



High-Risk Impaired Drivers: Combating a Critical Threat



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Table of Contents

Introduction	3
Why Focus on the High-Risk Impaired Driver?	6
Taking a Comprehensive and Holistic Approach	8
Screening and Assessment	8
Law Enforcement & Toxicology	10
Prosecution and Adjudication	13
Treatment and Supervision	15
Data Collection	19
Individualized Justice in Action	21
DUI Monitoring Court — A County Model	23
Statewide Impaired Driving Management — A State Model	25
Moving from a Conviction to Individualized Justice Approach	27
State DUI Task Forces	29
Local DUI Task Forces	30
A Snapshot of Proven, Promising and Best Practices	32
DUI Treatment Courts	32
Alcohol & Drug Monitoring	34
Public Outreach & Education	36
Training & Continuing Education	39
High Visibility Enforcement	42
Drug Evaluation Classification Program	45
Prosecution	46
Probation	47
Data Sharing & Electronic Warrants	48
Phlebotomy	50
Toxicology	51
Screening & Assessment	52
Final Thoughts	54
References	56
Acronym Key	59

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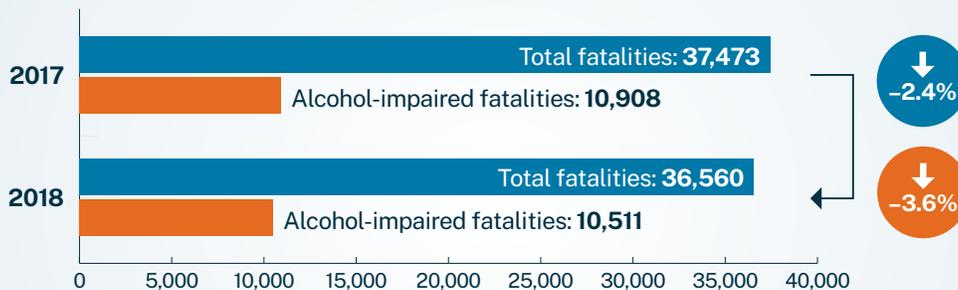
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Introduction

Alcohol-impaired fatalities accounted for 29 percent of all U.S. motor vehicle deaths in 2018, the lowest percentage since 1982 when the National Highway Traffic Safety Administration (NHTSA) began reporting alcohol data. This was sparked by a 3.6 percent decrease in alcohol-impaired driving fatalities from 2017 to 2018 (National Center for Statistics & Analysis [NCSA], 2019). Thanks to the efforts of Mothers Against Drunk Driving (MADD), NHTSA in partnership with State Highway Safety Offices (SHSOs) and state and local law enforcement, as well as Responsibility.org, Students Against Destructive Decisions, the National Safety Council, and many other organizations, the nation's roadways are become safer.

National Alcohol-Impaired Driving Fatalities, 2017-2018



In 2018, an average of one alcohol-impaired driving **fatality** occurred every **50 minutes**, which translates to 29 deaths each day.

Even with this progress, impaired driving remains a major highway safety problem nationwide. In 2018, an average of one alcohol-impaired driving fatality occurred every 50 minutes, which translates to 29 deaths each day. This may seem difficult to comprehend given the stigma associated with drunk driving, but 10,511 people lost their lives in motor vehicle crashes involving at least one driver with a blood alcohol concentration (BAC) of .08 g/dL or higher. Even more startling is that these deaths accounted for nearly one third of all people killed on our nation's roadways (NCSA, 2019). These, however, are only the alcohol-impaired driving motor vehicle fatalities. There are more than 111 million self-reported episodes of alcohol-impaired driving among U.S. adults annually, equating to 300,000 incidents a day (Centers for Disease Control [CDC] and Prevention, 2019).

Clearly, when it comes to drunk driving there is a disconnect between drivers' attitudes and their behavior resulting in a significant danger on the road. According to the AAA Foundation for Traffic Safety's 2018 Traffic Safety Culture Index (2019),

more than 95 percent of drivers indicated that driving after drinking enough alcohol to be over the legal limit is very or extremely dangerous. But approximately 11 percent of those same motorists admitted to engaging in this dangerous behavior in the past month. National Safety Council (NSC) research mirrors the AAA findings, but even more troubling is that nearly half of the motorists who said they drove over the legal limit, felt they were unsafe behind the wheel and 47 percent said they almost crashed (2017).

Impaired driving, however, is not solely alcohol related. Drugs — both legal (including prescription and over-the-counter medications as well as cannabis in some states) and illegal — are playing an increasingly more prevalent and dangerous role in motor vehicle crashes. Between 2006 and 2016, the rate of fatally injured drivers (with known test results) that tested positive for drugs increased from 28 percent to 44 percent (Fatality Analysis Reporting System [FARS] as cited in Hedlund, 2018). The most commonly ingested substances included stimulants (e.g., cocaine, methamphetamine), depressants (e.g., Xanax, Valium), narcotic analgesics (opioids, heroin), dissociative anesthetics (e.g., PCP, ketamine), cannabis, and a combination of these and other drugs (Sobriety Testing Resource Center and Drug Recognition Expert [DRE] Evaluations System as cited in International Association of Chiefs of Police [IACP], 2019).



Nationwide in 2016, **50.5 percent** of fatally injured, drug-positive drivers had two or more drugs in their system and **40.7 percent** were found to have alcohol in their system.

Combining substances, even at low levels, can significantly increase crash risk. This is referred to as polysubstance use and despite the danger of consuming alcohol and drugs or multiple drugs, the behavior is on the rise. For example, Denver, Colorado (the first state to legalize recreational cannabis), experienced a 300 percent jump in polysubstance-impaired driving cases from 2013 to 2016. Alcohol and THC (tetrahydrocannabinol), the main psychoactive compound in cannabis that gives the sensation of being high, were the most common combination (Ma, 2019). In Washington State, drivers convicted of impaired driving were two and five times more likely to test positive for polysubstance use than alcohol and THC-only, respectively (Grondel, Hoff & Doane, 2018). Nationwide in 2016, 50.5 percent of fatally injured, drug-positive drivers had two or more drugs in their system and 40.7 percent were found to have alcohol in their system (FARS as cited in Hedlund, 2018).

All motorists who drive impaired — regardless of the substance — pose a hazard to themselves and others but the greater the level of impairment the higher the crash risk. While a BAC of .08 g/dL is the legal limit in all states (the exception is Utah, where the legal limit is .05 g/dL), 66 percent of the alcohol-positive drivers involved in fatal crashes in 2018 had BAC levels at or above .15 g/dL, with the most frequent being .16g/dL (NCSA, 2019). Looking at the states, the percentage of fatalities involving a driver

DUI or DWI?

Driving under the influence (DUI) is the most commonly used abbreviation to denote an impaired driving offense. In this publication, DUI is the most frequently used term to describe alcohol- and drug-impaired driving. Other abbreviations, such as driving while intoxicated (DWI), operating under the influence (OUI) and operating while impaired (OWI) may be used when discussing specific state laws or programs.

with a BAC of .15 g/dL or higher ranged from a high of 31 percent (Montana) to a low of 12 percent (Kentucky and West Virginia), compared to the national average of 19 percent. Perhaps most alarming is that these high-BAC impaired drivers are involved in more than 60 percent of the alcohol-impaired driving deaths each year (NCSA, 2019).

Drivers with BACs of .08 g/dL or higher, who were involved in fatal crashes, were also 4.5 times more likely to have prior convictions for driving under the influence (DUI) than drivers with no alcohol (9 and 2 percent, respectively). These repeat offenders cause about one-third of all impaired driving deaths annually, a statistic that has remained relatively unchanged for years (NCSA, 2018). That combined with a 16 percent increase over the past 10 years in the number of alcohol-impaired drivers killed in crashes who also tested positive for drugs (Nordstrom, 2019), gives an entirely new meaning to the term *high-risk impaired driver* or *HRID*.

This publication focuses on the challenges and opportunities associated with the high-risk impaired driver — a person who lacks the restraint or self-control to resist driving impaired (Kean, Maxim & Teevan as cited in Lowe, 2014). A high-risk impaired driver is likely to drive with a BAC of .15 g/dL or higher — or after consuming drugs or a combination of alcohol and drugs — and to do so repeatedly as evidenced by having more than one DUI arrest. Whatever the impairing substance, the high-risk impaired

Defining the High-Risk Impaired Driver (HRID)



driver is highly resistant to changing his/her behavior despite sanctions, treatment or education and poses an elevated crash risk (Holmes & Dalbec, 2015). To reduce recidivism, stop the revolving door and save lives, more must be done to identify and address the high-risk impaired driver.

Why Focus on the High-Risk Impaired Driver?

High-BAC, repeat offender, polysubstance user... what makes today's high-risk impaired drivers (HRIDs) particularly challenging is that we cannot eliminate the public safety threat by only punishing them for each driving incident. Many of these offenders have both a substance use disorder (SUD) and a mental health disorder (Shaffer et al., 2007). DUI offenders who suffer from a psychiatric disorder other than a SUD are more likely to reoffend, and reoffend more quickly (Nelson, 2016). Unfortunately, impaired driver mental health issues are often missed so they go untreated. Loopholes in the criminal justice system, coupled with a lack of awareness of mental health issues among some working to address impaired driving, also mean that these offenders often go unmonitored, fail to comply with their sentences and conditions of supervision and do not receive adequate treatment that produces the long-term behavior change necessary to prevent recidivism. In many cases, they are not held accountable nor do they face consequences for non-compliance resulting in a dangerous cycle that puts all road users at risk.



Many HRIDs **have a substance use disorder and/or a mental health disorder.**

That is why it is critical that this segment of the DUI population, which is disproportionately responsible for fatalities on our roadways, be targeted through policy, interventions and funding. The resources necessary to do this are significant, but the return on investment — a reduction in lives lost and societal costs — simply cannot be ignored.

Consider the following, in 2010 (the most recent year for which cost data is available) the economic cost of motor vehicle crashes was \$242 billion, with drunk driving accounting for \$44 billion of that price tag. These figures represent tangible costs such as lost productivity, workplace losses, legal and medical expenses, insurance, emergency response, property damage, and congestion. But in cases of serious injury or death, they do not begin to capture the impact on lost quality of life, which equates to \$836 billion for all crashes. Impaired drivers accounted for \$201.1 billion of that \$836 billion, with HRIDs responsible for the largest share (NCSA, 2018). For those that lost a loved one and/or are caring for a family member with an incapacitating injury resulting from a crash caused by a HRID, the impact is devastating.



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What can State Highway Safety Offices (SHSOs) and their partners do to effectively address the HRID problem? This publication will explore the following key topics:

- » Why adoption of a comprehensive and holistic approach is needed and what it looks like;
- » How state and local task forces, which SHSOs often administer and/or participate on, can be tapped to identify the gaps in the system and the necessary resources, expand existing initiatives that are working, and improve implementation for better accountability and behavior change; and
- » What evaluated programs, best practices and proven or promising approaches SHSOs are currently funding or could fund that merit consideration, and the importance of funding programs and initiatives that are evaluated to determine their impact on reducing recidivism.

Information for this publication was culled from a variety of online resources, printed materials, one-on-one interviews, and discussion with members of an expert working group composed of representatives from law enforcement, prosecution, the judiciary, driver licensing, toxicology, probation, treatment and prevention, as well as SHSOs, [NHTSA](#), the [National Conference of State Legislatures](#), the [National Governors Association](#), [Responsibility.org](#), and [Governors Highway Safety Association \(GHSA\)](#).

Funding for this publication was provided by Responsibility.org, which first shined a spotlight on the hardcore drunk driver two decades ago with the release of its comprehensive program to address hardcore drunk driving. Today, this population is now referred to as high-risk impaired drivers and they remain a critical threat on our nation's roadways. To refocus attention on this problem, Responsibility.org has developed a [web-based repository](#) of promising and evidence-based practices from across the country, some of which are included in this publication, along with federal and state checklists for policymakers and advocates. In addition, an interactive online roadmap that illustrates the DUI process and the routes an individual can take to get to the preferred destination – long-term behavior change – is in development. These Responsibility.org resources and this GHSA document are intended to be complementary pieces. The SHSOs and their partners are encouraged to use both as they work to identify and implement solutions to effectively address the HRID. **To assist in this effort, Responsibility.org will work with GHSA to provide grants to help SHSO's implement recommendations and initiatives discussed in this publication.**



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Taking a Comprehensive and Holistic Approach

High-risk impaired driving is a complex problem. The typical legislative response is to levy heavy fines and incarcerate the HRID. This “make ‘em pay and lock ‘em up” approach may get these offenders off the street, but punishment aimed at the immediate behavior rather than the cause and delivered in a vacuum is unlikely to reduce recidivism or lead to long-term behavior change. At the same time, most SHSOs address impaired driving by awarding grants principally to help law enforcement detect, arrest and convict violators. This conviction-centered approach, or what some refer to as *cookie-cutter justice*, de-emphasizes the unique, long-term needs of the HRID and typically is not effective in deterring them from re-offending.



Cookie-cutter justice focuses on detecting, arresting, and convicting violators and de-emphasizes the unique needs of the HRID.



Individualized justice is a multidisciplinary effort to identify the root cause of an offender’s behavior, determine the appropriate sanctions, and prevent recidivism.

What is more effective, according to criminal justice experts, is *individualized justice*. This comprehensive and holistic approach involves practitioners from many disciplines collaborating to identify the root cause of the offender’s behavior and then determine what sanctions should be administered. States and communities adopting an individualized justice approach create systems that incorporate multidisciplinary input from law enforcement, prosecution, the defense, the courts, probation and parole, treatment, and driver licensing. To reduce recidivism, the team works together to ensure punishment is combined with long-term behavior management. This may include alcohol/drug monitoring technologies such as ignition interlock devices, transdermal alcohol testing and other systems; intensive supervision that holds the offender accountable for any violation of the terms of his/her sentence; and treatment and aftercare that takes into account the offender’s learning style, gender, culture, and motivation. This approach is not coddling; lack of program compliance or impaired driving recidivism prompts consequences, which may include incarceration.

Screening and Assessment

Screening and assessment are the centerpiece of the individualized justice approach. These are clinical evaluation tools used to help identify the DUI offender’s risk of engaging in future impaired driving events and to determine the most effective community supervision that will reduce that risk (Lowe, 2014). Screening and assessment are critical because DUI offenders are a distinct population within the criminal justice system. Prior DUIs and other traffic infractions may be common among HRIDs, but they often lack a history of other offenses. This coupled with the presence

of other pro-social and protective factors, such as higher levels of education and employment and strong community ties, often leads to these offenders being classified as low risk, despite having a heightened risk of causing death or serious injury. In addition, HRIDs often have unique needs and are resistant to change because of limited insight into their behavior.

Screening and Assessment are clinical evaluation tools used to help identify the DUI offender's risk of engaging in future impaired driving events and to determine the most effective community supervision that will reduce that risk.

Many states require motorists convicted of DUI to undergo screening and assessment, but there is agreement among experts that it does not always happen or happen early enough. Ideally, screening and assessment should occur during the pre-trial phase, so the results along with the police report, prior offense history, and previous or current probation and other significant information can be used to inform sentencing decisions, case management plans, supervision levels, and treatment. But assessments can be repeated at multiple times during the offender's involvement in the criminal justice system to identify progress and make plan adjustments as needed (Nannini, 2018).

Screening is the first step in the process of determining if the offender should be referred for treatment as it is used to identify if s/he has a substance abuse and/or mental health problem. Typically administered by a criminal justice or treatment professional, screening involves the HRID answering a brief series of questions that are linked to a risk scale. This is an efficient and effective way to target limited resources by separating offenders into different categories (i.e., SUD, low or high-risk, anti-social behavior) so they receive the appropriate level of supervision and/or treatment. It can also serve as a brief intervention since it requires the offender to begin thinking about his/her substance use patterns and whether they are problematic (Nannini, 2018). (Numerous screening tools are available; consult the [Substance Abuse and Mental Health Association](#) website for guidance.)

Determining the offender's risk level is critical. Placing someone identified as low-risk with high-risk offenders can lead to poor outcomes and result in the former being influenced by the latter, who are at a higher-risk of recidivating. Providing intensive supervision and treatment for an offender who does not need it, can lead to negative



Determining risk level is critical. Placing someone identified as low-risk with high-risk offenders can lead to poor outcomes and result in the former being influenced by the latter, who are at a higher-risk of recidivating.

outcomes as well. High-risk offenders, on the other hand, need intensive services including supervision and treatment. Unlike their low-risk counterparts, they are less likely to self-correct and often have more criminogenic needs that must be addressed (Nannini, 2018).

Following screening, assessment is administered to those offenders who show signs of substance or mental health issues. This is more time-intensive than screening as it explores individual issues in-depth to evaluate not only the presence of an alcohol and/or drug problem, but its extent and severity. Assessments are typically administered by a trained professional. There are numerous assessment instruments such as the Risk and Needs Triage (RANT), Alcohol Severity Index (ASI) and Adult Substance Use and Driving Survey – Revised (ASUDS-R). But currently only three (two are discussed in more detail on pages 23 and 53) – DUI-RANT, a modified version of the RANT, that is a screener/triage tool; the Computerized Assessment and Referral System (CARS) developed by Cambridge Health Alliance, a teaching affiliate of Harvard Medical School, with funding from Responsibility.org; and the Impaired Driving Assessment (IDA) developed by the American Probation and Parole Association (APPA) in collaboration with NHTSA – are validated for use with DUI offenders (Nannini, 2018). The impetus for development of CARS and IDA was the recognition that generic assessment instruments fail to accurately capture the risk level of impaired drivers and they do not identify the presence of co-occurring mental health disorders. Practitioners are strongly encouraged to use one or both instruments to inform supervision and treatment plans for DUI offenders.

Law Enforcement & Toxicology

The individualized justice approach does not mean SHSOs should stop awarding grants to law enforcement. Rather, SHSOs should take a more strategic approach to addressing impaired driving. Law enforcement grants should be directed to enforcement tactics that are the most effective in detecting impaired drivers such as checkpoints, saturation patrols and special DUI strike or task forces (see pages 27–32 for more information on the latter), as well as training that will help officers quickly and effectively identify the impairing substance(s) beyond alcohol. Drug-impaired driving

is a growing road safety threat requiring new tools, techniques and technology. In addition, the individualized justice approach calls for a greater focus on individual circumstances, which is often lacking in drug-impaired and polysubstance use cases due to limitations in some current enforcement practices. Failure to identify drug use has implications for sentencing, supervision and treatment.

As the data clearly show, many offenders use multiple substances. If their drug use is not captured at the time of arrest, there is a high probability these offenders will continue to use because they will be subject only to alcohol monitoring. This lack of



accountability means the likelihood of behavior change is low and, as a result, these offenders will continue to pose a threat and likely recidivate. However, there are four promising ways to mitigate this:

Police drug recognition training

Every state is investing in more Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement (ARIDE) and Drug Recognition Expert (DRE) training. ARIDE provides officers with general knowledge of drug impairment, while DREs apply a standardized, systematic 12-step protocol that leverages a combination of physiological, behavioral, and toxicological evidence to evaluate impaired driving suspects.

These training programs are currently the most effective line of defense in a highway safety environment without scientifically validated per se limits for THC and other drugs. It is also important to note that field sobriety tests are sensitive for THC and both DREs and non-DREs can determine impairment from the compound. However, THC concentrations cannot be correlated to specific impairment (Harmon, 2019a).

Increased testing for impairing drugs

Under the conviction-focused approach introduced earlier, an officer confronted with a suspected impaired driver conducts the SFST and/or preliminary breath test (PBT) at roadside. (In some jurisdictions, the officer may also perform ARIDE or DRE testing or call in a DRE.) If the motorist fails preliminary screening, s/he is arrested, a breath sample is collected, and possibly blood and/or urine, for evidentiary testing by a toxicology laboratory. However, in most jurisdictions if the BAC exceeds a certain concentration such as at or over the per se limit, drug testing is not performed. There may be exceptions such as a crash involving a serious injury or fatality or a DRE finding of potential drug impairment. (Concerning the former, there are still gaps in

SUBJECT: _____



Making the Case for Drug Screenings

In Orange County, CA, the crime lab is screening all blood obtained in DUI arrests for drugs such as cannabis, cocaine, heroin, and prescription medications. The effort is paying off as impairing drugs were detected in more than one-third of BAC samples of .08 g/dL or greater in 2018 (Harmon, 2019). Meanwhile, researchers at Virginia Tech are partnering with U.S. toxicology labs to examine impaired driving cases where motorists were at or above the alcohol per se limit resulting in no further testing for drugs. The goal is to show the value of testing beyond the BAC cut off as well as to identify the low hanging fruit when it comes to what drugs to test for. For states, identifying the prevalence of drugs can better inform policy decisions aimed at impaired drivers particularly those who are high-risk.

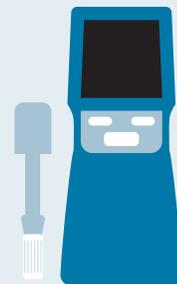
the data. In 2017, 62 percent of drivers killed in the U.S. were tested for alcohol, while only 24 percent of drivers who survived fatal crashes were tested [NCSA, 2019].) Experts agree, however, that testing only what is necessary to get the conviction fails to uncover the motorist’s substance use problem, which is central to the individualized justice approach, and undermines impaired driving prevention. And, it merits pointing out that DUI is “the only crime where the investigation ends after a minimal amount of evidence is obtained” (S. Talpins, personal conversation, 2019).

Leveraging new drug screening technologies

Research confirms that laboratory testing of DUI suspects for drugs is not common and that it is influenced by the confirmation of alcohol intoxication (Arnold & Scopatz, 2016). Cost is also a factor, as blood tests typically average \$25-35 compared to drug panels that can range from \$100-300 and more. One potential solution is for law enforcement to use oral fluid tests as an onsite screener to identify the presence of drugs roadside or in a police station to help establish probable cause. (The roadside devices cost approximately \$4,000, with single-use cartridges costing \$17-20 each.) These tests are quick and easy to use, minimally invasive and painless, and because the sample is collected close to the time the driver was operating a vehicle, they are a more reliable indicator of the presence of drugs at the time of the stop. Oral fluid tests are comparable to preliminary breath tests; they cannot conclusively determine a driver’s level of impairment, but they can be used to collect evidence as part of a broader impaired driving investigation (Flannigan, Talpins & Moore, 2017).

Admissibility of Oral Fluid Testing

Oral fluid evidence was used to convict a California motorist in 2016. A Bakersfield police officer, participating in an SHSO-funded pilot, administered an oral fluid test and a breathalyzer test to a motorist at the scene of a fatal crash. At the police station, the motorist was breathalyzed a second time and blood drawn. The oral swab revealed the motorist had used methamphetamine that was confirmed by the blood test (cannabis was also detected by the latter). The motorist’s BAC was .03 g/dL (Douglas, 2016).



Expediting impaired driving investigations

The longer an impaired driving investigation takes at the roadside, the greater the decline in measurable levels of impairing substances in an offender’s body. By the time a blood draw occurs, critical evidence could be lost resulting in the driver not being identified as an HRID. To address this, some law enforcement agencies are training police officers as phlebotomists to reduce the time between arrest and the collection of chemical evidence. To aid in this effort, NHTSA developed a [Law Enforcement Phlebotomy Toolkit](#), that draws from

existing, successful law enforcement phlebotomy programs. (Best practices are identified on page 50.)

One longtime law enforcement official called certified phlebotomist officers a potential “game changer” when it comes to combatting drugged driving (S. Casstevens, personal conversation, May 2019). Law enforcement agencies reduce costs because they do not need to pay phlebotomists and hospitals for blood draws. Law enforcement phlebotomy programs also simplify the evidentiary chain of custody since fewer people are handling the blood sample (NHTSA, 2019).

Technology is also being developed and deployed to help officers obtain electronic search warrants (e-warrants) in a matter of minutes, day or night, to speed up non-voluntary blood draws. Well-established and diverse e-warrant systems are discussed in [A Guide to Implementing Electronic Warrants](#), developed by the Justice Management Institute. (See pages 48–50 for examples of state e-warrant programs.)

Prosecution and Adjudication

In an individualized justice approach, the prosecutor and defense attorney work collaboratively rather than as adversaries to ensure the public and the HRID’s best interests are served. That means they focus on helping the HRID get the treatment and care s/he needs to address the root problem(s) causing the risky behavior and lessen the likelihood of re-offending. This runs contrary to the traditional goal of the prosecutor and the defense attorney, where the former strives to *convict the offender to the fullest extent of the law, while the latter seeks to mitigate the impact of the offense, so the offender can get back on the road*. For the former to happen, both need to be at the table to review, in concert with the other disciplines, the screening and assessment findings, so more informed decisions are made that result in better outcomes for the public and the offender. (Inviting defense attorneys to be a part of the impaired driving solution, via participation on a statewide task force, is addressed on pages 27–29).



In an individualized justice approach, the prosecutor and defense attorney work collaboratively rather than as adversaries to ensure the public and the HRID’s best interests are served.

All involved parties working together is the ideal; however, the reality of impaired driving cases is different. A new prosecutor, with limited or no experience handling DUI cases, which increasingly involve drugs, polysubstances and mental health issues, may be up against a highly skilled and specialized defense attorney who is well-versed in the science and arrest procedures critical to the case (J. Thomka, personal conversation, April 2019). Judges, meanwhile, may have a lack of flexibility

in sentencing due to mandatory minimums and other required sanctions outlined in state statute. Individualizing sentences may be difficult if judges do not have the authority to deviate from what is in statute even when those sanctions may not be appropriate. Providing training, continuing education and expert assistance to help prosecutors and judges handle these complex cases can help facilitate delivery of individualized justice.

Prosecutor support

Free, online [training](#), developed by the National Center for State Courts, the National Traffic Law Center (NTLC) and Responsibility.org, is available to help prosecutors gain confidence in adjudicating DUI cases and improve outcomes. The course will be updated to include drug-impaired and polysubstance-impaired driving education. In the meantime, the NTLC provides in-person training to aid in prosecuting drug cases that includes discussion on DUI as well as pre-trial and technical assistance upon request.



The image shows a computer monitor displaying a webpage from the National District Attorneys Association. The page is titled 'Prosecuting DUI Cases' and features a 'REGISTER' button. The text on the page describes an online training course designed to help prosecutors gain confidence in adjudicating DUI cases. To the right of the monitor, there is a blue text box with the same text as the webpage, and below it is an orange button that says 'ONLINE TRAINING'.

Prosecutors also should utilize the expertise of their respective state's Traffic Safety Resource Prosecutor (TSRP), who is generally a current or former prosecutor with considerable courtroom experience. Typically funded by SHSOs, TSRPs provide training, education and technical support to traffic crimes prosecutors and law enforcement agencies that includes assistance with alcohol- and drug-impaired driving cases. They can also help foster collaboration between law enforcement, prosecution, the judiciary, and toxicology to promote better case outcomes.

A DUI case can be time-intensive and lengthy. Staff turnover and heavy caseloads are common which means more than one prosecutor will likely handle disposition of an impaired driving case. This can hamper the effectiveness of the individualized justice approach, which requires a significant investment on the part of all multidisciplinary stakeholders and team members involved in this approach. Experts support the use of vertical prosecution for DUI cases, which means the same prosecutor is assigned to the case from the time potential charges are first reviewed through sentencing.

This is shown to improve conviction rates and result in more consistent and appropriate sentencing. (See page 46 for an example.)

Judicial support

The judiciary has historically been better suited to factor in individual circumstances and tailor adjudication to each unique offender. Yet, judges also need support and continuing education in adjudicating drug-impaired driving cases and understanding the latest HRID evidence-based countermeasures. Judges working in limited jurisdiction courts at the state, county and municipal level are in particular need of assistance. They often lack the ability to gain and share the knowledge needed to resolve the complex legal and evidentiary issues associated with effectively addressing these cases.



Judges need support and continuing education in adjudicating drug-impaired driving cases and understanding the latest HRID evidence-based countermeasures.

The American Bar Association and NHTSA are partnering to reach these judges through the [Judicial Fellows](#) and regional [Judicial Outreach Liaison \(JOL\)](#) programs. Judicial Fellows serve as teachers, writers, liaisons, and advocates, while JOLs are selected judges working within a NHTSA region to provide education and support to their peers. Some SHSOs also are funding JOL positions. These retired judges can supplement the training and support offered by the regional JOLs and have more knowledge regarding the issues in their respective states. Assistance is also available through the [Traffic Resource Center for Judges](#), an information clearinghouse and technical training and assistance resource established to improve court decision-making and processing of impaired driving cases.

Continuing education, in the form of in-person courses and webinars that focus on impaired driving issues, is provided by the [National Judicial College](#). Approximately, 90 percent of the faculty is composed of judges, while other professionals such as accountants, lawyers, law professors, physicians, and psychologists are tapped to share their expertise. Some SHSOs also provide continuing education opportunities for judges at highway safety conferences and in partnership with state judicial organizations. (See page 39 for an example.)

Treatment and Supervision

Not all impaired driving offenders, including repeat offenders, require treatment. While many impaired drivers have substance use disorders, others do not and the only way to determine which offenders are likely to benefit from treatment interventions is to screen and assess (discussed earlier on pages 8–9) every individual arrested

for DUI. In the individualized justice approach, the treatment plan is evidence-based and developed by a trained clinician with expertise working with HRIDs, flexible and tailored to match the HRID's ongoing needs, not strictly prescribed in statute or handed down by the judge. This is vital since a substance use disorder is a chronic, relapsing condition that can be effectively treated with the proper regimen.

Individualized Justice Approach Treatment Plan:

- » Evidence-based
- » Developed by a trained clinician with expertise working with HRIDs
- » Flexible and tailored to match the HRID's ongoing needs
- » Not strictly prescribed in statute or handed down by the judge

At the same time, many HRIDs have a co-occurring mental health disorder (National Center for DWI Courts [NCDC], 2019). In fact, research has shown that 45 percent of repeat offenders have at least one major mental health disorder in addition to a SUD (Shaffer et al., 2007). Failure to identify mental health needs misses an opportunity to intervene and address one of the underlying causes of HRID behavior. Increased supervision and monitoring by the court, probation and the treatment provider must occur as part of a coordinated effort to apply tailored interventions to HRIDs and protect against future impaired driving. This is essential for those with chronic conditions who run the risk of recidivating.

Experts recommend the use of treatment services such as:

- » Motivational enhancement therapies, which assess the offender's stage of change for alcohol and other drug use and impaired driving issues and match interventions to what is determined.
- » Cognitive-behavioral interventions, which teach individuals to examine their thoughts and emotions and recognize when they are negative and escalating in intensity, and how to use strategies to change this negative thinking and behavior.
- » Medication-assisted treatment, which can provide relief and symptom management.
- » Continuing care/aftercare, a less intensive treatment designed to extend and reinforce initial recovery following a more intensive initial treatment period that also considers family and social relationships, employment and other environmental factors.
- » Relapse prevention training, which is vital as more than half of patients in treatment for SUDs relapse within the first year after entering treatment and

remain at a heightened risk through the early years of recovery (Blodgett et al., 2014).

- » Support and recovery groups, a network of similar individuals striving for the same goal — sustained abstinence. Many of these groups are based on Alcoholics Anonymous' 12-Step program.



Treatment interventions for this population should be gender-specific and trauma-informed (the latter assumes that an individual is more likely than not to have a history of trauma). They should also be integrated for HRIDs who are diagnosed as having co-occurring disorders (e.g., SUD and serious mental illness), so that the disorders are addressed concurrently.

The availability of these and other forms of treatment may vary, so it is important for the multidisciplinary team to determine what is provided and where and make this information readily available. If the offender is unable to drive or must travel long distances for care that may not be accessible via public transportation, proximity becomes an obstacle to success. Lack of access and diversity in treatment options are significant issues in rural jurisdictions, prompting some courts and agencies to explore telehealth and online counseling services (see the STEER Court on page 33).

Treatment should be coupled with supervision and monitoring to ensure the HRID remains sober and complies with the agreed upon plan. This may include regular and random alcohol and other drug use testing. The latter may be a component of the treatment program or handled through the courts or probation. Depending on state laws, the HRID may be tested via urine, oral fluid, breath using a PBT and/or ignition interlock device (IID), or perspiration via a transdermal device, which is often used in 24/7 program remote monitoring. It is important to note that monitoring technology is not intended to be used as a deterrent or substitute for treatment, but as a tool to help facilitate behavior change. Different devices may be used during the various stages of monitoring as a means of ratcheting up or down sanctions. An assessment should always be used to identify the most appropriate technology.

In most cases, supervision and monitoring of impaired drivers are typically handled by state and local community supervision (probation or parole) authorities. (Several examples of monitoring conducted by law enforcement are also discussed later in this publication.) Experts point out, however, that most community supervision officers are

Is One Monitoring Technology Best?

All technology used to monitor HRIDs has advantages and disadvantages. Transdermal monitoring, for example, provides certainty and celerity of punishment, but will not stop a motorist from getting behind the wheel if s/he is impaired. At the same time, a vehicle equipped with an IID will not start if the driver blows over a pre-set limit, usually .02. But this same driver may have access to a vehicle not equipped with an IID.

That is why all monitoring technologies should be on the table, so the multidisciplinary team can design a monitoring strategy that is based on each offender's unique risk level and needs. This individualized strategy may call for the use of one device during the duration of the offender's supervision or the use of multiple devices concurrently. Or, the devices may change based on ongoing assessment conducted by a trained professional.



generalists, do not work exclusively with impaired driving offenders and have large, blended cases resulting in a range of consistency in offender supervision making DUI the most inconsistently supervised offense in the nation. While it is standard practice for community supervision officers to screen and assess offenders, they may have limited knowledge regarding what is the appropriate tool for assessing DUI criminogenic risk level. This is essential for placing offenders in the most appropriate programs, so their unique needs are addressed and they have better long-term outcomes. Community supervision officers also may not be aware of the prevalence of mental health and polysubstance use among this population.

Community supervision professionals should conduct an assessment in the post-conviction stage (ideally it occurs at the pretrial or presentence stage as discussed previously) to formulate appropriate supervision plans and make treatment referrals. State or local statutes may require the use of a generic risk/needs instrument that is not validated for the DUI population, or that focuses only on alcohol use (M. Stodola, personal conversation, March 2019). The use of a tool that does not capture DUI criminogenic risk factors can create a barrier to formulating the appropriate treatment plan.

Community supervision support

Providing training to community supervision officers that addresses unique DUI issues is critical. One expert pointed out, however, that it is common for probation officers to not have information on how IID or other monitoring technology works (M. Stodola, personal conversation, March 2019). This lack of awareness minimizes the effectiveness of supervision, which includes administering swift and meaningful sanctions in the event of any violation of the sentencing terms. Free training and assistance on DUI community supervision (particularly for the highest-risk offenders) and the use of validated risk and needs assessments and alcohol and other drug monitoring technologies to inform decisions is available through the [American Probation and Parole Association](#).

Accountability is a core concept of the individualized justice approach and community supervision officers are key to ensuring HRID accountability. It is vital that community supervision partners have a seat at the table and be actively involved in reviewing individual DUI cases, so they are fully informed about an offender's program requirements and sanctions for violating those terms. When community supervision officers are fully informed and involved, they can provide swift and certain incentives and sanctions for an offender's conduct after it occurs.

Data Collection

Data is vital for gauging the effectiveness of a state's impaired driving program and each of its components. All states have core traffic records data systems – crash, vehicle, driver, roadway, citation/adjudication, and emergency medical services/ injury surveillance – but how these data are captured and shared varies from state to state. For purposes of this publication, each of these systems collect data related to impaired driving and individual offenders but the extent to which DUI data are linked and housed in a central repository is often lacking. One data expert noted the benefit of having a comprehensive, statewide DUI tracking system that could be used by a multidisciplinary team to view an impaired driving offender's full history – arrests and convictions that include reduced charges, toxicology reports that differentiate alcohol and drug-related offenses along with polysubstance use, complete screening and assessment results, use of an IID or other monitoring device(s) including violations/ lockouts, comprehensive probation information, and prescribed and completed treatment services. This, however, is not the norm in most states where the data trail ends at the point of conviction.

Under the individualized justice approach, the data captured for each impaired driver, from arrest through sanction completion and/or license reinstatement, are readily available to the multidisciplinary team in a timely and uniform fashion. Having the offender's full history is essential for ensuring s/he is charged or sentenced appropriately. These data are also available to the SHSO, which is likely funding components of the traffic records data system along with interventions to address the state's impaired driving problem. Researchers and others tasked with identifying DUI trends and the effectiveness of education, information, legislation and other impaired driving countermeasures may also access these data, with their findings used to inform policy, resource allocation and program management.



Statewide DUI Tracking System:

- » Data captured from arrest through sanction completion and/or license reinstatement
- » Readily available to the multidisciplinary team in a timely and uniform fashion

This concept of a comprehensive impaired driving data system was introduced by NHTSA in 1997 with the publication of [Driving While Intoxicated Tracking Systems](#). That spawned the [Model Impaired Driving Records Information System \(MIDRIS\)](#), which provides guidance for development of a system that allows states to generate transmit, track, store, update, link, manage, analyze and report information on impaired driving offenders and citations. MIDRIS components include (Greer, 2011):

- » Statewide coverage involving driver's licensing, law enforcement and all courts that adjudicate impaired-driving cases;
- » Real-time electronic access to license history, vehicle registration status, criminal history and warrants;
- » An electronic citation system used by law enforcement at the roadside or police station;
- » A citation tracking system that accepts electronic citation data from law enforcement and provides real-time tracking and accountability from citation issuance through adjudication and the imposition and completion of court and administrative sanctions (use of a unique identifier or offender citation number is recommended for online stakeholder access);
- » Electronic transmission of data from law enforcement and the courts to the licensing agency allowing for immediate and automatic imposition of administrative sanctions (if applicable) and the recording of convictions on the driver's license;
- » Electronic reports to the courts and the licensing agency by probation, treatment or correctional agencies including information on compliance with court or administrative sanctions;
- » Linkage of an incident-or case-based tracking system and driver or offender-based system that includes treatment and probation data resulting in a complete offender record;
- » Timely access by all stakeholders, including the SHSO, to statistical reports that inform agency operations, problem identification, policy development and management of the impaired driving program system and countermeasure evaluation;
- » Flexibility to include additional data and technological innovations; and
- » Conformity with national standards such as the American National Standards Institute and National Information Exchange Model.

Most states have implemented some of these components, but few have fully linked them to create an integrated system that tracks the identification, prosecution and adjudication of impaired drivers from roadside to release (Greer, 2011). States are urged to examine their current systems to identify and remedy the gaps with a goal of linking all critical data elements.

Doing this requires breaking down the silos, as advocated under the individualized justice approach, as well as addressing data privacy concerns. For example, the federal Health Insurance Portability and Accountability Act (HIPAA) requires health plans, doctors, hospitals and other health care providers (which include treatment) working with impaired drivers to protect patients' medical records. Linking an impaired driver's treatment-related records to a statewide system as recommended under MIDRIS would require the individual's consent. However, a treatment expert posited that when an impaired driver agrees to undergo treatment in order to restore his/her driver's license, this could be construed as a form of implied consent. Optimally, obtaining fully informed consent from the offender upon entry into the system is recommended. This provides legal protection to those entities that would use and share the information solely for the purpose of helping the offender, protecting the public and assessing the effectiveness of the system (R. Lillis, personal conversation, August 2019).

Finally, a unique identifier is needed to build an integrated impaired driver data system that pulls together all data related to an individual offender. This "golden nugget," said a data expert, is the driver's license (DL), which each impaired driver has. Recording the DL number on everything associated with the offender and then transmitting this information to a system that can link all these data sources, would generate a comprehensive case file (T. Kerns, personal conversation, September 2019). The extent to which states currently use the DL to do this, however, is not known.



Anystate USA **DL**
AB123456
[Photo of a man]
[Redacted information]

Driver's license numbers could serve as the unique identifier needed to build an integrated impaired driver data system that pulls together all data related to an individual offender.

Individualized Justice in Action

Individualized justice may sound like a pipe dream, but it is real and helping to turn around the lives of HRIDs. One of the best examples is the treatment court model that began three decades ago with a drug court in Miami. The model has been adopted in other localities and evolved to include adult, family and juvenile drug courts; DUI courts; veterans and women's treatment courts; mental health/co-occurring disorder courts; and more. Experts, however, point to the DUI court as the best model for dealing with the HRID (high-risk, high-need) and, in particular, those DUI courts that adhere to the [NCDC's Ten Guiding Principles](#). Studies confirm that courts that follow the NCDC Principles, have better outcomes that include long-term reductions in recidivism, decreases in crashes and significant cost-savings (Mitchell et al., 2012).

This success can be attributed to the DUI court's focus on accountability and behavior change. It is important to note, however, that these courts are not soft on crime; they are demanding. Under the watchful eye of a multidisciplinary team, participants are subject to intense supervision that includes unscheduled visits to their home and workplace and frequent and random alcohol and drug testing. They must also regularly appear before a judge to review progress and actively engage in and successfully complete individualized treatment plans. Any violation, and the court swiftly responds by administering graduated sanctions. At the same time, positive reinforcement is employed to encourage positive behavior and motivate offenders to seek long-term change.

Drug Court or DUI Court — Which is Better?

Experts strongly recommend a DUI court, or DUI track within a drug court, even if the individual's impaired-driving offense did not involve alcohol. That is because DUI courts specialize in addressing offender behavior, decisions to consume impairing substances and get behind the wheel, and the underlying causes of high-risk impaired driving, which are applicable regardless of the impairing substance. In addition, unlike the drug court model, a DUI court offender's conviction is NOT expunged following successful completion of the program. ([For more information](#))



Is the DUI court model extreme? Researchers examining why DUI recidivists continued to drive after being convicted, found that “offenders reported a need for thorough alcohol use assessment, self-commitment to dealing with problems, personalized treatment, and continued contact with caring individuals as factors needed to reinforce positive lifestyle changes” (Wiliszowski et al., as cited in Vachal, Benson, & Kubas, 2018) — all of which are principles espoused in DUI courts.

What about the cost? While some SHSOs have provided seed grants to help establish DUI courts, others continue to provide funding after the start-up period and point to their effectiveness in addressing the HRID population. For example, an evaluation of nine DUI courts in Minnesota, found that the program experienced a graduation rate above the national average, reduced recidivism by as much as 69 percent and had a bigger impact on high-risk participants as compared to offenders not enrolled in DUI court. That translated into cost savings ranging from \$1,694 to \$11,386 per participant over a two-year follow-up period to local agencies and the state. Adding in less tangible but important savings such as improved family and community relationships, a decrease in health care expenses, improved public safety, and DUI court participants working and paying taxes, the total savings was more than \$1.4 million over two years. Return on investment for each court during the two-year period varied from \$1.12 to \$3.19 for every dollar spent. However, after investment costs are repaid (from the cost savings due to lower recidivism), savings continue to accrue annually, resulting in a continuously growing return on taxpayer investment (NPC Research, 2014).

States looking to establish a DUI court should invest in training. States considering funding an existing court should carefully review its adherence to the NCDC Principles and performance measures and its impact. Training for DUI court team participants is critical for ensuring that representatives from all disciplines — including data professionals — understand the concept and their roles and buy-in to the DUI court model. Jurisdictions that fail to do this are typically ineffective and may cause harm to the individual. [Foundational training](#), designed to help jurisdictions develop an action plan that maximizes resources and integrates best practice, is held annually (at least four times per year) at an [NCDC Academy Court](#) (the gold standard for DUI courts). As for start-up costs, DUI court experts noted that the court typically does not fund multidisciplinary team member positions, rather the team members' respective agencies fund their involvement. However, the court does typically need financial assistance to help pay for offender drug and alcohol testing, incentives and other program-related expenses.

SHSOs can also help by promoting law enforcement's involvement in DUI courts, which is a struggle in many jurisdictions. Millions of dollars are devoted to catching and convicting the HRID, but experts argue that law enforcement agencies should also invest a portion of overtime funds on offender supervision, too. For example, in Harris County, Texas, which has five [DWI SOBER](#) (Saving Ourselves By Education and Recovery) Court teams and dockets, three Sheriff's Office deputies perform after-hour checks at participants' homes. According to the presiding judge, program graduates consider these law enforcement officials "some of the most [be]loved and respected team members" and often single them out "for special praise at graduation" (Eberspacher, Bull, & Stodola, 2018). The National Drug Court Institute recently partnered with law enforcement to develop [Briefings](#), a new program for in-person training to help bolster officers' understanding of treatment courts, develop standard engagement protocols and improve public safety outcomes for their jurisdictions.



Watch Harris County's DWI SOBER Court graduation day, 2018.

Research confirms that DUI courts are effective and provide a positive return on investment. But there are concerns about their reach and scalability as these courts typically only serve a small percentage of the HRID population. States are encouraged to examine two approaches being successfully implemented in California and Virginia.

DUI Monitoring Court — A County Model

In 2008, San Joaquin County, CA began requiring all repeat DUI offenders in the largest judicial district (mainly the City of Stockton) to participate in a [DUI Monitoring Court](#) program (SJDMC), which is supported through a grant from the state's Office of Traffic Safety (CA OTS). All repeat offenders are screened by the court using the

DUI-RANT to determine their risk and need level, with those found to be low-risk, or high-risk with low needs, assigned to the Accountability Track of the Court and those who are high-risk and high-needs assigned to the Court's Treatment Track.



Because the screening does not indicate an SUD, dependence on alcohol and/or drugs and/or a high risk, the Accountability Track offenders do not need the same level of supervision and treatment as their high-risk and high-needs counterparts. However, Accountability Track offenders are still required to come to court (at month one, six and 12) and report on their progress in completing the terms of probation, which include monitoring, more frequent court appearances, abstinence and all Department of Motor Vehicle (DMV) requirements to qualify for license reinstatement. Any violation requires an immediate and additional court appearance.

High-risk and high-needs offenders, on the other hand, are more frequently monitored, which includes testing four times daily using an IID or PBT, or constant monitoring by a transdermal device to ensure they are not consuming alcohol and/or drugs. They also undergo assessment, using CARS, by a member of the court's multidisciplinary team, with the results used to develop and monitor offenders' individualized treatment plans. The County's DUI Court, follows the research-based best practices for a treatment court, including (Carey, Allen & Einspruch, 2012):

- » Identifying eligible participants and getting them into the program swiftly;
- » Including representatives from a range of collaborating agencies on the court team, who work with each HRID;
- » Having a judge that is assigned indefinitely to the program and who spends the appropriate length of time with participants during court appearances;
- » Using the appropriate length of jail time as a sanction for program violations (less than one week);
- » Having a program length of at least 12 months;
- » Requiring participants to be clean for 120 days before successfully exiting the program;
- » Regularly using and reporting program statistics and conducting process and outcome evaluation; and
- » Monitoring treatment using the DWI Court model for high-risk and high treatment needs clients with team staffing.

In addition, two police officers are assigned to work with the judge. If an offender flouts the rules, s/he can expect a knock on the door.

The SJDMC is having a positive impact. Research examining the recidivism and crash rates for all SJDMC participants and a comparison group of convicted, repeat DUI

offenders, found that the former had significantly fewer new DUI convictions (32 percent) and crashes (a reduction of more than 50 percent), including those involving drug and alcohol and injury. The SJDMC participants also were significantly more likely to comply with court, probation and DMV requirements and regain their driver's licenses (Carey et al., 2012).

The presiding judge also points to the decrease in DUI filings (all offenders) in the County, which fell from 3,300 in 2009 to 1,100 in 2016, as another measure of success. "We're changing the culture. We're setting the impression that the court is the parent and you must obey the rules." At the same time, he stressed that 4,500 people have gone through the DUI Court program in the past 11 years and nearly three-quarters were in the accountability track. "If we only deal with the high-risk, high-needs offenders, we aren't dealing with the other 70 percent who also need attention," the judge stressed (R. Vlavianos, personal conversation, April 2019). The judge is a proponent of expanding the SJDMC program net even wider to require all first offenders with a .15 BAC g/dL or higher to participate.

Statewide Impaired Driving Management – A State Model

The Virginia Alcohol Safety Action Program (VASAP) is the only program of its kind in the nation. The state agency regulates the IID program, DUI education and treatment in collaboration with the courts. Born out of a NHTSA-funded pilot program first conducted in Fairfax County in 1972, VASAP accomplishes this through a network of 24 local, self-sufficient Alcohol Safety Action Programs (ASAP), strategically located throughout the Commonwealth.

The ASAPs work collaboratively with other disciplines to decrease the incidence of DUI and reduce alcohol and drug-related fatalities and serious injuries. This is accomplished by (VASAP, 2019):



- » Helping law enforcement obtain the tools and training they need to detect and apprehend DUI offenders;
- » Working with prosecutors and the courts to ensure all offenders convicted of a first or second DUI are referred to an ASAP for supervision and monitoring, and that appropriate revocation procedures are administered in the event of a violation;
- » Screening offenders to determine the appropriate level of education and/or treatment services needed and providing and/or remanding them to these services;
- » Conducting prevention programs and activities to educate the public about the danger and cost of impaired driving; and
- » Periodically evaluating and certifying the ASAPs to ensure they are effectively and efficiently serving communities.

Once the offender is placed on probation by the court, s/he is ordered to report to the local ASAP office within 15 days. Each offender is screened by an ASAP case manager and classified as either education (no apparent SUD) or treatment assessment (apparent SUD or potential for one). Individuals classified as education are required to complete a 10-week intensive education course. Offenders classified as treatment assessment are referred to a VASAP-approved, licensed treatment provider for an assessment to determine if there is a need for treatment. If no treatment is recommended by the assessor, the offender is referred to the intensive education program. If treatment is recommended, the offender is required to complete an individualized treatment program along with a 4-week ASAP treatment education class. Offenders who fail to meet the requirements of ASAP probation may be returned to court as noncompliant and previously suspended fines and jail sentences may be imposed.

In addition to education and/or treatment, all first-time offenders seeking a restricted driver's license and all second and subsequent offenders must install an IID. VASAP oversees all IID regulations, the vendors, reporting, service center inspections (there is a center within a 50-mile radius of every residence), customer service, out-of-state transfers, and reciprocity. The ASAPs strictly monitor all IID calibration reports and offender photos, checking not only for violations, but also illegal circumventions. Virginia has one of the strictest IID laws in the nation, with all offenders required to have at least six continuous months of no interlock violations at the end of program participation before being eligible to remove the device. If there is any violation before reaching this milestone, the six-month period starts over. All IID information and data are managed and tracked through the state's Traffic Records Electronic Data System (TREDS), which was updated in 2014 to include an IID module (see page 34 for more on this best practice).

No state tax dollars are used to fund the ASAPs. Instead, each offender is charged a one-time \$400 participation fee. (That fee does not cover treatment costs, which are assessed by the provider, and it has remained static since 1987.) Many of the court-referred ASAP offenders that fail to complete the program are unsuccessful because of fee non-payment. ASAP makes payment plans available and will continue to work with offenders who are showing good faith by making regular payments. VASAP policy dictates that no offender may be dropped from the program for non-payment of the fee until after the fifth week of intervention. While completion is the goal, after receiving at least five weeks of education and/or treatment, those who are non-compliant may be dropped from supervision. In cases of non-compliance for other causes, such as committing subsequent offenses while under supervision, the ASAP typically continues to provide monitoring and intervention until the non-compliance hearing (ICF Incorporated, 2018).

VASAP has a case management information system (called Engenuity), built with Division of Motor Vehicles/Virginia Highway Safety Office (DMV/VAHSO) funds, that allows offender information to be shared among ASAPs. This data is also

accessed by the Commission that oversees VASAP (see pages 29–30 for more on the Commission) and used to make program changes to better serve the offenders’ education, treatment and supervision needs. VASAP annually serves approximately 70,000 offenders and is positively impacting recidivism rates. Among people who successfully completed VASAP, 2.8 percent and 5.1 percent, recidivate after 12-months and 24-months, respectively (ICF Incorporated, 2018), as compared to the most recently reported national recidivism rate of 30 percent for all motorists convicted of a DUI (Warren-Kilgenyi & Coleman, 2014).

Moving from a Conviction to Individualized Justice Approach

What approach is your state using to address the HRID population — conviction focused, individualized justice or something in-between? Based on research conducted for this publication, it is likely the last one. What can and should your state do to move toward fully implementing the individualized justice approach?



A DUI task force—made up of many stakeholders—is the perfect group to address the challenges and barriers in a state’s current system and identify solutions.

Start by leveraging the expertise of your statewide **DUI task force or commission**, which many states must have to qualify for federal impaired driving grant funds. (GHSA’s [policies and priorities](#) strongly encourage all states to establish a statewide DUI task force. Additionally, states are encouraged to consider rebranding these groups as impaired driving task forces or commissions to focus on DUI and DUID.) A benefit of this group is that it is charged with providing leadership and facilitating collaboration among all the stakeholders working to address impaired driving. Recognizing that the individualized justice approach is comprehensive and holistic, a task force — made up of many stakeholders — is the perfect group to address the challenges and barriers in a state’s current system and identify solutions. But does your state’s task force include representatives from all facets of the system, particularly if the goal is to move to the individualized justice approach? And recognizing the growth of drug-impaired driving, is it time to move away from the name DUI task force and re-brand it an impaired driving task force?

SHSOs, who typically serve on, manage and/or lead their respective statewide DUI task force, should review the current roster to identify which stakeholder groups are not currently at the table. For example, are defense attorneys represented? How about the courts, probation and parole, treatment, and the monitoring technology providers (i.e., IID, 24/7)? Consider expanding the net even wider to include researchers; social

service agencies; medical and health care; tavern owners, restaurant associations, and other industry groups; employers and unions; the military; and multi-cultural, faith-based, advocacy, and other community groups. All organizations at the table — current and new — should be represented by individuals who have the authority to make decisions, allocate resources and get things done.

The next step is for the task force to take a hard look at their state's current DUI system to identify gaps and roadblocks that are hindering progress and develop a plan for addressing them. This should, at minimum, include examining:

- » How and what data is collected to better understand the impaired driver population (i.e., fatality, serious injury, arrest and conviction for alcohol, other drug and polysubstance use) and assess program impact, as well as what data is not collected and how to address that gap;
- » What tools and training law enforcement has and needs to remove HRIDs from the road;
- » How impaired driving offenders are monitored and supervised, including monitoring technology installation rates and compliance (if applicable in your state);
- » If and how accountability and behavior change are promoted to reduce recidivism and save lives, that includes current screening and assessment requirements and practices;
- » Whether current DUI laws account for court decisions and emerging technologies; and
- » What opportunities exist for cross-training among law enforcement, prosecutors, judges, toxicologists, probation, and treatment.

Responsibility.org has developed a [detailed checklist](#) that SHSOs and their partners can use to guide discussion of these and other program and policy-related topics. At minimum, a DUI task force should:

- ✓ **Consider legislative changes.** An evaluation of a state DUI system will likely lead to the need for policy change, which is why having strong representation from non-governmental entities is vital. If legislative or other changes beyond program management are needed, task force members representing non-government agencies can take the lead. They can help prepare advocates to succinctly articulate the problem, develop policy(ies) that can fix it and provide evidence that this new approach can work.
- ✓ **Set goals and performance measures.** The impaired driving program should have measurable goals that are regularly monitored for progress. The task force should review the State Strategic Highway Safety Plan (SHSP) to ensure it properly addresses impaired driving; includes higher level goals, objectives

and strategies; and assigns implementation to a multidisciplinary emphasis area team (which should have a more detailed plan) and possibly local DUI or traffic safety coalitions. These groups should be surveyed to help identify gaps and roadblocks in the current impaired driving system and tapped to champion policy change, as appropriate.

- ✓ **Allocate resources effectively.** Resource allocation should be prioritized with an eye towards ensuring only the most effective, evidence-based and evaluated countermeasures as well as promising approaches are funded at the local and state level. As discussed earlier in this publication, SHSOs are encouraged to consider all components of the individualized justice approach — not only those focusing on detection, arrest and conviction — when awarding grant funds. The SHSO and DUI task force should also seek out additional funding sources that can be leveraged to support the impaired driving program and evaluate its effectiveness.
- ✓ **Convene stakeholders.** In addition to formal planning meetings, the DUI task force should also plan and convene a statewide impaired driving summit or series of specialized forums to discuss program gaps, showcase best practices, deliver training and continuing education, and break down the silos among the diverse entities (including defense attorneys) identified earlier in this section. State legislators and local elected officials (and their staffers) as well as members of the press should also be invited with a goal of educating them about the HRID and what policies and resources are needed to effectively address this population.

State DUI Task Forces

Many states established DUI task forces in the early 1980s, fueled by recommendations from the Presidential Commission on Drunk Driving, MADD and other grassroots organizations, along with funding and technical support from NHTSA. What these groups look like and how they function varies, but the core tenet of each is that impaired driving is unacceptable and must be eradicated to prevent crashes and save lives. Here are two examples:

Commission on Virginia Alcohol Safety Action Program



The [Commission on VASAP](#) is a state agency Established by the Commonwealth's General Assembly in 1985. It is responsible for formulating and overseeing the standards the ASAPs must follow and allocating funds to local programs in the event of a budget deficit. It is composed of 15 multidisciplinary and appointed members to include legislators and representatives from the courts (sitting or retired judges who regularly hear[d] DUI cases), law enforcement, licensing (VAHSO resides in the DMV; the VAHSO Director fills this seat),

behavioral health, the public, and the 24 local alcohol safety action programs (discussed previously on pages 25–27). Having legislators as Commission members can be helpful as they can take the lead in sponsoring and advancing DUI-related policy.

In addition to this appointed group, the Commission has a full-time staff, led by an executive director, that supports the members and provides oversight for the ASAPs. This includes regularly reviewing and updating the standardized curriculum used by the local programs leading to more equitable and effective services for all offenders in the program.

Washington State Impaired Driving Advisory Council



Formed in 2009, WIDAC resides in the State’s Traffic Safety Commission (the TSC is the state’s highway safety office) and is composed of 10 voting members affiliated with the seven state agencies with direct responsibility for traffic safety.

In addition, advisory members representing the SHSO, law enforcement, prosecution, adjudication, probation, driver licensing, treatment and rehabilitation, IID programs, data and traffic records, public health, and communication meet quarterly with the TSCs to brief them on what is being done to reduce impaired driving. WIDAC uses this information along with data to develop the statewide Impaired Driving Plan (IDP), which aligns with the State’s SHSP (Target Zero Plan) and calls for a zero fatalities and serious injury goal by 2030.

Local DUI Task Forces

Leveraging stakeholder expertise to address impaired driving is another approach being effectively employed at the local level. To assist local jurisdictions develop and administer an effective impaired driving task force, NHTSA published a [two-volume guide](#) with case studies. Two unique examples — both with county roots — are provided below to illustrate a task force’s potential impact.

STOP-DWI New York



The [Special Traffic Options Program for Driving While Intoxicated \(STOP-DWI\)](#) was created by the **New York** State Legislature in 1981 to empower counties to coordinate local efforts to reduce alcohol and other drug-related traffic crashes. This same legislation also created a local option—any

county that established a STOP-DWI program would receive all DWI fines collected for alcohol and drug-related offenses occurring within its jurisdiction. This local option requires only that the programs address alcohol and highway safety issues and not duplicate other efforts. As a result, the programs are funded entirely by convicted impaired drivers; no tax dollars are used.

All 62 counties participate under the auspices of 58 programs (New York City's five boroughs function as one program). Each has a STOP-DWI Coordinator who collaborates with local agencies and organizations working in the impaired driving arena to develop and implement a program that enhances the deterrent effects of the State's DWI laws. Before STOP-DWI monies may be spent, however, county plans must be approved by the Commissioner of Motor Vehicles, who serves as the Governor's Representative for Highway Safety and the head of the Traffic Safety Commission (the SHSO). Counties have funded specially trained police units dedicated to DWI enforcement, impaired driving prosecutors and probation officers, IID monitoring, rehabilitation services, public information and education campaigns tailored to the communities in their region, and many other initiatives.

The county programs are also supported by the New York State (NYS) STOP-DWI Association, whose membership includes the STOP-DWI Coordinator from each county and New York City. They represent the county programs on a statewide basis and provide a mechanism for Coordinators to exchange ideas and collectively discuss and act upon mutual objectives and/or problems, develop innovative solutions and advocate for policy to further the program's goals. This collaboration among enforcement, prosecution, education, rehabilitation, and public awareness has resulted in significant reductions in impaired driving crashes, injuries and fatalities. The State "boasts that the chances of being killed by an impaired driver" have fallen by 70 percent thanks to the local coalitions (NYS STOP-DWI Association, 2019).

York County Target 25 Program



More than a decade ago, Judge John Kennedy of York County, Pennsylvania, observed that many of the DUI defendants in his court were committing additional drunk-driving offenses between their arrest and when they appeared for trial or to enter a plea. Through conversations with other judges and prosecutors, he found that about 25 percent of the County's court cases were for DUI, with 25 percent of those involving repeat offenders (SCRAM Systems, 2019a).

To address this problem, the judge spearheaded the formation of a DUI task force that included the District Attorney's office, probation, local law enforcement agencies, judges, and court personnel. The result of this collaboration was the creation of the York County Court of Common Pleas DUI Court in 2010 and the Target 25 Program in 2012 (the former was established with SHSO funds). The DUI Court focuses on reducing recidivism, addressing jail overcrowding and saving taxpayer dollars through a combination of community supervision and treatment. Target 25, which operates within the DUI Court and has its roots in the 24/7 sobriety program, deals with the 25 percent of the county's docket that are repeat offenders (hence the program name).

Working collaboratively, the task force designed the program to ensure that defendants are continuously monitored for alcohol consumption as well as drug use, if needed. When an officer stops a driver for suspicion of DUI, s/he checks the driving record. If the driver has a prior DUI arrest(s), blood is drawn and sent to the toxicology lab for testing. The offender then has a preliminary arraignment where Target 25 bail conditions are imposed that include supervised probation, continuous alcohol use monitoring via application of a transdermal bracelet (installed in an average of six days and worn for an average of 152 days) and drug testing conducted at a county-contracted facility near the judicial center. The preliminary hearing occurs within 38 days of arrest, with charges amended based upon the toxicology results. The offender is screened and if eligible for DUI treatment court referred to probation, which assists with admission. If the offender is not eligible for treatment court, sentencing recommendations are made that include supervision and continued use of the alcohol monitoring bracelet and possibly an IID. (While substance abuse counseling is not mandated, supervising bail officers are highly successful in guiding defendants into treatment through recommendations and referrals.) All data related to each case is recorded by the District Attorney's [DA's] Office for future analysis and statistical purposes (SCRAM Systems, 2019a).

Target 25 has reduced the occurrence of pretrial recidivism for impaired drivers by more than 90 percent. The program is also helping to ensure DUI offenders are appropriately categorized and sentenced (SCRAM Systems, 2019b).

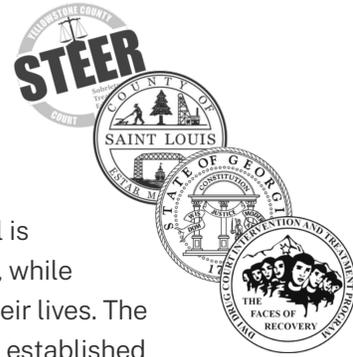
A Snapshot of Proven, Promising and Best Practices

VASAP, WIDAC, STOP-DWI, and Target 25 illustrate the power of bringing multiple stakeholders together to combat impaired driving at both a statewide and county level. Meanwhile, treatment courts — especially DUI courts or tiered approaches such as the one employed in San Joaquin County — are highly suited for dealing with the needs of HRIDs. SHSOs are prohibited from lobbying for policy changes or new laws, but they can take an active role in supporting and/or implementing DUI programs and initiatives such as these. In addition, there are many other evidence-based countermeasures, proven practices and promising approaches (some of which are supported by SHSOs) being employed across the country. A snapshot of some of these are provided below, with a [comprehensive list](#) available from [Responsibility.org](#).

DUI Treatment Courts

In addition to the treatment courts discussed earlier, the following **National Center for DWI Courts** [NCDC-designated Academy Courts](#) (their three-year tenure will end

on December 31, 2019; consult the website in January 2020 for an updated list), serve as national models and several receive SHSO funding:



- » The Athens-Clarke County (Georgia) DUI/Drug Court's goal is to reduce impaired driving and increase community safety, while instilling hope in participants and helping them improve their lives. The presiding judge oversees a multidisciplinary team that has established partnerships with the University of Georgia and other local entities to provide drug and alcohol testing services that help offset court costs, as well as to employ participants when needed. The court also provides specialized treatment services including gender-specific and trauma-informed interventions.
- » The judge that founded and presides over the El Paso (Texas) DWI Drug Court has made ongoing improvement a priority. In his quest to answer the question, is there a better way to do this, the court has built partnerships with local law enforcement, the Universities of Texas and Texas Tech, and local hospitals and medical professionals. The court team embraces the region's diverse population and has taken strides to engage the Hispanic community, as family members assist court participants to ensure a more successful recovery process.
- » Since its founding in 2008, the South St. Louis County (Duluth, Minnesota) DWI Court has made a fundamental shift from focusing on sanctions to adjusting treatment to better serve participants. The presiding judge and his team have implemented evidence-based practices based on cutting edge-research including bringing in a psychologist to address participants' mental health needs, separating court and treatment tracks by gender, providing trauma-informed care (which treats the whole person taking into account past trauma and the resulting coping mechanisms), and placing an emphasis on long-term recovery. The court also provides opportunities for participants to engage in sober activities on evenings and weekends.
- » Sobriety, Treatment, Education, Excellence and Rehabilitation (STEER), a regional court located in Yellowstone County, **Montana**, serves participants living in predominantly rural areas. This presents distinct challenges for accessing legal and treatment services. The STEER DUI Court overcomes these challenges by using a web-based case management system, video teleconferencing, tablets and smartphone applications to provide compliance, monitoring, supervision, and treatment services. The court offers medication-assisted treatment, and gender-specific and culturally appropriate treatment, as well as sober housing, parenting classes, alternative transportation, and vocational rehabilitation.

For more information, contact: Jim Eberspacher, NCDC Director
Email: jeberspacher@dwicourts.org | Phone: 651-246-0459

Alcohol & Drug Monitoring

Concerns about a dramatic uptick in ignition interlock installs following passage of **Virginia's** all-offender IID legislation in 2012, prompted the DMV/VAHSO to partner with the 24 local ASAPs and the Traffic Records Electronic Data System (TREDS) IT professionals to develop an ignition interlock module. TREDS is the commonwealth's centralized crash repository that facilitates detailed traffic safety analysis and reporting. The **TREDS Ignition Interlock Project (IIP)** replaced the email and fax system that ASAP case managers had been using to authorize and schedule an IID installation and conduct monthly monitoring. It is accessible to all ASAPs and approved vendors and allows for the scheduling, tracking and reporting of IID installations as well as calibrations and removals. The fully automated system also provides alerts throughout the lifecycle of an impaired driving case, facilitates DUI offender data analysis and vendor downloads and has a validation feature to ensure cases are complete before they are closed. TREDS enables the ASAPs to better manage and track more than 11,000 first and repeat DUI offenders annually. The system is a model for other states and was recognized by GHSA in 2016.



In addition to the TREDS module, VASAP used DMV/VAHSO funds to develop an ignition interlock reciprocity **mobile application** (app) to resolve interlock reciprocity issues resulting from state to state transfers and dual-state IID requirements. Designed for use by state interlock program managers, IID vendors and the offender, the app enables the user to review IID regulations and specifications for all 50 states, access an interlock inspection wizard and multiple inspection tools, as well as schedule vendor installations. A future release will facilitate integration with VASAP's case management system.

For more information, contact: Angela Coleman, VASAP Executive Director
Email: acoleman@vasap.virginia.gov | Phone: 804-786-5895

The Washington State Patrol (WSP) is the regulatory authority of IIDs, service technicians and service centers across the State. In 2009, WSP partnered with the SHSO to launch the **WSP Ignition Interlock Program (IIP)**, which monitors impaired drivers with failed alcohol tests or circumvention cases. There is no violation of the law when an offender provides a breath sample above the IID fail threshold. However, the IID restriction is removed only if during the remaining 180 consecutive days the offender has no violations including failed alcohol tests and missed random tests or calibration appointments.

Vendors alert the WSP IIP team — a sergeant, three troopers and an office assistant — of alcohol level failures and refused tests. Thousands of fail notices are received

monthly, but the IIP only visits the highest risk offenders within the county where the team is working that day. (Risk is determined based on the frequency of alcohol fails and missed tests, as well as the alcohol level.) Two uniformed troopers visit the person (typically at home) to discuss the *fail* and then educate her/him about the 180-day compliance requirements, of which the offender is often unaware. The visit also reminds the offender that s/he is being monitored. If s/he is not at home, the IIP team leaves a door hanger that explains, in both English and Spanish, the reason for the visit and how to contact one of the troopers. Most offenders phone the WSP within a day or two of receiving the information. The contact is effective as repeat visits are rare.

The WSP also conducts criminal investigations for IID tampering and circumvention and will check vehicle registrations to determine if the offender has more than one vehicle (operation of a non-IID equipped vehicle is considered a circumvent in Washington). If the offender does, the troopers will conduct surveillance and make a traffic stop and arrest, if warranted.

For more information, contact: Sergeant Brandon Villanti, WSP IID
Email: brandon.villanti@wsp.wa.gov | Phone: 206-720-3018 x24120

The **24/7 Sobriety Program** is an intervention strategy that requires convicted DUI offenders to abstain from alcohol and drugs as a condition of bond or pre-trial release. Offenders who fail to do so, face swift and certain punishment. First piloted in **South Dakota (SD)** in 2005 and expanded statewide in 2007 to all but six counties, 24/7 is used by a small number of other states including **Montana, North Dakota, Wyoming,** and **Washington** (several others are piloting or have enabling legislation to pilot the program).



The 24/7 Sobriety Program is an intervention strategy that requires convicted DUI offenders to **abstain from alcohol and drugs as a condition of bond or pre-trial release.**

SD's 24/7 Program is considered a model; placement is a prerequisite for issuance of work permits (or restricted driver permits) for repeat offenders and first offenders with a BAC of .17 g/dL or higher. Participation also may be required as a condition of bond, sentence, probation, parole, and child custody or visitation orders. As the program has matured, many judges are placing offenders involved in other crimes on the program, if the facts indicate that alcohol or drugs were an underlying influence. The 24/7 program allows offenders to remain in the community free from incarceration, if they remain sober. In most cases, offenders can drive, continue to work and support their families.

Under SD's program, abstinence is monitored through one or more of the following methods: twice a day breath testing with a PBT (morning and evening), electronic

alcohol monitoring via an ankle bracelet, urine analysis, drug patch, and or IID. Most participants submit to a breath test daily at a local Sheriff's Office. If the test indicates any use of alcohol, the offender's bond or parole is immediately revoked and s/he is incarcerated. A smaller portion of offenders use an ankle bracelet that continuously monitors alcohol use and provides a reading to the vendor. If there is an alcohol or tampering event, law enforcement is notified.

As for the IID, offenders test when starting their vehicles and intermittently while driving, but the 24/7 Program also requires them to test twice a day at the same time intervals as the PBT. These PBTx2 tests are required whether the offender drives that day or not. It not only ensures they refrain from drinking, but also means they do not have to go to the Sheriff's Office to test. Real-time reporting also occurs, and the violator is immediately sanctioned for failing to test or for a test failure. Some offenders are also required to submit regular and/or random urine samples or wear a drug patch for monitoring, with similar sanctions imposed for infractions.

The SD program is self-supporting with fees paid by the participants. A portion of the fee remains with the local testing site for program expenses, while the remainder is disbursed to the Attorney General's Office (AGO) to cover statewide operational costs (this includes the salaries of a full-time coordinator and a part-time assistant). Since 2011, the AGO has given back more than \$700,000 of its share of the funding to law enforcement agencies in quarterly allotments.

A study examining the first six years of the SD 24/7 Program found that it reduced county-level repeat DUI and domestic violence arrests by 12 and 9 percent, respectively. The lead researcher noted that, "frequent alcohol testing with swift, certain and modest sanctions for violations can reduce problem drinking and improve public health outcomes" (Kilmer et al., 2012).

For more information, contact: Bryon Nogelmeier, *SD State Coordinator*
Email: bryon.nogelmeier@state.sd.us | Phone: 605-505-1003

Public Outreach & Education

The **Driver Alcohol Detection System for Safety (DADSS)** program is a public-private partnership between government and automakers to develop and test vehicle-integrated technology that can detect when a driver has a BAC at or over the legal limit and prevent the vehicle from moving. Once it has met specific performance standards, it will be voluntarily offered to vehicles owners as a safety option like other driver assist systems. **Virginia**, through its Department of Motor Vehicles (where the SHSO is located), was the first state to use federal grants funds to partner with DADSS to pilot and educate the public about the technology through the **Driven to Protect (D2P)** program. (Maryland announced its involvement in the program earlier this year.)



Consistent with the intended voluntary deployment of DADSS technologies and to build awareness and acceptance, people can see it up close by visiting the D2P learning experience trailer that has been traveling to events (i.e., NASCAR, minor league baseball games, festivals, safety summits) across Virginia since 2017. While the offender market is not the target audience, a DADSS' official pointed out that "DADSS technologies are an important component of a comprehensive strategy for eliminating impaired driving because it's possible to drive alcohol impaired 80 times or more before getting caught" (R. Strassburger, personal conversation, June 2019). The state's D2P Coordinator added there are people who visit the display and say, "Oh my gosh, I got a DUI. I wish I'd had this technology; it would have prevented me from driving" (J. Lambertson, personal conversation, June 2019). Meanwhile, a telephone survey of Virginia licensed drivers found that seven out of 10 had a favorable impression of the technology and felt it could help keep drunk drivers off the road and save lives (D2P, 2019).

The Virginia D2P program also includes on-road testing of the technology in four commercial vehicles owned and operated by James River Transportation. Prototypes of the DADSS breath-based sensors provide data, while drivers offer feedback that will be used to eventually commercialize the technology. During the first year of data collection ending September 2019, over 29,000 breath samples have been collected during roughly 5,000 hours of sensor operation over 46,000 miles of driving.

For more information, contact:

Jessica Lambertson, *DMV/VAHSO Impaired Driving Coordinator*

Email: Jessica.lambertson@dmv.virginia.gov | Phone: 804-317-2181

Rob Strassburger, *Automotive Coalition for Traffic Safety President & CEO*

Email: rstrassb@actsautosafety.org | Phone: 571-888-5104

Colorado was the first state to legalize recreational cannabis in 2012. When recreational cannabis became legally available to the public in 2014, the SHSO launched its ***Drive High, Get a DUI*** campaign to inform the public that the state's DUI law includes impairment by cannabis. A series of humorous television ads resulted in millions of impressions and approximately 500,000 online views as the campaign went viral. The campaign helped achieve 91 percent public awareness of the legal consequences of driving high (Colorado Department of Transportation [CODOT] as cited in GHSA, 2019). Since then, the SHSO has annually refreshed its drugged driving message, with a goal of not only educating motorists about the law, but also reducing the number of cannabis users who think driving while high is safe.

The latest campaign, the **Cannabis Conversation**, launched in 2018 with a goal of sparking a meaningful conversation about cannabis and driving. More than 15,000 Coloradans weighed in through an online survey, public meetings, forums, panel



discussions, and local events such as the FlyHi420 Festival, the state’s largest gathering of cannabis enthusiasts. The SHSO learned about trust, tone and sensitivity issues with past campaigns, all of which will help CDOT develop a new campaign in 2020. In addition, the SHSO formed relationships with more than 20 partners including dispensaries, industry influencers, trade groups, health care, business, and law enforcement. This effort continued in 2019 with public workshops; another online survey to gather feedback on proposed creative concepts and their effectiveness in reaching cannabis users; print, broadcast and social media; and interactive events.

For more information, contact: Sam Cole, *CDOT Communications Manager*
Email: sam.cole@state.co.us | Phone: 303-757-9484

Washington State legalized cannabis in 2012. Since then, the number of polysubstance drivers involved in fatal crashes has increased an average of 15 percent each year, with alcohol and cannabis the most common combination. To address this growing problem, WTSC Director Darrin Grondel teamed with longtime cannabis activist and Hempfest Director, Vivian McPeak, in December 2018 to urge holiday revelers to **Plan Before You Party**. As an incentive, free \$20 Lyft ride certificates were distributed to patrons at cannabis retailers in Spokane and Seattle. (The certificates were part of a \$20,000 grant WTSC received from Lyft and GHSA.)

As part of the campaign, the duo recorded a 90-second video dispelling some of the myths about driving high such as *I drive better when I’m little high, if I’ve been drinking weed helps me sober up to drive and cannabis activists and government officials don’t agree on anything*. Says McPeak, “we agree you shouldn’t drive impaired at any time” and that you should “have a plan and take an alternative method of transportation.” More than 150 law enforcement agencies joined in the effort by putting extra DUI patrols on the road through the holidays. WTSC continues to team with McPeak and the cannabis industry to educate and inform users about the dangers of driving impaired.

For more information, contact: Shelly Baldwin, *WTSC Legislative and Media Director*
Email: sbaldwin@wtsc.wa.gov | Phone: 360-725-9889

In addition to establishing and presiding over **San Joaquin County, CA's**, DUI Monitoring Court program (discussed previously on pages 23–25), the Honorable Richard Vlavianos also developed and implements **Choices and Consequences**, a DUI prevention program funded by the SHSO. It is geared to younger high school students preparing to obtain a driver's license, but is relevant to all middle and high school students. During the two-hour program, the Judge presides over a DUI case pulled from the SJ courts. After the sentencing, students watch a short film about a local student killed in an impaired driving crash just two weeks into her junior year of high school. Then during the second hour, a live feed gives students the opportunity to ask questions of inmates serving time in prison for a variety of offenses prompted by alcohol, drug and polysubstance abuse.

For more information, contact:

The Honorable Richard Vlavianos, *Superior Court of San Joaquin County*

Email: rvlavianos@sjcourts.org | Phone: 209-992-5695

With drug and polysubstance impaired driving on the rise, SHSOs are encouraged to help promote **National Take Back Day** (NTBD). This initiative of the **Drug Enforcement Administration**, local law enforcement agencies, pharmacies and other partners gives citizens the means to safely, conveniently and anonymously dispose of unused prescription drugs, so they do not find their way into the wrong hands. According to the 2017 National Survey on Drug Use and Health, six million Americans misused controlled prescription drugs, with most of these medications obtained from family and friends' medicine cabinets (DEA, 2019).



The event is held annually in April and October but there are year-round authorized collection sites that can be found via a [locator tool](#) on the NTBD website. During the April 2019 NTBD, nearly 5,000 law enforcement agencies representing all 50 states, the District of Columbia, the Virgin Islands, Puerto Rico, Guam, and American Indian and Alaska Native communities collected 469 tons of drugs. Since the program's launch in 2002, partners have helped remove 5,908 tons of prescription drugs from circulation (DEA, 2019).

For more information, contact: The DEA Domestic Division Office serving your state. Find the office at www.dea.gov/domestic-division-contacts.

Training & Continuing Education

Virginia sponsors an annual one-and-one-half day **Judicial Transportation Safety Conference** that is held in conjunction with the State Supreme Court's annual continuing education summit. The DMV/VAHSO funds the conference as well as develops the agenda, which addresses a variety of safety issues including impaired

driving. The 2018 conference agenda included sessions on cannabis; VA's TREDs system; crash reconstruction and evidence collecting; highway safety, public policy and the judiciary; and a DUI case study. Speakers included state government and law enforcement officials, national experts, and sitting and retired judges. The conference also featured instructional, interactive exhibits that provided the 100 General District Court and Juvenile and Domestic Relations Court judges and their staff the opportunity to learn how the 12-step DRE protocol is administered, what is involved in running radar, about the latest vehicle safety features, and more. The conference kicks-off with a dinner and legislative session, during which attendees can discuss policy issues with members of the State Legislature.

For more information, contact: John Saunders, VA Highway Safety Office Director
Email: john.saunders@dmv.virginia.gov | Phone: 804-367-6641

The mission of the [Pennsylvania DUI Association](#) (PADUI) is to eliminate impaired driving by providing law enforcement training on DUI detection and apprehension while working with the courts, parole and treatment providers to reduce recidivism. In 2016, PADUI was struggling to meet professional assistance requests and training demands. That, coupled with possible legalization of medical and recreational cannabis, prompted PADUI to modify its training methods, expand its instructor base and tap into new sources of funding. That resulted in the formation of the **Impaired Driving Program Training Teams** (IDPTT), funded through a SHSO grant. Team members are sworn law enforcement officers and certified DRE instructors who serve as lead instructors for impaired driving programs ensuring the curriculum methods and standards are followed. IDPTT members act as independent contractors and provide the training during off-duty hours, which eliminates the challenges associated with competing demands for the officer's time while on duty and provides PADUI scheduling flexibility.

The IDPTTs provide instruction in SFST (basic, advanced and instructor), ARIDE, Sobriety Checkpoint (full, refresher and supervisor), and DRE (certified and instructor). The training program expanded from 58 classes serving 1,269 students the year prior to its inception, to 115 classes serving 2,235 12-months later. The IDPTTs are continuing to support the instruction listed above as well as developing and delivering new training such as a medical cannabis workshop to help law enforcement deal with this and other evolving issues (Morris, 2019).

For more information, contact:
Cathy Tress, PA Impaired Driving Program Law Enforcement Liaison
Email: ctress@padui.org | Phone: 412-400-6576



The IDPTT training program expanded from 58 classes serving 1,269 students the year prior to its inception, to 115 classes serving 2,235 12-months later.

In addition to substance abuse problems, many HRIDs also have co-occurring mental health issues. Recognizing the need to train practitioners to deal with the latter, **North Carolina established specialty mental health probation officers**. These professionals completed extensive [mental health training](#) and continue to receive training on an ongoing basis through a collaboration between the Departments of Safety (DPS) and Health and Human Services and the University of North Carolina-Chapel Hill. They also have reduced caseloads that consist solely of people with mental health disorders, a problem-solving supervision orientation and greater interface with available services and interventions in the community. Developed with funding from the Governor's Crime Commission and DPS, this comprehensive training (six modules) is free and can be accessed online.

For more information, contact: Dr. Gary Cuddeback, *UNC School of Social Work*
Email: gcuddeback@email.unc.edu | Phone: 919-962-4363

The **Iowa Drug Evaluation and Classification Program** (IA DECP), which is administered and funded by the SHSO, was asked to provide customized training to educate professionals about alcohol and drug impairment. The training included: certification classes to educate jail personnel on how to recognize and document signs of impairment and overdose at intake and among the jail population; a vehicular homicide workshop (requested by the Attorney General's Office) to educate county attorneys on the DRE process, signs and symptoms of impairment, thorough investigation of serious injury and fatal crashes, and the need to work together for effective prosecution; a presentation to nurses across the state to help them better recognize the signs and symptoms of drug impairment, specifically opioids, and learn how addicts attempt to use the system to obtain prescription opioids; and a presentation to probation officers to help them better recognize the signs and symptoms of drug use and abuse.

For more information, contact:
Todd Olmstead, *IA Governor's Traffic Safety Bureau DRE Program Manager*
Email: olmstead@dps.state.ia.us | Phone: 575-725-6122

Michigan provides an eight-hour training for its most recent DRE school graduates that focuses on **expert witness testimony**. It consists of classroom instruction, along with a mock trial, where every DRE is given the opportunity to be cross-examined in the witness chair. DRE-trained prosecutors (Michigan currently has 37, who are instrumental in identifying good candidates for future DRE training) act as both the defense and prosecution and a retired judge presides. The training is highly beneficial as it provides new DREs the opportunity to experience what may happen in court when qualifying and/or testing as an expert witness.

The States' TSRPs also actively promote DRE and ARIDE training, as well as provide Operating While Intoxicated (OWI) training sessions to police officers and prosecutors across Michigan. Examples include: implications of SFST in cannabis-impaired driving cases; a one-day seminar in advanced OWI prosecution, which provides an overview of toxicology in drugged driving cases, what negative toxicology results mean, and how to prepare to cross-examine a defense expert and handle defense challenges; and prosecuting the drugged driver, provides tools and resources to effectively investigate and prosecute these cases, along with a review of how the state's recreational cannabis law will impact OWI investigations and prosecutions.

For more information, contact:

Michael Harris, MI Office of Highway Safety DRE State Coordinator

Email: harrism13@michigan.gov | Phone: 517-420-7889

High Visibility Enforcement

Sobriety checkpoints, where permissible by law, are a proven countermeasure for reducing alcohol-related fatal crashes, particularly when conducted frequently (Richard et al., 2018). But they are not conducted regularly in many states mainly due to a lack of manpower and funding (GHSA, UNC Highway Safety Research Center, as cited by CDC, 2015). One way to address this is by pooling resources with other agencies.



Sobriety checkpoints are a proven countermeasure for reducing alcohol-related fatal crashes, particularly when conducted frequently.

In **Oklahoma**, for example, [ENDUI OK Enforcement Teams](#) coordinate regional, multi-jurisdictional events that include sobriety checkpoints and saturation patrols. Funded by a SHSO grant, these multi-agency efforts are essential for combatting the state's impaired driving problem. The locations of the events are driven by crash data and local law enforcement arrests. Enforcement teams have access to ENDUI vans, a mobile command unit equipped with all the technology and tools for conducting a checkpoint including an Intoxilyzer 8000, PBTs, passive alcohol sensors, safety vests, checkpoint signage and mobile kiosks for verifying license and registrations.

For more information, contact:

Lt. Chris Arnall, OK Statewide Impaired Driving Coordinator

Email: Chris.Arnall@dps.ok.gov | Phone: 918-261-8992

Montana's Safety Enforcement Traffic Team (SETT) — five specially trained Montana Highway Patrol (MHP) troopers and a sergeant — are a roving patrol dedicated to deterring and detecting impaired driving (among other offenses) across the state.

Operating between Montana's seven largest cities, the team spends eight days working to saturate an area and then has six days off before moving to a new location. As a requirement of the grant funding they receive from the SHSO, SETT supports and works with local law enforcement agencies that have high rates of impaired driving during the national impaired driving mobilizations and to bolster manpower at local events such as college football games, festivals, holiday celebrations, and rodeos. In addition to SETT, the SHSO funds 17 law enforcement agencies (including a separate MHP grant), which are required to support all mobilizations, conduct two mobilizations of their choice at community events that are high-risk and perform three additional sustained enforcement shifts per quarter. With MHP participating in the program through each of its eight districts and the SETT team, the entire state is covered by ongoing sustained enforcement.

For more information, contact:

Chad Newman, MT HSO Transportation Planner & Law Enforcement Liaison

Email: chnewman@mt.gov | Phone: 406-444-0856

The Heat Is On is **Colorado's high visibility enforcement (HVE) campaign** that combines increased DUI enforcement with a strong public awareness campaign during 15 enforcement periods throughout the year including holidays. CDOT (where the SHSO is housed) provides grants to law enforcement agencies statewide to conduct overtime DUI enforcement using state and federal funding, while its Communications Office uses federal funds for media relations, advertising and community outreach.

In conjunction with the campaign, CDOT also partners with BACtrack, makers of a smartphone breathalyzer, to urge motorists to check their BAC to ensure they are sober before driving. To encourage this practice, Colorado residents received a 50 percent discount off the purchase of a BACtrack breathalyzer (for a final cost of \$50). These personal use devices are police-grade and provide an accurate BAC reading. Two of the models work with a BACtrack app to provide an estimate of when the user's BAC will return to zero. Responsibility.org joined in the effort in 2018 by funding research to determine if the BACtrack device gave people a better understanding of how alcohol affected their BAC and if the BAC level the device recorded prompted individuals to refrain from driving.

CDOT also encouraged motorists not interested in purchasing the device to download Responsibility.org's Virtual Bar. This online BAC calculator that is also available as an app uses gender, weight, food eaten, and what and how a person may drink throughout the day or evening to determine his/her BAC level. Virtual Bar also tells the user how s/he may actually be feeling at different BAC levels.



The Virtual Bar, an online BAC calculator, is also available as an app.

CDOT is now partnering with BACtrack and Responsibility.org through 2020 to provide the device to motorists who are having an IID removed from their vehicles. Research will examine whether or not the device helped to keep these motorists from becoming repeat offenders.

For more information, contact:

Glenn Davis, *CDOT Highway Safety Manager*

Email: glenn.davis@dot.state.co.us | Phone: 303-757-9462 (The Heat is On)

Sam Cole, *CDOT Communications Manager*

Email: sam.cole@state.co.us | Phone: 303-757-9484 (BACtrack partnership)

Maryland's State Police Impaired Driving Effort (SPIDRE) launched in 2013 in partnership with the Maryland Highway Safety Office (MHSO) and the TSRP. The MHSO funds the program, while the TSRP assists with prosecution once arrests head to court. SPIDRE's team of seven highly motivated troopers (including two supervisors) conduct HVE in the state's highest DUI crash locations with a focus on central Maryland and the I-95 corridor (Baltimore/Washington, DC). In addition to holding ARIDE and DRE certification, team members attended the University of Maryland's week-long, DUI Institute training program that includes instruction in DUI detection and SFST, DUI enforcement motivational training, enhanced DUI report writing, DUI testimony and media relations. To bolster impact, SPIDRE troopers partner and work side-by-side with officers from multiple municipal and county police departments, who are deployed for various intervals.

To call attention to SPIDRE's presence, enforcement messages are disseminated using paid, earned and social media outlets (i.e., billboards, radio, bar coasters, variable message signs, gas pump toppers). In addition, the team uses specially marked and equipped, high-profile SUVs. Regular press events draw large media attendance, with media ride-a-longs generating significant coverage.

This elite team of troopers shares their DUI enforcement knowledge and skills by offering on-duty tutorials to interested troopers. This is done through coaching sessions and ride-a-longs that include a review of SFST procedures, detection skills and report writing tips. Supervisors tracking the performance of troopers who have participated in this training consistently report "remarkable improvements" (Jones & Gianni, 2015).

Two years into the program, SPIDRE troopers were making three to four DUI arrests a week, with the average BAC .135 g/dL, and nearly a quarter of those arrested were repeat offenders (Jones & Gianni, 2015). Research examining the program's effectiveness during the first 36-months of operation, found that SPIDRE appeared to prevent a downward trend in DUI arrests (as compared to the rest of the state) and achieved higher quality arrests resulting in more positive adjudicative outcomes. In

addition, for every \$1 spent on the program, there was a savings of \$3.75 (Beck, Fell & Kerns, 2018).

For more information, contact: First Sergeant John Hickey, *SPIDRE Team*
Email: john.hickey@maryland.gov | Phone: 410-758-1101

Drug Evaluation Classification Program

In 2014, **New York** State made a mobile application available to DREs to document the results of their evaluations. This best practice, which was recognized by GHSA, has since expanded to include nine other states — **Connecticut, Delaware, Indiana, Massachusetts, Kentucky, Ohio, Pennsylvania, Vermont, and West Virginia**. The application is one of two components (tablet and web-based) of an electronic data entry, reporting and management system developed by the State University of New York's Institute for Traffic Safety Management & Research (ITSMR) to enhance participation in the DRE program and improve oversight and monitoring.



The application facilitates real-time data entry by the DRE and streamlines the process improving the efficiency of the 12-step evaluation. The application allows a DRE to collect all fields required from the DEC face sheet (the form an officer uses to record information gathered during the evaluation), including the ability to draw images associated with the divided attention tests, and is also tailored to correspond to each state's data fields. DREs using this system do not have to re-enter evaluation data in the National DRE database, as it is handled by ITSMR using a secure file transfer.

The application requires a DRE to submit the evaluation to the state's database before s/he can print a final version of the face sheet. The data are checked to ensure mandatory fields have been completed and certain data are within acceptable parameters. This step ensures timely submission, clean data and real-time access to data. The application also enables the DRE to write a narrative report and enter toxicology results and includes a robust reporting and query tool. DREs that do not have tablets can access the web-based application via a laptop or desktop computer.

Many of the states that have implemented this technology saw an increase in reported evaluations compared to previous years when this data was captured via a manual system (IACP, 2018). Access to real-time data provides for better overall program management. SHSOs can access the data and run queries for every field (i.e., by DRE, toxicology results, opinion, gender/age of offender) to help determine program impact and reach as well as to target enforcement and public outreach.

For more information, contact:
Jerry Miller, *DRE Data Entry & Management System Project Director*
Email: jmiller@itsmr.org | Phone: 518-453-0291

New Jersey is the only state in the nation that has a **DRE Association** and is second only to California in the number of certified DREs (491) (IACP, 2018). (Three of the nation's top six performing DREs are also from New Jersey.) The Association works in collaboration with the SHSO, prosecutors, lab personnel, and the New Jersey State Police (NJSP) Alcohol and Drug Test Unit to ensure the DRE program operates effectively to detect, identify and remove drug-impaired drivers from the road. The SHSO provides a training grant to the Association, which provides continuing education opportunities to its members, and funds a **DRE call-out program** that is actively promoted by the Association and the NJSP.

Currently, 11 of New Jersey's 21 counties and the NJSP participate in the call-out program, which enables law enforcement agencies to request the services of a DRE if one is not readily available among their own personnel. Using a tiered approach, if a DRE is needed to conduct an evaluation, the requesting agency first reaches out to one of its own certified officers who may be on-duty or called in on an overtime basis. If no officer is available, the law enforcement agency then requests a DRE call-out via the county radio dispatch system. Within seconds, a text alert, with the requesting agency's point of contact and location where the evaluation is needed, is sent to all DREs in that county. In counties without a call-out system, law enforcement agencies can request a DRE through the NJSP's Operations Center.

Call-out response rates are high, with second requests rarely needed (J. Abrusci, personal conversation, September 2019). However, to ensure DREs are available during weekend late night hours, one county is using a portion of its SHSO grant to pay a higher fee to officers that respond to those calls. Grant funds may also be used to pay for a DRE's court appearance so that s/he can follow through with the case and provide expert testimony. All counties participating in the program are also encouraged to have two DREs work county DUI checkpoints (which are funded through a separate grant). These officers serve as greeters, interacting with motorists as they enter the checkpoint, and conduct evaluations as needed.

For more information, contact:

Ed O'Connor, NJ Division of Highway Traffic Safety Program Manager

Email: Edward.o'connor@njoag.gov | Phone: 609-376-9708

Prosecution

The **California Office of Traffic Safety** (CA OTS) awards grants to county and city District Attorney's offices to fund **vertical prosecution units** that work solely on alcohol and drug-impaired driving cases, with a focus on repeat offenders. The 405d monies are used to pay for 50 percent of an attorney's hours that are required to investigate and prosecute DUI and DUID cases. The focus on DUID is particularly important as the state is experiencing a rise in the number of drug-impaired driving cases due to the legalization of cannabis. Currently, 16 county and two city (Los Angeles and San Diego) DA's offices are receiving the grants, which were first awarded in 2011.

In addition to the vertical prosecution grant, the Orange County DA's Office (OCDA) also receives OTS funding to administer the state's TSRP training network. In this capacity, OCDA serves as the lead agency for prosecution and law enforcement training, which includes live trainings, roundtables, training videos, legal updates, and a three-day traffic college. For the latter, prosecutors working under the OTS vertical prosecution grants serve as the instructors and share their expertise in proactively investigating and prosecuting traffic-related crimes with law enforcement and fellow prosecutors through lecture, discussion and mock trials.

For more information, contact: Dave Douchette, CA OTS Assistant Director of Operations
Email: David.douchette@ots.ca.gov | Phone: 916-509-3011

Probation

California OTS has been providing grants to county probation departments to intensively supervise high-risk felony and repeat DUI offenders for more than a decade. The initiative is paid for through 164 Transfer Funds, which are used to hire additional probation officers tasked with ensuring these offenders are complying with court orders, attending DUI education and treatment programs and following other requirements. The program's goal is to keep roadways safe, while successfully rehabilitating these individuals so they are no longer a risk to themselves and others in the community.

Grant funding is also used to offset overtime pay for probation officers to conduct evening, weekend and holiday compliance checks. They partner with local law enforcement agencies on special operations such as probation sweeps. These typically involve officers going in search of DUI offenders with outstanding arrest warrants for failing to appear for a court hearing, violating the terms of their probation and/or driving with a suspended or revoked license.

Of the 14 county probation departments receiving the OTS grant, **San Diego's DUI Intensive Supervision Program (DISP)** is considered a model. The emphasis is on field work, with DSIP officers collaborating with DUI treatment programs and law enforcement checkpoints to increase compliance. This includes conducting random home visits and on-the-spot alcohol and drug testing. They also notify local sheriffs or police departments of felony DUI offenders living in their jurisdiction. Using "a balanced approach" that holds offenders accountable, while connecting them to "services necessary for... sobriety and success," DISP appears to be working, as less than 5 percent of the convicted DUI offenders that probation officers monitor receive another DUI (SD County News, 2015).

For more information, contact: Dave Douchette, CA OTS Assistant Director of Operations
Email: David.douchette@ots.ca.gov | Phone: 916-509-3011

Data Sharing & Electronic Warrants

In 1983, Delaware became the first state to implement an **integrated criminal justice information system** — **DELJIS** (Delaware Criminal Justice Information System) — that supports electronic sharing of this information among the criminal justice community. To date, Delaware is the only state in the nation with a fully integrated electronic criminal justice system that processes a criminal, civil violation and/or traffic case from creation to court process to corrections while simultaneously interfacing shared criminal history. Delaware accomplishes this in part through its flagship incident reporting application, the Law Enforcement Investigative Support System (LEISS) used by all police departments. LEISS can be expanded based on legal needs and law enforcement reporting requirements and includes modules for crime, warrants, crash, impaired driving, and drug look-up among others.



To date, Delaware is the only state in the nation with a **fully integrated electronic criminal justice system** to share information.

Electronic warrants (e-warrants) were built into DELJIS in 1991 but have evolved thanks to LEISS. Since LEISS is fully interfaced with the State Police database that houses offender ident and criminal histories, the application allows the user to transfer crimes documented in incident reports directly to electronic arrest warrants. Once the warrant is created by an officer, it is automatically accessible in DELJIS to the court of jurisdiction for approval or rejection. Once the court electronically approves the warrant, the officer can immediately execute the warrant or store it for future use. If the offender is committed to jail, the data are also accessible by corrections and all other authorized criminal justice agencies.

The request for adding blood draw e-warrants to DELJIS was accelerated through a policy memo issued by the Chief Magistrate. For impaired driving and blood draw search warrants, the LEISS module allows for transference of information from the impaired driving module to the warrant module much like an arrest warrant. Since the application modules and offender ident and criminal history records are already interfaced, the instant impairment charges can be transferred directly to the search warrant and processed. This is important due to the time sensitivity associated with collecting evidentiary evidence such as blood. The cost of automating and interfacing warrants was largely absorbed by the DELJIS budget as part of routine system improvements. The primary cost to the state was for the equipment law enforcement needed to remotely access the system.

Officers access DELJIS and the e-warrant application through the Internet using a secure account. Once logged in and authenticated, they enter the offender's name, date of birth or State Bureau of Identification number and locate the offender or create a new record, if necessary. DELJIS automatically searches for the individual via multiple interfaces including court records, criminal history, fingerprint files and Delaware

motor vehicle records and connects offenders to their own criminal history and/or incident history among other databases. Officers complete fields (i.e., incident location, defendant actions, statements, facts supporting probable cause) in the incident report, which can be saved or converted to a PDF document. Even though the incident report is pending supervisor approval, the pertinent data (including the probable cause narrative) can immediately be transferred to the application warrant which is then accessible to the on-call judge via an electronic queue and sworn to by officer e-signature. The judge swears in the officer via video conference, and after review, the approved warrant can be printed as a PDF or remain intact within the system (judges use their bar code as an electronic signature). DUI blood search warrants receive priority within the system, with an average turnaround time of eight to ten minutes.

For more information, contact: Earl McClosky, *DELJIS Executive Director*
Email: earl.mccloskey@delaware.gov | Phone: 302-739-4856

E-warrant systems are also used in **Minnesota**. **eSearch** warrants is one of several applications on the state's e-Charging system, a secure network that connects all peace officers, prosecutors, judges, court personnel, and law enforcement records staff in the state. eCharging was already being widely used to process online criminal complaints and DUI arrests. The existence of the Minnesota Criminal Justice Network, a secure network peace officers and judges were already familiar with, helped to bolster acceptance of the eSearch application.

eSearch was designed and developed by the Minnesota Bureau of Criminal Apprehension (BCA) with the court's support and involvement, and grant funding from the Minnesota Office of Traffic Safety. The initiative was in response to pleas for help by law enforcement following a 2015 Minnesota Court of Appeals ruling requiring a search warrant to obtain any DUI blood or urine sample. The application was operational statewide in 2016 following extensive field testing.

Peace officers can create and apply for search warrants from any eCharging workstation located in all jails, law enforcement facilities and police vehicle mobile data computers. All judges are equipped with remote devices that allow for rapid, secure access to the e-Charging system from any wireless connection. Judges approve search warrants from their home in an average of two minutes. Peace officers must still call the judge to alert them that a search warrant needs review and approval. However, most warrants are completed in less than 15 minutes from creation to full approval and printing.

To date more than 28,000 search warrants have been processed through the e-Charging system, of which 47 percent involved DUI arrests. Peace officers, investigators and judges praise the ease and efficiency of the system, with many reporting it has saved them hours of time per search warrant. The application is

particularly helpful in larger rural counties where travel times from officers to judges can be lengthy. However, thanks to e-Search, officers affiliated with small agencies no longer must vacate their jurisdictions leaving no law enforcement presence.

For more information, contact: Troy Woltman, MN BCA Product Manager

Email: Troy.Woltman@state.mn.us | Phone: 651-793-2446

Phlebotomy

Law enforcement phlebotomy got its start in **Arizona** in 1995 to address the increase in DWI investigations that resulted in no chemical evidence due to test refusals, the need for officers in rural areas to travel to obtain blood draws, and the refusal or inability of hospital staff to obtain blood samples for law enforcement. The Department of Public Safety (DPS) worked with the Attorney General's office to review Arizona's law on blood and breath tests as associated with DUI-related cases and determined that, in addition to physicians and registered nurses, trained enforcement phlebotomists met the definition of "another qualified person" (NHTSA, 2019). As a result, officers could take a semester-long phlebotomy class to become qualified to draw blood. In 1999, a 60-hour **Law Enforcement Phlebotomy Program** (LEPP) was developed through Phoenix College that focused primarily on adult blood draws in a clinical or outpatient setting. LEPP is now offered at two other colleges in Arizona. The SHSO funds the training through a combination of Section 402 and 405 grants.

Over the past three decades, Arizona's refusal rate has dropped from 20 percent to 5 percent, predominantly because of increased public awareness of the police phlebotomy program. A blood draw refusal results in a 1-year license suspension, plus the arresting officer can easily obtain a search warrant to draw blood, with judges available 24 hours a day to process warrants electronically. Law enforcement blood draws have only been challenged twice since the inception of LEPP in Arizona. Both suits were dismissed for lack of merit (NHTSA, 2019).

Arizona DPS has worked with agencies in other States to implement similar programs. Currently nine, in addition to Arizona, have law enforcement phlebotomy programs: **Idaho, Indiana, Maine, Minnesota, Ohio, Pennsylvania, Rhode Island, Utah, and Washington**. The training varies from state to state. In Idaho, for example, it is split into two phases — classroom and clinical — with biennial refresher training. Offered through Dakota Technical College and funded through a SHSO grant, Minnesota's training consists of three phases — online, classroom and clinical — with annual requalification. Both programs require a minimum number of successful blood draws in both a classroom and laboratory or clinical setting.

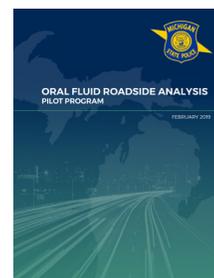
For more information, contact:

Alberto Gutier, Director, Arizona Governor's Office of Highway Safety

Email: agutier@azgohs.org | Phone: 602-255-3216

Toxicology

Michigan enacted Public Act 242 and 243 in 2016, resulting in a one-year, five county **Oral Fluid Analysis Pilot program** conducted by the Michigan State Police. While the pilot proved valuable in assessing the performance of oral fluid test instruments (coupled with law enforcement observation and SFSTs), the sample size was determined to be too small to definitively determine the tool's effectiveness. As a result, the Legislature appropriated \$600,000 to continue the pilot for a second year (starting October 2019) and expanded participation to include all certified DREs throughout the state (many, but not all, are participating). If the additional data yields a high level of confidence and the device is favorably received by the officers, Michigan Vehicle Code may be revised to permit preliminary oral fluid analysis for the detection of certain drug categories.



Under Michigan's pilot program, a DRE may require a motorist to submit to a preliminary oral fluid analysis to detect the presence of a controlled substance if drug impairment is suspected. The officer obtains the oral fluid sample by a mouth swab (this is administered along with the 12-step DRE evaluation), which is then tested for the presence of amphetamines, benzodiazepines, THC, cocaine, methamphetamines, and opiates. Refusal to submit to a preliminary oral fluid analysis is a civil infraction.

The findings of Michigan's expanded pilot, along with research conducted in **Alabama**, **Florida**, **Wisconsin**, and **Vermont**, may be of value to other states. In addition, the Society of Forensic Toxicologists/American Academy of Forensic Sciences Oral Fluid Subcommittee developed a frequently asked question one-pager that addresses the advantages, reliability, need to collect additional evidential specimens, and other issues.

For more information, contact: First Lt. Shannon Sims, MSP Pilot Program Director
Email: simss4@michigan.gov | Phone: 810-836-5000

The **Orange County, California Crime Lab** (OCCL), a full-service toxicology lab connected to the Sheriff-Coroner's Department, is a model when it comes to processing DUID cases. OCCL screens all blood samples obtained in DUI arrests not only for alcohol and other volatile substances, but also more than 300 other drugs. The lab will also conduct tests for other drugs not included in the screen if the request is reasonable and a sufficient sample is provided. In addition, all DRE samples are comprehensively tested including all requests regardless of the charge.

This, however, was not always the case. Like many labs, OCCL used to test only for alcohol unless the arresting officer suspected drugs or the results were below .08 g/dL. But the change in protocol is paying off as impairing drugs have been detected in more than one-third of samples where the BAC was .08 g/dL or greater, a 5 percent increase from the previous year (August–December 2018 versus 2017) (Harmon, 2019b).

“OCCL is the 25th largest crime lab in the U.S., so if they can do this anyone can,” said the lab’s former assistant director and toxicologist. “Labs are facing significant challenges – limited resources, increasing demands for testing, the emergence of new designer drugs, difficulty hiring staff – but they can be overcome” (J. Harmon, personal conversation, September 2019). Investing in automated, multi-use platforms along with equipment, such as liquid chromatograph mass spectrometers and time of flight instruments that can detect lower concentrations and numerous drugs, may seem out of reach. But the former assistant director pointed out that when the technology has multiple uses, can double the sample throughput (40 to 80) in a significantly shorter period of time (1-2 hours versus 6-8) using one tenth of the original sample volume, and not require more staff, it quickly pays for itself.

The OCCL has an obligated Memorandum of Understanding from the County Board of Supervisors to provide forensic services free of charge. The lab is a division of the Orange County Sheriff-Coroner’s Department and a line item in the Sheriff’s budget. The lab does receive a SHSO grant that supports testing and funds two scientists to assist with the increased workload. However, the Sheriff has continued to support the work independent of the grant (J. Harmon, personal conversation, September 2019). The OCCL also works collaboratively with the Orange County District Attorney, which has a dedicated vertical prosecution unit and DRE instructor who provides training for all OCCL DUID analysts and local law enforcement agencies. The lab provides drug trend support and assists with controlled studies, while law enforcement facilitates field observations and ride-alongs for OCCL staff, among other things.

For more information, contact:

Matthew Nixt, *Supervising Forensic Scientist*

Email: msn@occl.ocgov.com | Phone: 714-834-6314

Ariana Adeva, *Supervising Forensic Scientist*

Email: aka@occl.ocgov.com | Phone: 714-834-6351

Screening & Assessment

Recognizing the limitations of existing assessment instruments, Responsibility.org collaborated with Cambridge Health Alliance’s Division on Addiction (a Harvard Medical School teaching hospital) to develop, validate and distribute a comprehensive diagnostic tool that identifies major mental health disorders in addition to SUDs. **Computerized Assessment and Referral System (CARS)**

operates on free, open source software that immediately generates a personalized, user-friendly report that includes information on an offender’s substance use and mental health profile, risk of recidivism, sentencing and treatment needs and targeted referrals by zip code to appropriate treatment services within their community. CARS can be used by both clinicians and non-clinicians and is



available in three formats: 15 to 20-minute screener, 15 to 40-minute self-administered screener, and one to two-hour full assessment.

After being validated among DUI offenders, the tool was piloted in six sites over three months: IMPACT, Inc. (Milwaukee, WI), Isanti County Probation Department (MN), South St. Louis DWI Court and Probation Department (Duluth, MN), Lackawanna-Susquehanna Office of Drug Alcohol Programs (Scranton, PA), Laramie County DUI Court (WY), and San Joaquin DUI Monitoring Court (CA). CARS was predominantly used as a supplemental tool that enabled practitioners to more effectively determine clients' individual risks and needs. While every pilot program used assessment instruments (in addition to CARS) to identify SUDs and risk level, most had not been able to identify co-morbid mental health disorders to the degree that they did until they used CARS. This information, along with other insights gleaned from the pilot sites, was used to refine the screener, improve targeted referrals, develop different training levels based on prior experience, develop a Spanish version, and make other improvements (Holmes & Dalbec, 2015).

For more information, contact:

Erin Holmes, *Responsibility.org Vice President and Technical Writer*

Email: erin.holmes@responsibility.org | Phone: 202-445-0334

There is only one other free assessment tool validated for the DUI population — the [Impaired Driving Assessment](#) (IDA) developed by the American Probation and Parole Association (APPA) in collaboration with NHTSA. Following training on how to properly administer the IDA, it was piloted in four county probation departments (Brown and Nicollet, MN; Westchester, NY; Tarrant, TX) over six to eight months. A total of 948 DWI probationers participated in the study and were tracked for an additional 12-months from the time they were placed on supervision and administered the IDA. The study confirmed the validity of the tool including its effectiveness in identifying those individuals most likely to fail probation (Lowe, 2014).



The IDA has two components — a 32-question self-report (SR), which focuses on criminogenic risk factors specific to DUIs, including mental health issues, defensiveness, acceptance and motivation, criminal thinking, and polysubstance abuse issues, and an 11-question evaluator report (ER), which addresses the offender's traffic and criminal arrest history. The SR and ER are then cross-validated to reveal the individual's level of defensiveness and openness to self-disclosure and the level of supervision based on risk (Lowe, 2014).

For more information, contact: **Mark Stodola**, *APPA Probation Fellow*

Email: Profellow@csg.org | Phone: 602-402-0523

Final Thoughts

Approximately one-third of drivers arrested for DUI are repeat offenders (Schell, Chan & Morrall as cited in Vachal et al., 2018) and many have BACs that are well above the legal limit. These recidivists not only have a higher risk of continuing to engage in this unsafe and unlawful behavior, but also of being involved in alcohol-related fatal crashes (Gould & Gould; Perrine, Peck & Fell; Fell & Klein, as cited in Vachal et al., 2018). Impaired driving, however, is no longer just alcohol related. Today's HRID may have used cannabis, taken an over-the-counter, prescription or illegal drug or used a combination of impairing substances before getting behind-the-wheel.

Working collaboratively with law enforcement, the judiciary, treatment and prevention, and the many other disciplines discussed in this publication, SHSOs can help break the dangerous and deadly cycle of recidivism and ultimately put an end to impaired driving fatalities on our nation's roadways. Doing so requires moving away from a conviction-centered approach to an individualized justice approach that focuses on getting to the heart of the HRID's abuse of alcohol and/or other substances (as illustrated in the chart below). Screening, assessment, treatment and monitoring may not be in your SHSO's current wheelhouse but understanding why they are vital and identifying how your office can help advance them are critical for putting this population on the path to long-term recovery. At the same time, ensuring that your law enforcement partners have the training and tools necessary to detect, arrest and convict the HRID remains a priority.

Conviction Focused Approach	Individualized Justice Approach
Law enforcement trained only on alcohol	Expanded DUID training (ARIDE, DRE, oral fluid)
Test only for alcohol if per set limit reached	Test for alcohol and drugs
Multiple prosecutors handle a single DUI case	Vertical prosecution
Cases heard in criminal/civil courts	DUI and treatment courts
Inconsistent screening & assessment using generic tools	Screening & assessment at multiple phases using tools validated specifically among the DUI population
Emphasis on punishment (fines & jail) as prescribed in statute	Investment in treatment and supervision determined by multidisciplinary team and informed by assessment
Probation generalists	Mental Health/SUD probation specialists
Siloed data systems	Linked impaired driving data system

All these factors — along with educating the legislature, the media and the public about this population — are important and require significant financial and human capital. Your SHSO can make grants available but other funding sources must be identified and tapped as well such as DUID-related grants, public health and

health care programs focusing on the opioid epidemic, tax revenue from the sale of cannabis, a portion of the fines and fees paid by the offender, and even public-private partnerships. In addition, the team must be expanded to include a myriad of stakeholders that can not only bring their expertise and resources to the table, but also help inform and advance policy.

Yes, the costs associated with addressing this segment of the DUI population are significant and there are policy hurdles that must be overcome, but the return on investment — a reduction in societal costs and lives lost — simply cannot be ignored if gains are to be made in eliminating high-risk impaired driving. If we fail to address the HRID problem, achieving a zero fatalities goal at the state and national level simply is not possible.

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Acronym Key

AAA	American Automobile Association
APPA	American Probation & Parole Association
ARIDE	Advanced Roadside Impaired Driving Enforcement
ASI	Alcohol Severity Index
ASAP	Alcohol Safety Action Program
ASUDS-R	Adult Substance Use & Drug Survey Revised
BAC	Blood Alcohol Concentration <i>or</i> Bureau of Criminal Apprehension
CARS	Computerized Assessment & Referral System
CA OTS	California Office of Traffic Safety
CDC	Centers for Disease Control & Prevention
CDOT	Colorado Department of Transportation
D2P	Driven to Protect
DA	District Attorney
DADSS	Driver Alcohol Detection System for Safety
DEA	Drug Enforcement Administration
DELJIS	Delaware Criminal Justice Information System
DISP	DUI Intensive Supervision Program
DL	Driver's License
DMV	Division of Motor Vehicles
DMV-VAHSO	Division of Motor Vehicles – Virginia Highway Safety Office
DPS	Department of Public Safety
DRE	Drug Recognition Expert
DUI	Driving Under the Influence
DUI-RANT	Driving Under the Influence-Risk & Needs Triage
DWI	Driving While Intoxicated
ENDUI OK	End Driving Under the Influence Oklahoma
FARS	Fatality Analysis Reporting System
GHSA	Governors Highway Safety Association
HIPAA	Health Insurance Portability & Accountability Act
HRID	High-Risk Impaired Driver
HVE	High Visibility Enforcement
IACP	International Association of Chiefs of Police
IA DECP	Iowa Drug Evaluation & Classification Program
IDA	Impaired Driving Assessment
IID	Ignition Interlock Device
ITSMR	Institute for Traffic Safety Management & Research
JOL	Judicial Outreach Liaison
LEPP	Law Enforcement Phlebotomy Program
MADD	Mothers Against Drunk Driving

MIDRIS	Model Impaired Driving Records Information System
MOHS	Maryland Office of Highway Safety
NADCP	National Association of Drug Court Professionals
NCDC	National Center for DWI Courts
NJC	National Judicial College
NSC	National Safety Council
NSCA	National Center for Statistics & Analysis
NTBD	National Take Back Day
NTLC	National Traffic Law Center
OCCL	Orange County Crime Lab
OCDA	Orange County District Attorney
OWI	Operating While Intoxicated
PADUI IDPTT	Pennsylvania DUI Association Impaired Driving Program Training Teams
PBT	Portable (or Preliminary) Breath Test
RANT	Risk & Needs Triage
SETT	Safety Enforcement Traffic Team
SFST	Standardized Field Sobriety Testing
SHSO	State Highway Safety Office
SHSP	Strategic Highway Safety Plan
SJDMC	San Joaquin County DUI Monitoring Court
SPIDRE	State Police Impaired Driving Effort
STEER	Sobriety, Treatment, Education, Excellence & Rehabilitation Court
STOP-DWI	Special Traffic Options Program for Driving While Intoxicated
SUD	Substance Use Disorder
THC	Tetrahydrocannabinol
TREDS	Traffic Records Electronic Data System
TREDS IIP	Traffic Records Electronic Data System Ignition Interlock Project
TSRP	Traffic Safety Resource Prosecutor
VASAP	Virginia Alcohol Safety Action Program
WIDAC	Washington State Impaired Driving Advisory Council
WSP IIP	Washington State Patrol Ignition Interlock Program
WTSC	Washington State Traffic Safety Commission



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The Governors Highway Safety Association (GHSA) is a nonprofit association representing the highway safety offices of states, territories, the District of Columbia and Puerto Rico. GHSA provides leadership and representation for the states and territories to improve traffic safety, influence national policy, enhance program management and promote best practices. Its members are appointed by their Governors to administer federal and state highway safety funds and implement state highway safety plans.

