making



**Evidence
Based
Practice**

“Corrections practices that have been proven through scientific corrections research to work to reduce offender recidivism.”

This is
not
evidence-
based!

Components of Evidence- Based Sentencing

- Assessment of risk factors (that increase the likelihood of recidivism)
- Assessment of protective factors (that decrease the likelihood of recidivism)
- Assessment of criminogenic needs
- Estimate of recidivism risk through the use of validated risk assessment instruments
- Identify the most effective sentencing options and interventions



Risk-Needs-Responsivity Model

One-size does not fit all with impaired drivers.

You know my name, not my story.
You've heard what I've done, but
Not what I've been through.



Effective recidivism-reduction programs must target moderate to high-risk offenders

Recidivism among low-risk offenders increases when included in programs with high-risk offenders

Must target “criminogenic needs”

- Conditions of supervision not related to the offender’s risk level or needs impedes and distracts from compliance

- Focus must be on voluntary compliance

- Positive reinforcement more effective than sanctions

- Treatment programs must provide a continuity of care

Risk

HIGH

LOW

HIGH

High Risk
High Need

Low Risk
High Need

Need

LOW

High Risk
Low Need

Low Risk
Low Need

- The likelihood an offender will engage in future criminal behavior
- Determined by both static and dynamic factors
- Static factors cannot be decreased by intervention
- Dynamic factors can be influenced by intervention
- Use of a validated risk assessment to predict criminal behavior
- Supervision and treatment levels should match the offender's risk level
 - Low risk/less supervision and services
 - High risk/more intensive supervision and services



Criminal Risk Factors



- Prior criminal history
- Antisocial attitudes
- Antisocial personality
- Peer Associations
- School/employment
- Substance abuse
- Leisure
- Family/marital circumstances

DUI Recidivism Risk Factors

Prior DUI(s)

Age at time of first DUI

Antisocial attitudes

Antisocial personality

Peer associations

School/employment

Substance abuse

Living situation

Family/marital circumstances

BAC level

Prior traffic violations/prior
justice system involvement

Prior/current non-compliance
with supervision

AUD and SUD

- ✓ AUD diagnosis - more likely to drive while impaired
- ✓ AUD comorbid with any SUD - high risk for alcohol-impaired driving

Employing the Risk Principle

Utilize actuarial assessments to determine risk level

Allocate resources toward medium and high-risk offenders

Minimize resources employed with low-risk offenders

Avoid the temptation to over-emphasize working with those who are “easy”

Needs Principle

- ✓ Target criminogenic (crime generating) needs
- ✓ Dynamic factors most associated with criminal behavior



High- Needs Defined

Individuals who have a moderate to severe substance use disorder that includes a substantial inability to reduce or control their substance use, persistent substance cravings, withdrawal symptoms, and/or a pattern of recurrent substance use binge episodes

Criminogenic Needs

- Antisocial cognition
 - Attitudes, values, beliefs, rationalizations; a personal identity favorable to criminal behavior
 - Self-centered, blaming others
- Antisocial personality
 - Impulsive, pleasure-seeking, weak self-control, poor problem-solving skills, lack of coping skills, weak anger management skills, disregard for safety of self/others, failure to consider or learn from negative consequences, disregard for right/wrong

Criminogenic Needs

- Substance abuse
- Education
 - Low levels of performance and involvement and low reward and satisfaction
- Employment
 - Low levels of performance and involvement and low reward and satisfaction
- Leisure
 - Low levels of involvement and satisfaction in pro-social leisure pursuits

Criminogenic Needs

- Antisocial associates

Association with pro-criminal others and relative isolation from pro-social others

- Family/marital/parenting issues

Poor quality relationships in combination with neutral expectations about crime and pro-criminal expectations



Non-Criminogenic Needs

Medical needs

Housing/living conditions

Anxiety

Low self-esteem

Mental-health disorders

What is recovery capital?

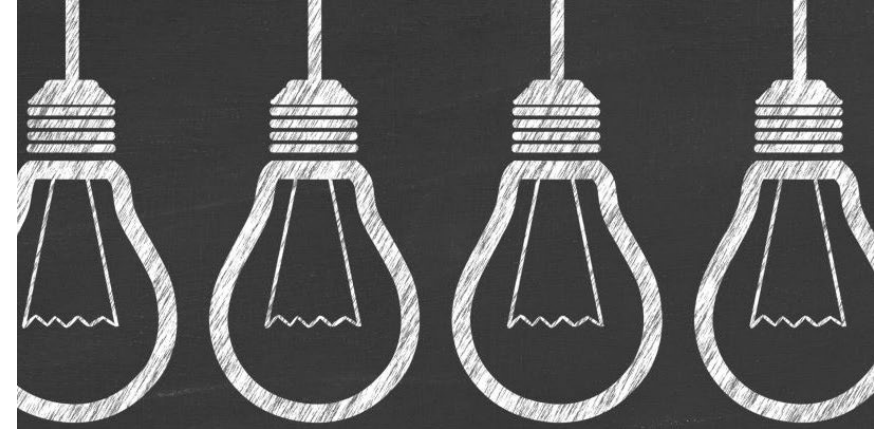
Responsivity Principle

Evaluation of the offender's ability to learn from the rehabilitative intervention

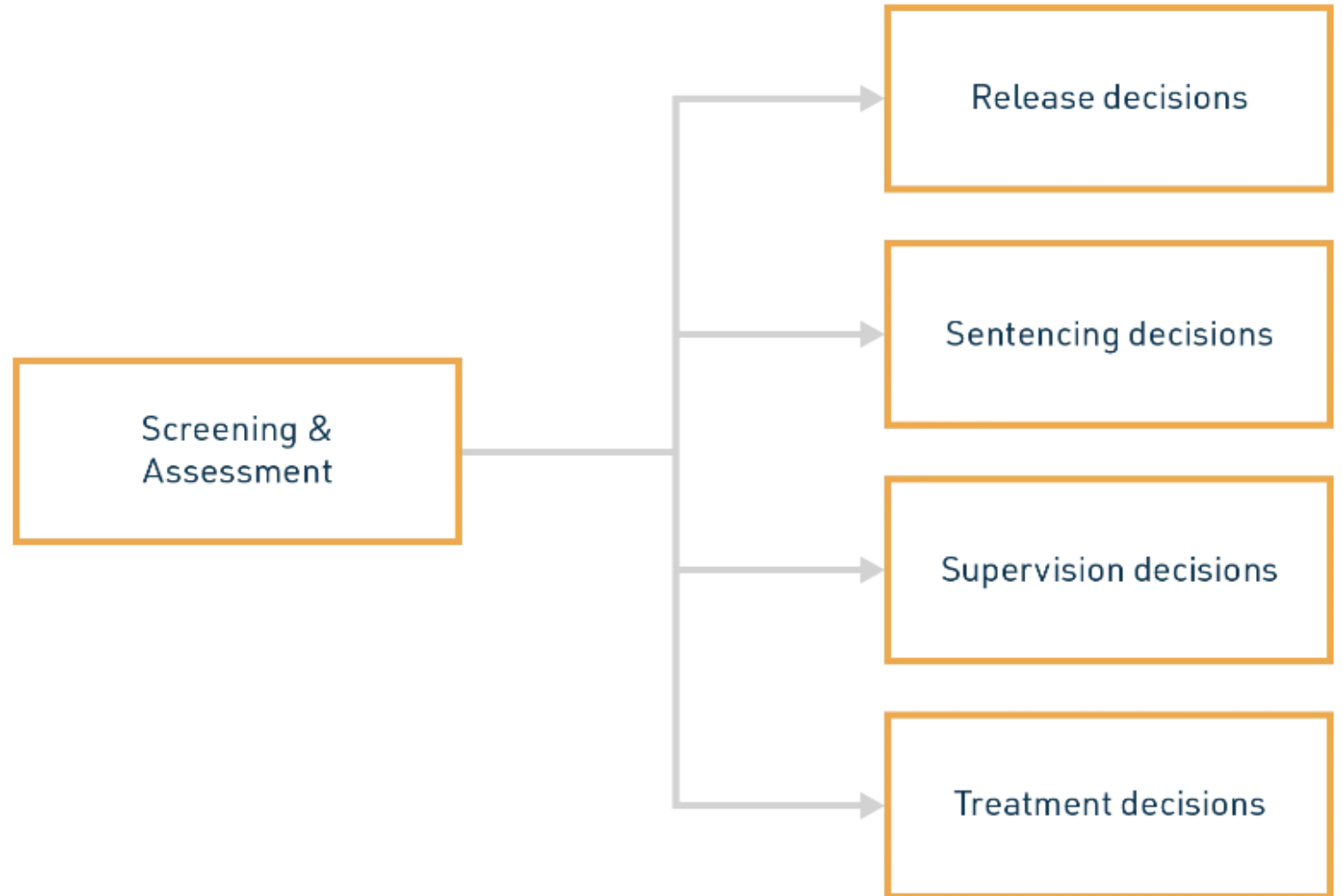
Offender must be motivated to change

Tailoring the intervention to the learning style, motivation, abilities and strengths of the offender

Emphasis on cognitive behavioral treatment



Screening and Assessment



Screening

Identifies immediate and current needs

Determines the need for further evaluation and treatment/support

Typically shorter in length and quick to administer/score

Usually does not result in the ability to diagnose

Assessment

Comprehensive and considers multiple domains

Gathers key information and permits diagnosis; identifies strengths and barriers that may impact treatment

The problem with
traditional risk
assessments:

Impaired driving
offenders tend to
score lower on
traditional risk
assessments

Validated Instruments

IDA - Impaired Driving Assessment

DUI RANT - Impaired Driving Risk and Needs Triage

CARS - Computerized Assessment and Referral System

RIASI - Research Institute on Addiction Self Inventory



The Value of SBIRT

Screening

Brief intervention

Referral for treatment

Stop doing what doesn't work!

Abstinence

Assessment and treatment as recommended

Drug and alcohol testing/monitoring

No driving

Supervised release

Regular appointments with pre-trial officer

Curfew

Remote monitoring

Stay away from _____

Random searches

Removal from home

Comply with court appearances

Possible Pre-Trial Release Conditions

Pretrial and Probation Reports

- ✓ Current offense information
- ✓ Criminal history
- ✓ Comprehensive driving history
- ✓ Demographic information
- ✓ Screening/assessment information
- ✓ Interview with offender
- ✓ Interview with victim if applicable
- ✓ Physical/mental health history
- ✓ Treatment history
- ✓ Employment history
- ✓ Income information
- ✓ Military service information
- ✓ Educational/vocational history
- ✓ Other financial information
- ✓ Transportation plan
- ✓ Compliance history with prior supervision or electronic monitoring

High-Risk Impaired Drivers

What doesn't work:

- ✓ Fines and jail alone
- ✓ Traditional/basic probation
- ✓ Community service
- ✓ License suspension alone
- ✓ Victim impact panels
- ✓ "Drunk hotels"

Financial Implications

Job loss/impact

Court costs

Fines

Attorney fees

Probation service fees

Increase in insurance rates

Cost of monitoring device

Treatment expenses

Transportation costs during period of license suspension

NHTSA Countermeasures That Work

Effectiveness:

- ★★★★★ Demonstrated to be effective by several high-quality evaluations with consistent results.
- ★★★★ Demonstrated to be effective in certain situations.
- ★★★ Likely to be effective based on balance of evidence from high-quality evaluations.
- ★★ Limited evaluation evidence, but adheres to principles of human behavior and may be effective if implemented well.
- ★ No evaluation evidence, but adheres to principles of human behavior and may be effective if implemented well.

Cost to implement:

- \$\$\$ Requires extensive new facilities, staff, equipment, or publicity, or makes heavy demands on current resources.
- \$\$ Requires some additional staff time, equipment, facilities, and/or publicity.
- \$ Can be implemented with current staff, perhaps with training; limited costs for equipment or facilities.

Legislation and Licensing

Countermeasure	Effectiveness	Cost	Use	Time
Administrative License Revocation or Suspension (ALR/ALS)	★★★★★	\$\$\$	High	Medium
Minimum Drinking Age 21 Laws	★★★★★	\$\$\$	High	Short
Open Container Laws	★★★★★	\$	High	Short
Lower BAC Limits	★★★★	\$	Low	Short
High-BAC Sanctions	★★★	\$	Medium	Short
BAC Test Refusal Penalties	★★★	\$	Unknown	Short
Alcohol-Impaired-Driving Law Review	★★★	\$\$	Unknown	Medium

Other Strategies for Behavior Change

Countermeasure	Effectiveness	Cost	Use	Time
Alcohol Ignition Interlocks	★★★★★	\$\$	Medium	Medium
Alcohol Problem Assessment and Treatment	★★★★★	Varies	High	Varies
Alcohol Screening and Brief Intervention	★★★★★	\$\$	Medium	Short
Vehicle and License Plate Sanctions	★★★★★	Varies	Medium	Short
DWI Offender Monitoring	★★★★★	\$\$\$	Unknown	Varies
DWI Courts	★★★★★	\$\$\$	Low	Medium

Countermeasure	Effectiveness	Cost	Use	Time
Limits on Diversion & Plea Agreements	★★★	\$	Medium	Short
Alternative Transportation	★★★	\$\$	Unknown	Short
Mass-Media Campaigns	★★	\$\$\$	High	Medium
Court Monitoring	★★	\$	Low	Short

DUID Countermeasures That Work

Legislation and Licensing

Countermeasure	Effectiveness	Cost	Use	Time
Drug-Impaired-Driving Laws	★	Unknown	Medium [†]	Short

[†] Use for drug per se laws

Enforcement

Countermeasure	Effectiveness	Cost	Use	Time
Enforcement of Drug-Impaired Driving	★★★	\$\$	Unknown	Short

Other Strategies for Behavior Change

Countermeasure	Effectiveness	Cost	Use	Time
Education Regarding Medications	★	Varies	Unknown	Varies

Quadrant Model



HIGH RISK

LOW RISK

HIGH NEEDS
LOW NEEDS

- Treatment
- Prosocial & adaptive habilitation
- Abstinence is distal
- Positive reinforcement
- Self-help/alumni groups
- ~ 18-24 treatment court
- Status calendar

- Prosocial habilitation
- Abstinence is proximal
- Negative reinforcement
- ~ 12-18 mos. program
- Programming on antisocial decision-making

- Treatment (separate milieu)
- Adaptive habilitation
- Abstinence is distal
- Positive reinforcement
- Self-help/alumni groups
- ~ 12-18 mos. program
- Noncompliance calendar

- Psycho-education
- Abstinence is proximal
- Individual/stratified groups
- ~ 3-6 mos. Program
- Education ~ 12-26 hrs. or less

What works with high-risk impaired drivers?

Engage in multi-dimensional monitoring and sanctioning

Utilize screening and risk assessments to influence the case plan

Protracted and close judicial oversight

Intensive and close supervision and observation

Education programs

24/7 programs

DUI courts

Individualized treatment in sufficient dosage

Use technology to monitor

Potential Supervision Conditions

DUI court compliance

Drug, alcohol and/or mental health
assessment/treatment

Peer support

Progress hearings/court monitoring

Frequent drug/alcohol testing

Real time drug/alcohol monitoring

Avoid “old people, places and things”



Impaired Driving Courts

Approximately
750 in the U.S.

Can reduce
recidivism by 60%

Saves \$3.19 for
every \$1.00
invested

Impaired Driving Courts

Judicially managed and coordinated treatment-focused program

Direct management, oversight and supervision in a team approach

Ongoing judicial interaction and encouragement

Client accountability focused on progressive phases and immediate consequences

- ✓ Foundational Training
- ✓ Operational Tune-Up
- ✓ Resources
- ✓ Best Practice Standards
- ✓ Ten Guiding Principles

AIIRise

Impaired Driving Solutions



Adding a DUI Track to an Existing Docket

61 Drug Courts
15 DUI Courts

DUI Track

- ✓ Separate docket/time
- ✓ Additional staff not required
- ✓ Staff training
- ✓ Supervision conditions
- ✓ Transportation needs
- ✓ Monitoring device

HOW TO IMPLEMENT A MULTI-TRACK MODEL IN YOUR DWI COURT

SEPTEMBER 2019



*Informing Policy and
Improving Programs
to Enrich People's Lives*

Recap

DUI offenders are different from other offenders

Valid screening and assessment tools are essential

Closely monitor high risk (whether high or low needs) offenders

Don't mix low risk/low needs offenders with high risk offenders

Re-assess frequently to determine progress and unmet needs

Intensive supervision

DUI courts work

Consider surveillance of use



Questions?

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