



STATE OF OREGON

Impaired Driving Program Assessment

April 11-14, 2023

National Highway Traffic Safety Administration

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This report is based on a review of the State's Impaired Driving Program. It is intended to assist Oregon's efforts to enhance the effectiveness of its impaired driving program by equipping the criminal justice community, prevention and treatment leaders, and law enforcement officials with the knowledge and skills to protect the citizens of Oregon from those who drive impaired.

The team believes that this report will contribute to Oregon's efforts to enhance the effectiveness of its impaired driving program in preventing injuries, saving lives, and reducing economic costs of motor vehicle crashes on Oregon's roadways.

INTRODUCTION

The mission of the National Highway Traffic Safety Administration (NHTSA) is to reduce deaths, injuries, and economic and property losses resulting from motor vehicle crashes. In its ongoing pursuit to reduce impaired driving traffic crashes and subsequent fatalities and injuries, NHTSA offers Highway Safety Program Assessments to the States.

The Highway Safety Program Assessment process is an assistance tool that allows management to review various highway safety and emergency medical services (EMS) programs. Program assessments are provided for EMS, occupant protection, impaired driving, traffic records, motorcycle safety, police traffic services, driver education, and pedestrian and bicycle safety.

The purpose of the assessment is to allow State management to review all components of a given highway safety or EMS program, note the program's strengths and accomplishments, and note where improvements can be made. The assessment can be used as a management tool for planning purposes and for making decisions about how to best use available resources. The highway safety and EMS program assessments provide an organized approach, along with well-defined procedures, that States can use to meet these objectives. The assessments are cooperative efforts among state highway safety offices, state EMS offices, and NHTSA. In some instances, the private sector is also a partner in the effort.

Program assessments are based on the “Uniform Guidelines for State Highway Safety Programs,” which are required by Congress and periodically updated through a public rulemaking process. For each highway safety program area, the criteria against which each state program is assessed have been developed through the use of the uniform guidelines, augmented by current best practices.

NHTSA staff facilitates the assessment process by assembling an assessment team of subject matter experts in traffic safety program development and evaluation, to review all components of a given highway safety or EMS program, note the program’s strengths and accomplishments, and note where improvements can be made.

The State of Oregon requested NHTSA’s assistance in assessing the State’s alcohol and drug impaired driving countermeasures program to comply with 23 CFR 1200.23 promulgated under Moving Ahead for Progress in the 21st Century (MAP-21) to qualify for the Impaired Driving Countermeasures Grant. Under MAP-21, states that have an average impaired driving fatality rate that is 0.60 or higher are considered high-range states. States are considered mid-range if their rate is lower than 0.60 but higher than 0.30 and low-range if it is 0.30 or lower. Oregon is considered a mid-range state and was therefore not required, but voluntarily requested a NHTSA-facilitated assessment of the State’s impaired driving program. Furthermore, the State is required to convene a statewide impaired driving task force to develop a statewide impaired driving plan.

The on-site portion of the Oregon Impaired Driving Program Assessment was conducted at the Crowne Plaza, Lake Oswego, Oregon from April 10-14, 2023. Arrangements were made for program experts (see On-Site Agenda) to deliver briefings and provide support materials to the team on a wide range of topics over a two-day period.

STATE BACKGROUND

Oregon is geographically located in the Northwest region of the nation.

From the 2020 Decennial Census, Oregon has a population of 4,237,256. Residents are distributed across 36 counties and 241 municipalities. Approximately 72 percent of the population is white, 13.9 percent is Hispanic or Latino, 4.5 percent is Asian, 1.9 percent is African American, 6.1 percent is two or more races, and the remaining population is spread between Native American, Hawaiian, and other.

The median age in Oregon is approximately 39.5 years, and the ratio of females to males is approximately 50.1 percent female and 49.9 percent male.

Oregon has also had a recent influx of Afghan refugees and is preparing for Ukrainian refugees coming to the State. Along with its diverse culture, the legalization of marijuana in 2016 and the passage of Ballot Measure 110 in 2020 (decriminalization of single use possession of controlled substances) has led to an increase in migration of people moving to and visiting the State.

This population growth has led to an increase in levels of travel (pre-pandemic) and the increase in foreign-born persons has had a significant impact on traffic safety, law enforcement, health, and judiciary needs for educating the public and enforcing traffic laws.

Oregon Fatalities by Crash Type

Crash Type	2017	2018	2019	2020	2021
Total Fatalities (All Crashes)*	439	502	493	507	599
- (1) Single Vehicle	253	277	296	298	331
- (2) Involving a Large Truck	54	73	67	73	84
- (3) Involving Speeding	170	143	154	135	154
- (4) Involving a Rollover	93	105	108	126	132
- (5) Involving a Roadway Departure	280	285	295	302	355
- (6) Involving an Intersection (or Intersection Related)	69	95	97	97	106

* A Fatality Can Be in More Than One Category; Therefore, Sum of the Individual Cells Will Not Equal the Total Due to Double Counting.

Persons Killed in Fatal Crashes - 2021

Highest Blood Alcohol Concentration in Crash	BAC .00 g/dL		BAC .01-.07 g/dL		BAC .08+ g/dL		BAC .01+ g/dL		BAC .15+ g/dL		Total	
	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent	Number	Percent
Oregon	335	56	47	8	215	36	263	44	142	24	599	100
Total	27,225	63	2,268	5	13,386	31	15,651	36	9,031	21	42,939	100

With an area of 98,352 square miles, Oregon is the 10th largest state. Western Oregon is more populated with the Portland, Salem, and Eugene metropolitan areas along the I-5 corridor. Eastern Oregon is relatively rural, with some areas being identified as “frontier.” Major industries in Oregon include construction, farming, technology, fishing, hydroelectric energy, and tourism.

Oregon’s climate affects the economy and culture. The climate is generally mild, with the west being humid and coastal in nature with higher incidences of rain, snow in the Cascade Mountains, and high desert in the east.

Oregon has approximately 79,800 miles of public roads, with 7,599 of those miles comprising the state highway system. Presently, there are approximately 4.4 million registered motor vehicles and about 3.2 million licensed drivers.

Oregon Core Outcome Measures

		2017	2018	2019	2020	2021
Traffic Fatalities	Total	439	502	493	507	599
	Rural	237	286	280	284	344
	Urban	202	216	213	223	255
	Unknown	0	0	0	0	0
Fatalities Per 100 Million VMT	Total	1.19	1.36	1.38	1.57	1.63
	Rural	1.63	1.96	2.06	2.29	2.31
	Urban	0.91	0.97	0.96	1.12	1.16
Alcohol-Impaired Driving Fatalities (BAC=.08+)**		144	157	171	183	215
Speeding-Related Fatalities (C-6)		170	143	154	135	154
Motorcyclist Fatalities	Total	57	85	57	67	84
	Helmeted	48	73	46	54	76
	Unhelmeted	3	4	8	5	5
	Unknown	6	8	3	8	3
Pedestrian Fatalities		70	77	82	71	87
Bicyclist and Other Cyclist Fatalities****		10	9	11	14	18
Observed Seat Belt Use***		97	96	96	95	95

A higher percentage of Oregon’s vehicle miles traveled occurs on urban roads (about 60%), while a higher rate of fatalities per 100 million vehicle miles traveled are from crashes on rural roads. Speed continues to be one of the top contributing factors to serious injury and fatality crashes on Oregon’s roadways. Combined with a steep increase in impaired fatal crashes, including a marked increase of impaired crashes between vehicles and pedestrians, with 599 fatalities in 2021, Oregon has experienced a

16 percent increase in fatalities compared to 2020, and a 21.5 percent increase compared to 2019.

The Oregon Department of Transportation and its partners have taken steps to combat impaired driving. The recommendations included in this assessment report are designed to assist Oregon as it furthers its efforts to prevent injuries, save lives, and reduce economic costs related to motor vehicle crashes in the State.

PRIORITY RECOMMENDATIONS

I. Program Management and Strategic Planning

- Create a mechanism where Oregon Department of Transportation's Transportation Safety Office staff can readily search crash and fatality data.

II. Prevention

- Expand the membership of the Oregon Impaired Driving Task Force to include additional members of the prevention community.
- Establish an impaired driving prevention conference with an emphasis on courts, treatment, assessments, and impaired driving prevention support services.

III. Criminal Justice System

- Amend the law to include all substances that may cause impairment and not just intoxicants that are "controlled" or scheduled.
- Enact legislation that allows for implied consent blood analysis for drugs so that such analysis can be used in the prosecution of Driving Under the Influence of Intoxicants.
- Establish a statewide program of standardized electronic warrants for the purpose of obtaining evidentiary blood specimens for suspected impaired drivers and provide appropriate training.
- Establish a statewide electronic crash reporting system.
- Create an annual mandatory judicial education requirement for trial judges in the adjudication of impaired driving cases.
- Create and expand probation departments to assist in monitoring of Driving Under the Influence of Intoxicants violators.
- Create a driver license format or indicator that would readily enable law enforcement to determine that the licensee is subject to Ignition Interlock Device compliance.

IV. Communication Program

No Priority Recommendations for this section.

V. Alcohol and Other Drug Misuse: Screening, Assessment, Treatment, and Rehabilitation

- Provide supervised probation services to Driving Under the Influence of Intoxicants offenders assessed and determined to be at high risk to reoffend.

VI. Program Evaluation and Data

- Determine effective solutions to link traffic record systems to reduce data entry functions and identify records in the driver, vehicle, citation, and court adjudication systems that would have a common unique identifier.
- Pursue the ability for citation and court case management systems to electronically transmit information to enable the tracking of each Driving Under the Influence of Intoxicants case from citation through to final disposition.
- Develop real time driver and vehicle data interfaces to aid in the capturing and validation of driver demographic information and vehicle attributes in completing crash report processing.

I. Program Management and Strategic Planning

Effective impaired driving programs begin with strong leadership, sound policy development, effective and efficient program management, and coordinated planning, including strategic planning. Program efforts should be data-driven, focusing on populations and geographic areas that are most at risk; are evidence-based; and determined through independent evaluation as likely to achieve success. Programs and activities should be guided by problem identification, carefully managed and monitored for effectiveness, and have clear measurable outcomes. Adequate resources should be devoted to the problem, and the costs should be borne, to the extent possible, by impaired drivers. Strategic planning should provide policy guidance; include recommended goals and objectives; and identify clear measurable outcomes, resources, and ways to overcome barriers.

A. State and Tribal DWI Task Forces or Commissions¹

Advisory

States and tribal governments should convene Driving While Impaired (DWI) task forces or commissions to foster leadership, commitment and coordination among all parties interested in impaired driving issues. State-level and tribal task forces and commissions should:

- Receive active support and participation from the highest levels of leadership, including the governor and/or governor's highway safety representative.*
- Include members that represent all interested parties, both traditional and non-traditional, such as representatives of: government – highway safety, enforcement, criminal justice, liquor law enforcement, public health, education, driver licensing and education; business – employers and unions; the military; medical, health care and treatment; multi-cultural, faith-based, advocacy and other community groups; and others.*
- Recommend goals and objectives, provide policy guidance and identify available resources, based on a wide variety of interests and through leveraging opportunities.*
- Coordinate programs and activities to ensure that they complement rather than compete with each other.*
- Operate continuously, based on clear authority and direction.*

Status

The State of Oregon has The Governor's Advisory Committee (GAC) on Driving Under the Influence of Intoxicants (DUII) as its impaired driving task force. The GAC on DUII was created by Governor's Executive Order No. EO-83-20 on December 13, 1983. The main purpose and role of the GAC is to advise the Governor and other statutorily created agencies on the problems and issues relating to DUII in the State.

¹ See "A Guide for Statewide Impaired Driving Task Forces" (DOT HS 811 211, September 2009) for a "how to" in support of implementing, making best use of, and continuing a task force.

Membership to the GAC is by Governor's executive appointment for terms of four years. The GAC Chair is elected by members of the GAC. Executive appointments are to represent the following interests: education, enforcement, judicial, legislative, medical, prevention, prosecution, public interest, and treatment. The language of the Executive Order allows for other interests to be represented and appointed to the GAC.

The Impaired Driving Program Manager in the Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) serves as the legislative analyst and staff support for the GAC. The TSO does not have a voting role on the GAC.

The primary role of the GAC is to support and assist in formulating administrative and legislative goals and objectives for reducing the incidences of DUII and to monitor the implementation of the goals and objectives. The GAC broadly represents the issues relating to impaired driving to the Legislative Assembly, public and private organizations involved in impaired driving countermeasures, victims of impaired driving, and the general public. The GAC has in the past created sub-committees to address specific impaired driving issues.

The GAC has four defined objectives:

- (a) Heighten public awareness of the seriousness of DUII;
- (b) Assist in the efforts to end the impaired driving problem in an organized and systematic manner;
- (c) Generate public support for increased enforcement of state and local DUII laws; and
- (d) Educate the public as to the dangers of impaired driving and its effects.

Information on GAC meetings are posted on the TSO website and, on some occasions, noted in press releases from the TSO. GAC meeting agendas are distributed approximately two weeks prior to the scheduled meetings. All GAC meetings are open to any interested parties who may request an item be placed on the agenda.

Agency liaisons shall be approved by the Committee and include:

Legal Disciplines

- Prosecution
- Administrative Hearings
- Department of Justice

Statewide Victim Advocate Disciplines

- MADD (Mothers Against Drunk Driving)
- Other Private Organization (e.g. Victim Impact Panel)

Other Disciplines

- Oregon Liquor and Cannabis Commission (OLCC) Regulatory/Enforcement
- Department of Public Safety Standards and Training

- Oregon Department of Motor Vehicles
- Substance Abuse Prevention
- Treatment Providers
- Medical Providers
- Drug Recognition Expert, certified by the Oregon DEC Program
- Standardized Field Sobriety Testing Instructor
- Parole and Probation
- Oregon State Police Forensics Lab
- Portland Police Bureau
- Municipal Police
- Tribal Police
- Sheriff's Office
- Oregon State Police Patrol Division
- Oregon State Police Ignition Interlock Device Program
- American Automobile Association

Though the GAC has well-defined by-laws and procedures, the GAC does not produce an annual report. Due to the by-laws and levels involved in GAC's structure, some member appointments take a long time due to the high levels of state involvement in the selection procedure.

The GAC utilizes funding from the TSO for expenses related to GAC meetings. Oregon is designated as a "mid-range" state by the National Highway Traffic Safety Administration (NHTSA) for impaired driving fatalities. The TSO qualifies for NHTSA 405d funding using the GAC and the Statewide Impaired Driving Plan as qualifiers.

Some entities not represented on the GAC are private DUI defense attorneys, The Office of the Public Defender, The Office of Education, manufacturers, distributors, and retailers of alcohol and cannabis.

Recommendations

- Create an annual report to document specific recommendations for consideration by the Governor's Advisory Committee (GAC) on Driving Under the Influence of Intoxicants to compliment the GAC Strategic Plan.
- Invite underrepresented entities and groups to the Governor's Advisory Committee (GAC) on Driving Under the Influence of Intoxicants for the purpose of gauging their interest in being involved in GAC activities.
- Explore securing a representative and voting position for the Transportation Safety Office through the Governor's Advisory Committee on Driving Under the Influence of Intoxicants procedures.

- Form a sub-committee, through the Governor’s Advisory Committee (GAC) on Driving Under the Influence of Intoxicants, with the directive to evaluate Executive Order No. EO-83-20 that created the GAC and make recommendations for changes if necessary to keep or make the GAC relevant and functional.

B. Strategic Planning

Advisory

States should develop and implement an overall plan for short- and long-term impaired driving activities. The plan and its implementation should:

- *Define a vision for the state that is easily understood and supported by all partners.*
- *Utilize best practices in strategic planning.*
- *Be based on thorough problem identification that uses crash, arrest, conviction, driver record and other available data to identify the populations and geographic areas most at risk.*
- *Allocate resources for countermeasures determined to be effective that will impact the populations and geographic areas most at risk.*
- *Include short-term objectives and long-range goals. Have clear measurable outcomes.*
- *Be an integral part of or coordinate with and support other state plans, including the Highway Safety Plan and Strategic Highway Safety Plan.*
- *Establish or adjust priorities based on recommendations provided to the state as a result of reviews and assessments, including this impaired driving assessment.*
- *Assign responsibility and accountability among the state’s partners for the implementation of priority recommendations.*

Status

The Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) serves as the State Highway Safety Office that plans and implements Oregon's highway safety program.

The TSO has a well-defined mission: “To prevent transportation deaths and serious injuries in Oregon by positively influencing all road user behaviors through the

development and implementation of safety programs with local, county, tribal, and state partnerships.”

During the strategic planning process, the TSO utilizes a problem identification process, the National Highway Traffic Safety Administration (NHTSA) *Countermeasures that Work*, and data from various resources to develop projects and programs for Oregon’s Annual Traffic Safety Plan. The TSO Problem Identification analysis involves the TSO and the Oregon Transportation Safety Committee (OTSC) reviewing data from the prior grant year’s Annual Evaluation Report.

The TSO hosts an annual planning meeting with partner and stakeholder agencies and groups participating to review proposed performance measures and draft goals or targets that are data-driven. The TSO involves the public from the beginning and throughout a program or project’s lifecycle to better meet the needs of the community. This practice provides a shared definition of meaningful public involvement and promising practices to help address barriers to inclusion in transportation decision-making.

Some project selections come from proposed projects requested from eligible state and local public agencies and non-profit groups involved in traffic safety. Selection panels may be used to complement TSO staff work to identify the best projects for the coming year. Projects are selected using criteria that include response to identified problems, potential for impacting performance goals, innovation, clear objectives, adequate evaluation plans, and cost-effective budgets. Those projects ranked the highest are included in Oregon’s Highway Safety Plan.

Performance goals for each program are established by TSO program staff. Performance measures incorporate elements of the Oregon Benchmarks, Oregon Transportation Safety Action Plan, the Safety Management System, and nationally recognized measures. Both long-range and short-range measures are utilized and updated annually.

There is no specific problem identification document or publication, though there are analysis tools which can be used by the public and TSO staff.

For a specific inquiry on data concerning traffic fatalities, TSO staff or the public would have to make a request to the traffic records staff.

The Oregon Highway Traffic Safety Performance Plan includes short term objectives, long range goals, and proven countermeasures to reach the goals in each traffic safety challenge.

Recommendations

- Produce a problem identification document or publication available to Oregon Department of Transportation’s Transportation Safety Office staff and the public.

- **Create a mechanism where Oregon Department of Transportation's Transportation Safety Office staff can readily search crash and fatality data.**

C. Program Management

Advisory

States should establish procedures and provide sufficient oversight to ensure that program activities are implemented as intended. The procedures should:

- *Designate a lead agency that is responsible for overall program management and operations;*
- *Ensure that appropriate data are collected to assess program impact and conduct evaluations;*
- *Measure progress in achieving established goals and objectives;*
- *Detect and correct problems quickly;*
- *Identify the authority, roles, and responsibilities of the agencies and personnel for management of the impaired driving program and activities; and*
- *Ensure that the programs that are implemented follow evidence-based best practices.²*

Status

The Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) serves as the State Highway Safety Office that plans and implements Oregon's highway safety program and is responsible for monitoring the safety of transportation in Oregon through education and awareness. The TSO works with a broad spectrum of agencies at state and local levels as well as special interest groups for project selection and implementation. The TSO also administers up to twenty different funding sources to sub-award grant projects that effect proven countermeasures in eliminating traffic fatalities and serious injuries on Oregon roadways.

Collaborating with numerous partners, the TSO organizes, plans, and conducts a statewide transportation safety program. Partners include other state agencies, local agencies, non-profit groups, and the private sector. The office advocates transportation safety through education, enforcement, and engineering actions. Major programs focus on occupant protection, impaired driving, speed, young drivers, aging road users, pedestrians, bicyclists, motorcyclists, driver education, community safety, police traffic services, emergency medical services, safe routes to school, distracted driving, and roadway and work zone safety. Office staff members implement the programs through more than 550 grants and contracts awarded annually to partners and other service providers.

² See "Countermeasures That Work: A Highway Safety Countermeasure Guide for State Highway Offices," Sixth Edition, 2011.

The TSO utilizes a process for identifying problem analysis that begins with TSO office staff and the Oregon Transportation Safety Committee (OTSC) reviewing data for completion of the prior grant year's Annual Evaluation Report. An annual planning meeting is then hosted by the TSO with partner and stakeholder agencies, nonprofits, and other affected groups or populations participating in program break-out sessions to review proposed performance measures and draft data-driven targets for those measures.

The Oregon Highway Safety Plan identifies goals and objectives for each program area. The goals and objectives are evaluated and adjusted yearly.

TSO program managers have monthly meetings, and the TSO unit holds quarterly all-staff meetings.

The TSO has a well-managed, talented, committed, and professional level staff. Due to the large number, duties, and unique responsibilities of staff, it is important that members meet regularly to remain aware and supportive of each other's responsibilities and activities.

Recommendations

- Evaluate if the monthly meetings of the Oregon Department of Transportation's Transportation Safety Office project managers are adequate for the needs and demands of the office.

D. Resources

Advisory

States should allocate sufficient funding, staffing and other resources to support their impaired driving programs. Programs should aim for self-sufficiency and, to the extent possible, costs should be borne by impaired drivers. The ultimate goal is for impaired driving programs to be fully supported by impaired drivers and to avoid dependence on other funding sources.

States should:

- *Allocate funding, staffing and other resources to impaired driving programs that are:*
 - *Adequate to meet program needs and proportional to the impaired driving problem;*
 - *Steady and derived from dedicated sources, which may include public or private funds; and*

- *Financially self-sufficient, and to the extent possible paid by the impaired drivers themselves. Some States achieve financial self-sufficiency using fines, fees, assessments, surcharges or taxes. Revenue collected from these sources should be used for impaired driving programs rather than returned to the State Treasury or General Fund.*
- *Meet criteria to enable access to additional funding through various incentive programs.*
- *Identify opportunities and leverage resources on behalf of impaired driving efforts.*
- *Determine the extent and types of resources available from all sources (local, state, and federal; public and private) that are dedicated to impaired driving efforts.*
- *Designate a position and support the individual in that position with sufficient resources to adequately serve as a focal point for impaired driving programs and issues.*

Status

The Transportation Safety Office (TSO) is an office of the Department of Motor Vehicles (DMV), which is a division within the Oregon Department of Transportation (ODOT). The ODOT management structure includes a Director, four Assistant Directors, DMV Administrator, and a Transportation Safety Office Manager. The office also has a business manager who serves as TSO's Assistant Manager.

The TSO has a staff of 23, including 9 program managers as well as five regional transportation safety coordinators (also program managers), with one based in each of ODOT's five geographical regions. Other staff include an executive assistant, a grants assistant, a data analyst, a driver education compliance specialist, and an operations support specialist..

The project managers serve as subject matter experts, in the areas of bicycle-pedestrian safety, occupant protection, impaired driving, law enforcement/judicial, emergency medical services, distracted driving, aging drivers, motorcycle safety, safe communities, driver education (teens), and roadway safety.

For public relations and media outreach, the TSO utilizes staff from the ODOT Office of Communications.

The TSO has program managers that have focuses and specialties on different traffic safety disciplines. The project manager for impaired driving has an extensive background in law enforcement and impaired driving enforcement. The impaired driving program manager is relatively new to the position but is establishing his position as the focal point for information on impaired driving programs.

In Federal Fiscal Year 2022, the Oregon Highway Safety office received:

- \$5,254,697 in National Highway Traffic Safety Administration (NHTSA) 402 funds
- \$546,471 in NHTSA 405b (Occupant Protection)
- \$606,391 in NHTSA 405c (Traffic Safety Information Systems)
- \$2,239,195 in NHTSA 405d (Impaired Driving)
- \$2,405,500 in NHTSA 405e (Distracted Driving)
- \$66,324 in NHTSA 405f (Motorcycle Safety)
- \$337,592 in NHTSA 405h (Non-Motorized)
- \$375,000 in NHTSA 1906 (Prohibit Racial Profiling)
- \$2,093,064 in NHTSA 164 (Repeat Offender)

The TSO is active in researching and meeting specific criteria that qualifies the TSO for other funding sources from NHTSA.

There are no funding mechanisms that are generated from impaired driving convictions or any other state resources that are forwarded to the TSO for impaired driving program funding.

Recommendations

- Utilize Oregon ID data to support the creation and development of state funding resources for impaired driving prevention.

II. Prevention

Prevention programs are most effective when they utilize evidence-based strategies, that is, they implement programs and activities that have been evaluated and found to be effective or are at least rooted in evidence-based principles. Effective prevention programs are based on the interaction between the elements of the public health model: 1) using strategies to develop resilient hosts, e.g., increase knowledge and awareness or altering social norms; 2) reducing exposure to the dangerous agent (alcohol), e.g., alcohol control policies and; 3) creating safe environments, e.g., reducing access to alcohol at times and places that result in impaired driving. Prevention programs should employ communication strategies that emphasize and support specific policies and program activities.

Prevention programs include responsible alcohol service practices, transportation alternatives, and community-based programs carried out in schools, at work sites, in medical and health care facilities and by community coalitions. Programs should prevent underage drinking or drinking and driving for persons under 21 years of age, and should prevent over-service and impaired driving by persons 21 or older.

Prevention efforts should be directed toward populations at greatest risk. Programs and activities should be evidence-based, determined to be effective, and include a communication component.

A. Responsible Alcohol Service

Advisory

States should promote policies and practices that prevent underage drinking and over-service by anyone.

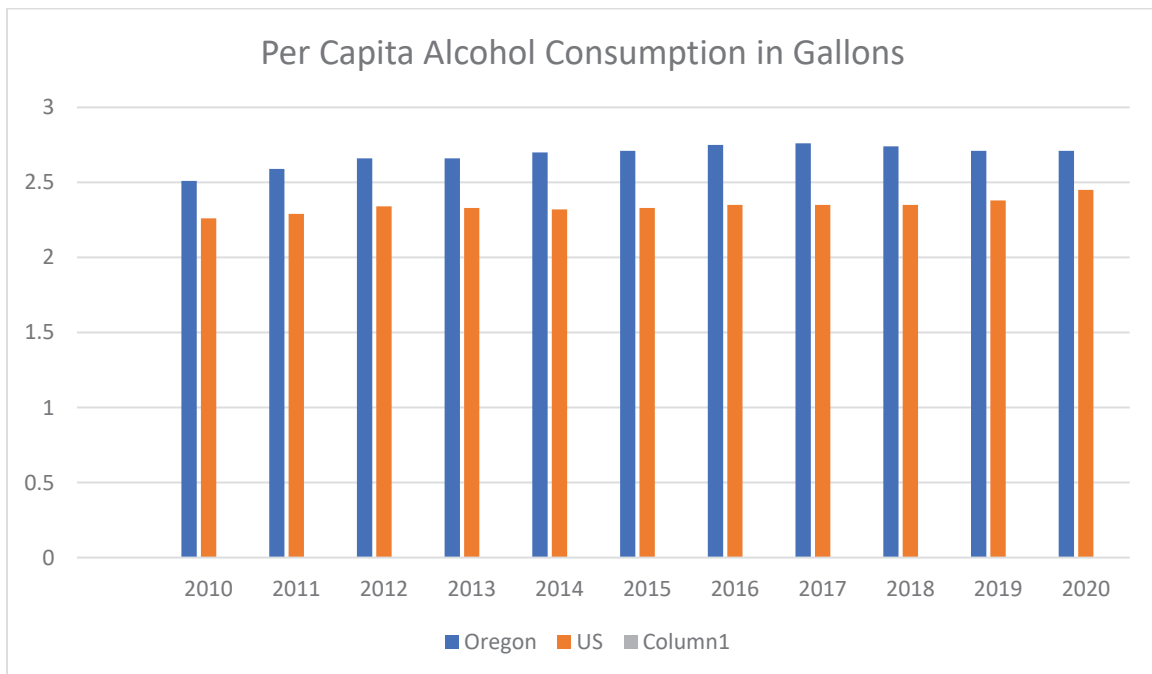
States should:

- *Adopt and enforce programs to prevent sales or service of alcoholic beverages to persons under the age of 21. Conduct compliance checks and “shoulder tap” activities and support the proper use of technology in alcohol retail establishments, particularly those catering to youth, to verify proper and recognize false identification.*
- *Adopt and enforce alcohol beverage control regulations to prevent over-service, service in high risk situations and service to high-risk populations. Prohibit service to visibly intoxicated patrons; restrict alcohol sales promotions, such as “happy hours”; limit hours of sale; establish conditions on the number, density, and locations of establishments to limit impaired driving, e.g., zoning restrictions; and require beer keg registration.*
- *Provide adequate resources including funds, staff, and training to enforce alcohol beverage control regulations. Coordinate with state, county, municipal and tribal law enforcement agencies to determine where impaired drivers had their last drink and use this information to monitor compliance with regulations.*
- *Promote responsible alcohol service programs, written policies, and training.*

- *Provide responsible alcohol service guidelines such as best practices tool kits to organizations that sponsor events at which alcohol is sold or provided.*
- *Encourage alcohol sales and service establishments to display educational information to discourage impaired driving and to actively promote designated driver and alternative transportation programs.*
- *Hold commercial establishments and social hosts responsible for damages caused by a patron or guest who was served alcohol when underage or visibly intoxicated.*

Status

According to the National Institute on Alcohol Abuse and Alcoholism (NIAAA), per capita consumption of alcohol in Oregon in 2020, the last year for which complete data were available, was the equivalent of 2.76 gallons of ethanol per capita. This number has been fairly consistent year over year since 2014. The national average per capita is 2.45 gallons. Oregon ranks 14th (in a three-way tie with Hawaii and Rhode Island) in per capita alcohol consumption in the United States.



Year	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	2020
Oregon	2.51	2.59	2.66	2.66	2.70	2.71	2.75	2.76	2.74	2.71	2.71
U.S.	2.26	2.29	2.34	2.33	2.32	2.33	2.35	2.35	2.35	2.38	2.45
Difference (Ratio)	.90	.88	.88	.82	.86	.86	.85	.86	.86	.88	.90

The Oregon Liquor and Cannabis Commission (OLCC) is the agency responsible for regulating the sale and service of alcoholic beverages in Oregon by administering the state's Liquor Control Act and regulating the production, processing, and sale of recreational marijuana in Oregon through the Control, Regulation, and Taxation of Marijuana and Industrial Hemp Act. The agency also regulates the production, processing, and sale of medical products sold to Oregon Medical Marijuana Program (OMMP) cardholders in OLCC-licensed marijuana retail shops.

The agency is comprised of four major operational programs: the Distilled Spirits Program, the Recreational Marijuana Program, the Public Safety Program, and the Medical Marijuana Program. All four programs are supported by the Administration, Financial Services, and Support Services divisions. Revenue generated from these programs helps support state and local government programs.

The Distilled Spirits Program oversees the distribution and sale of distilled spirits in the State. The Distilled Spirits division centrally purchases, warehouses, and distributes distilled spirits to Oregon's independently operated liquor stores. OLCC's Public Safety Program licenses and regulates businesses in the alcohol industry such as manufacturers, wholesalers, bars, restaurants, grocery stores, and convenience stores.

A liquor license is required for a person, company, or business that wants to sell, manufacture, import, or distribute alcohol. Servers are required to take an in-person or online Alcohol Server Education Class.

An alcohol service permit is required for:

- A server (waitstaff, bartender, manager, etc.) working at a business that allows customers to drink alcohol on the premises (like a restaurant, bar, tavern, winery, temporary special event license, etc.) to mix, sell, or serve alcohol.
- A manager who directly supervises servers who mix, serve, or sell alcohol to customers for drinking on the premises.
- An owner who mixes, serves, or sells alcohol or manages servers at that business and whose name is not individually listed on the liquor license.

The OLCC will deny an Alcohol Service Permit Application for:

- Felony drug or felony crimes of violence convictions
 - One conviction if the incident occurred within two years of the date of the application
 - Two or more convictions if two of the incidents occurred within four years of the date of the application
- Driving Under the Influence of Intoxicants (DUII) or furnishing alcohol to minors' diversions or convictions
 - two or more diversions or convictions if two of the incidents occurred within four years of the date of the application
- A combination of diversions or convictions

- Four or more DUII, furnishing, or felony drug or crime of violence convictions if all of the incidents occurred within 10 years and one incident or arrest was within two years of the date of the application

In the 2020 Oregon Student Health Survey, 8th and 11th grade students were asked: “During the past 30 days, from which sources did you usually get the alcohol you drank?” The responses indicated that 2.4 percent of 8th graders and 7 percent of 11th graders obtained it from a store, gas station, restaurant, or bar.

	State 2020	
	8th	11th
During the past 30 days, from which of the following sources did you usually get the alcohol you drank? (Mark all that apply)*		
Friends under 21	17.3	29.0
Friends 21 or older	11.1	26.0
A parent or guardian, with their permission	44.0	43.0
A parent or guardian, w/o permission	32.0	20.4
Store, gas station, restaurant or bar	2.4	7.0
Public event (e.g. concert or sporting event)	0.7	2.7
I got it some other way	19.7	18.8

* These percents are out of the students who reported drinking in the past 30 days.

	6th	8th	11th
How old were you when you first drank alcohol?			
I have never had a drink of alcohol other than a few sips	88.1	78.2	54.8
14 years old or younger	11.9	21.6	18.9
15 years old or older	n/a	0.2	26.3

Table 50. 30-day use of alcohol

	State 2020		
	6th	8th	11th
During the past 30 days, on how many days did you have at least one drink of alcohol? (Respondents indicating 1 or more days)	2.2	6.1	17.0

The OLCC has a minor decoy operation to ensure that alcohol, marijuana, and other Tetrahydrocannabinol (THC) products aren't sold by OLCC licensees to people under the age of 21. OLCC employs minors 18-20 years old who look under the age of 26 to attempt to buy alcohol and marijuana at retail outlets.

To ensure that licensees are not selling to minors, the OLCC conducts both random and targeted minor decoy operations. Targeted operations are in response to community concerns.

Minor decoys do not disguise their real age or encourage retailers to sell alcohol or marijuana to them.

These decoy operations take place throughout the State with the results posted on the OLCC website. A review of these records shows that these events occur at least several times a month.

In 2010, the Advertising Restrictions rule, OAR 845-007-0020, was amended, removing the prohibition on advertising price reductions for alcohol sold for on-premises consumption, also known as “happy hour” advertising. This rule continued to maintain the prohibitions on advertising that encourage or promote excessive or rapid alcohol consumption.

The federal government collects approximately \$1 billion per month from excise alcohol taxes on spirits, beer, and wine. Taxes on spirits are significantly higher than beer and wine at \$13.50 per gallon, while beer is taxed at \$18.00 per barrel and wine is taxed at \$1.07-\$3.40 per gallon. Oregon has the second highest alcohol tax in the country, only behind Washington. In 2023, Oregon’s alcohol tax was \$21.95 per gallon. Research shows that increasing the cost of alcohol reduces the demand for the product.

Marijuana Usage By Minors in Oregon

	State 2020	
	8th	11th
How old were you when you tried marijuana for the first time?		
I have never tried marijuana	90.7	68.6
14 years old or younger	9.2	13.0
15 years old or older	0.1	18.3

Table 62. 30-day use of marijuana

	State 2020		
	6th	8th	11th
During the past 30 days, on how many days did you use marijuana? (Respondents indicating 1 or more days)	0.9	3.3	13.5

Oregon has a 17 percent excise tax on marijuana which may increase to 20 percent depending on the locality. It is difficult to compare the tax rate to other states with legal marijuana as they often take different approaches in determining their rate. Washington State has the highest marijuana excise tax at 37 percent.

Oregon's dram shop law states that an injured person can hold an alcohol vendor liable after an alcohol-related crash if the injured person can prove, by clear and convincing evidence, that:

- the vendor provided alcohol to the intoxicated person while that person was “visibly intoxicated,” and
- the injured person did not “substantially contribute” to the intoxicated person's state of intoxication.

An injured person might be found to have “substantially contributed” if he or she bought alcohol for the intoxicated person, encouraged the intoxicated person to buy or drink alcohol, or helped add to the person's intoxication in any other way.

An alcohol vendor can also be held liable for providing alcohol to someone who is underage and causes a crash if “a reasonable person would have determined that identification should have been requested or that the identification exhibited was altered or did not accurately describe the person to whom the alcoholic liquor was sold or served.”

In Oregon, the rules that apply to alcohol vendors also apply to social hosts. Therefore, social hosts who provide alcohol to underage or visibly intoxicated guests can be held liable for damages later caused by the guest.

Other

There is a disconnect between the work of OLCC and many of Oregon’s prevention advocates. This includes a lack of coordination in law enforcement sharing documents to better determine who is over-serving alcohol. This lack of communication results in missed opportunities for a strategic focus in addressing underage consumption issues and recognition of some of the successes that the State has realized in alcohol and marijuana sales enforcement.

Recommendations

- Actively promote the work of the Oregon Liquor and Cannabis Commission and other prevention advocates and look for opportunities for collaboration and improve communication.

- **Expand the membership of the Oregon Impaired Driving Task Force to include additional members of the prevention community.**

B. Community-Based Programs

B-1. Schools

Advisory

School-based prevention programs, beginning in elementary school and continuing through college and trade school, can play a critical role in preventing underage drinking and impaired driving. These programs should be developmentally appropriate, culturally relevant and coordinated with drug prevention and health promotion programs.

States should:

- *Implement K-12 traffic safety education, with appropriate emphasis on underage drinking and impaired driving, as part of state learning standards and comprehensive health education programs;*
- *Promote alcohol-and drug-free events throughout the year, with particular emphasis on high-risk times, such as homecoming, spring break, prom and graduation;*
- *Establish and enforce clear student alcohol and substance use policies including procedures for intervention with students identified as using alcohol or other substances, sanctions for students using at school, and additional sanctions for alcohol and substance use by students involved in athletics and other extra-curricular activities;*
- *Provide training for alcohol and drug impaired driving, and Screening and Brief Intervention (SBI) to school personnel such as resource officers, health care providers, counselors, health educators and coaches to enable them to provide information to students about traffic safety and responsible decisions, and identify students who may have used alcohol or other drugs;*

Encourage colleges, universities and trade schools to establish and enforce policies to reduce alcohol, other drug, and traffic safety problems on campus, and to work with local businesses and law enforcement agencies to reduce such problems in neighboring communities;

- *Provide training for alcohol and drug impaired driving, and Screening and Brief Intervention (SBI), to college personnel such as student affairs, student housing, health care providers, counselors, health educators and coaches to enable them to provide information to students about traffic safety and responsible decisions, and identify students who may have used alcohol or other drugs; and*

- *Establish and support student organizations that promote traffic safety and responsible decisions; encourage statewide coordination among these groups.*

Status

The 2020 Oregon State Student Survey (SSS) indicates that Oregon and other states have been primarily concerned with driving under the influence of alcohol. This continues to be a major focus, but drugs and Tetrahydrocannabinol (THC) in particular have also become a major concern with the legalization of marijuana for adults in Oregon in 2015. According to the Centers for Disease Control and Prevention (CDC), motor vehicle crashes (categorized under “unintentional injuries”) are the second leading cause of death for teens. A few Oregon 8th and 11th graders have been passengers in a vehicle that was driven by an alcohol-impaired teen during the past 30 days. However, 11th graders are much more likely to have driven while marijuana-impaired rather than alcohol-impaired.

- 2.5 percent of 11th grade participants reported riding in a car or other vehicle driven by another teenager who had been drinking alcohol
- 0.9 percent reported driving a car or other vehicle after or while drinking alcohol
- 19.1 percent reported driving a car or other vehicle within three hours of using marijuana

It should be noted that the 2020 SSS has several differences from past surveys (Oregon Healthy Teens and Student Wellness Survey) that make comparisons to data points from prior years inaccurate or imprecise. Due to the COVID-19 pandemic and the widespread shift to distance learning, the SSS was administered over a much longer period of time (October 2020 – June 2021) than was originally planned (October – December 2020) and the sample for 11th graders was substantially smaller than in previous years.

Oregon’s legalization of recreational marijuana may have contributed to the large percentage of students who reported driving a vehicle after using marijuana. There is a perception among students that marijuana does not present the same danger as alcohol when driving. This includes misunderstanding of the potency of today’s marijuana along with vaping and the use of edibles. Traditional impaired driving prevention activities such as crash carts and drunk goggles are still popular, although research does not support their effectiveness in bringing about behavioral change. There is a need to improve the quality and “dosage” of drug education programming in Oregon’s schools.

Oregon Drug Evaluation and Classification Program (DECP) offers trainings on drugs of abuse to institutes of higher learning. Examples are given of programming in Medford, Oregon.

While somewhat limited, school faculty receive drug and alcohol education from Oregon’s Drug Recognition Experts through the Drug Impairment Training for Education Professionals (DITEP) program. This helps staff recognize the signs of drug use among

students. There is not a specific K-12 traffic safety program, but the issues surrounding youth and impaired driving are addressed in other student health programs.

School drug, alcohol, and impaired driving prevention materials are often obtained by the districts, as the State does not provide direct oversight. As a result, there may be inconsistencies between jurisdictions and a lack of quality control.

There is also a need to better advertise the existence and availability of staff training on substance use in schools. There appears to be contradictory information on the existence of these programs which speaks to the need to promote ongoing efforts.

Recommendations

- Standardize school-based impaired driving materials for Oregon schools through oversight by an appropriate state agency.

B-2. Employers

Advisory

States should provide information and technical assistance to employers and encourage them to offer programs to reduce underage drinking and impaired driving by employees and their families. These programs can be provided through Employee Assistance Programs (EAP) or Drug Free Workplace programs.

These programs should include:

- *Model policies to address underage drinking, impaired driving and other traffic safety issues, including seat belt use and speeding;*
- *Employee awareness and education programs;*
- *Management training to recognize alcohol and drug use and abuse, and appropriate responses;*
- *Screening and Brief Intervention, assessment and treatment programs for employees identified with alcohol or substance use problems (These services can be provided by internal or outside sources such as through an EAP with participation required by company policy.);*
- *Underage drinking and impaired driving prevention strategies for young employees and programs that address use of prescription or over-the-counter drugs that cause impairment.*

Status

Through Oregon's Substance Use Prevention Coalitions, employers have access to programs designed to reduce underage drinking and impaired driving through education and information dissemination for employees and families. These coalitions or the State can also provide model workplace policies to address underage drinking, substance misuse, impaired driving, and other traffic safety issues, as well as provide management training to recognize and respond to substance misuse.

Recommendations

- Provide impaired driving educational materials to employers for inclusion in company newsletters, posting in facilities and employee work areas, and for use in employee safety training.
- Encourage employers in the State to offer confidential Screening, Brief Intervention and Referral to Treatment (SBIRT) to employees as needed.

B-3. Community Coalitions and Traffic Safety Programs

Advisory

Community coalitions and traffic safety programs provide the opportunity to conduct prevention programs collaboratively with other interested parties at the local level. Coalitions should include representatives of: government; highway safety; enforcement; criminal justice; liquor law enforcement; public health; education; driver licensing and education; employers and unions; the military; medical, health care and treatment communities; multi-cultural, faith-based, advocacy and other community groups.

States should:

- *Encourage communities to establish community coalitions or traffic safety programs, comprised of a wide variety of community members and leaders;*
- *Ensure that representatives of local traffic safety programs participate in existing alcohol, substance abuse, injury control and other related coalitions, (e.g., Drug Free Communities, SPF-SIG), to assure that impaired driving is a priority issue;*
- *Provide information and technical assistance to these groups, including data concerning the problem in the community and information identifying evidence-based underage drinking and impaired driving programs;*
- *Encourage these groups to provide support for local law enforcement and prevention efforts aimed at reducing underage drinking and impaired driving; and*

- *Encourage professionals, such as prosecutors, judges, nurses, doctors, emergency medical personnel, law enforcement officers and treatment professionals, to serve as community spokespeople to educate the public about the consequences of underage drinking and impaired driving.*

Status

The Oregon Governor’s Advisory Committee (GAC) on Driving Under the Influence of Intoxicants (DUII) 2021 Impaired Driving Strategic Plan (IDSP) had 10 stated strategic goals for the coming year. Three of these goals centered on the prevention of impaired driving:

#1 – DUII Prevention Program Management and Activities

Oregon’s DUII Prevention Programs are based on strong leadership and sound policy development. Programs and activities carried out under the Oregon IDSP are guided by problem identification and monitored for effectiveness. The GAC on DUII will promote its existence and mission through numerous avenues. Strategies for DUII Prevention and Program Management and Activities:

1. Formalize activities of the GAC on DUII
2. Keep official minutes for each GAC on DUII meetings
3. Expand GAC on DUII membership to include key areas not currently represented
4. Formalize the operational procedures for the GAC on DUII
5. Assist in providing timely DUII prevention publications, meetings, conferences and other training and education opportunities
6. Make GAC on DUII resources available to any local, state, or national organization interested in or tasked with reducing impaired driving
7. Develop short and long-term objectives in order to meet the goals outlined in the IDSP
8. Assist in enacting legislation that provides resources dedicated to DUII in the state
9. Educate state, county and local officials about the value of DUII initiatives
10. Educate and encourage law enforcement agencies to utilize DUII enforcement grant funding to assist in the statewide efforts to deter DUII

#3 – Increased DUII Education and Training

The GAC on DUII, through its staff and members, will provide encouragement and technical support to further the education and training of police officers, prosecutors, drug recognition experts (DREs), treatment and prevention providers, traffic safety advocates, and others involved in the efforts to reduce DUII in Oregon and nationally.

#7 – Increased DUII Prevention Communications Through ODOT – TSO

Oregon implements a statewide comprehensive transportation safety plan that supports priority policies and program efforts. Campaign materials target at-risk groups who are identified through statewide traffic data and provide special emphasis during high-risk times including the national crackdown periods and high visibility enforcement efforts.

Strategies in the Area of DUII Prevention Communications:

1. Whenever possible, work cooperatively with the media in promoting and publicizing DUII prevention, enforcement activities, and related events that assist in educating the public on the hazards of DUII
2. Whenever possible, prepare articles dealing with DUII and transportation safety
3. Routinely distribute DUII prevention materials to the media and other organizations
4. Continue to conduct periodic public survey polls regarding DUII, including specifically marijuana and driving
5. Continue to assist in the implementation of Oregon's statewide comprehensive transportation plan
6. Utilize focus groups in the development of DUII campaign materials, whenever possible
7. Assist the ODOT TSO to ensure that Oregon DUII related publications and data resources are prepared in a timely manner and provided to appropriate stakeholders in support of, or involved in DUII enforcement, prevention, treatment and educational programs

The Oregon Department of Transportation lists 52 city/county traffic safety committees and commissions funded through the Safe Communities Program. These groups “work to prevent and reduce the loss of life, human suffering, and economic costs resulting from traffic crashes.” In addition to the 52 safety committees, these safe communities’ groups have coalitions. Under development in central Oregon is a coalition built around the geographic area or media market of central Oregon.

Oregon has a myriad of impaired driving prevention programs throughout the State. These programs include:

- Mothers Against Drunk Driving, whose purpose is to “End drunk driving, help fight drugged driving, support the victims of these violent crimes, and prevent underage drinking.”
- Oregon Impact, whose mission is to provide programs to “ensure that our children are riding safely on our roadways, teens understand the consequences of impaired and distracted driving, and the adults in their lives are given the tools to guide them.”
- CLEAR Alliance, whose mission is “raising awareness and educating youth and adults to prevent substance misuse, impaired driving, and to promote mental health and wellness.”
- The Oregon Council for Behavioral Health, whose focus is to promote, develop, and maintain the highest quality community programs and services for the treatment of problems related to behavioral health and to promote the recovery of Oregonians with substance use disorder and/or psychiatric disabilities.

There is a significant lack of coordination between coalitions and providers. Information is not shared and there is a vacuum in receiving impaired driving information from the State. It appears that coalition members and/or providers essentially stumble upon

coalitions that address prevention efforts. Rather than being proactively disseminated, impaired driving information may only be available at the request of the agency or coalition. For example, there is a lack of awareness of state-sponsored or student organizations that promote traffic safety and responsible decision making in Oregon. However, there are organizations that promote traffic safety that are specifically designed for students, such as CLEAR Alliance.

Recommendations

- Proactively disseminate Oregon impaired driving statistics, initiatives, and prevention activities to committees and coalitions focused on impaired driving prevention.
- Compile an exhaustive list of Oregon’s traffic safety and impaired driving prevention groups to support ongoing communication efforts.
- Designate an oversight agency to serve as an information hub to coalitions and committees, allowing them to obtain impaired driving statistics and relevant information to maximize their efficiency.
- **Establish an impaired driving prevention conference with an emphasis on courts, treatment, assessments, and impaired driving prevention support services.**

B-4. Transportation Alternatives

Advisory

Alternative transportation describes methods by which people can get to and from places where they drink without having to drive. Alternative transportation includes normal public transportation provided by subways, buses, taxis, and other means. Designated driver programs are one example of these alternatives.

States should:

- *Actively promote the use of designated driver and safe ride programs, especially during high-risk times, such as holidays or special events;*
- *Encourage the formation of public and private partnerships to financially support these programs;*
- *Establish policies and procedures that ensure designated driver and alternative transportation programs do not enable over consumption by passengers or any consumption by drivers or anyone under 21 years old; and*

- *Evaluate alternative transportation programs to determine effectiveness.*

Status

Studies have shown that approximately half of arrested impaired drivers had their last alcoholic drink at a licensed bar or restaurant. Current efforts to prevent intoxicated patrons from leaving licensed establishments and driving have been only partially successful. Since a high proportion of drinkers drive to their drinking destination, promoting the use of alternative transportation, including safe ride shuttles, free or subsidized taxi and ridesharing services, voluntary or paid designated driver programs, and more accessible public transportation, is an important strategy for preventing impaired driving.

Oregon has actively promoted the use of designated drivers as well as alternative transportation options. The Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) is working to start a grant program to partner with Lyft (and later others if possible) to encourage use of those services. The program will likely be designed around a subsidy program that allows patrons in bar districts and around alcohol-centered events to get a discounted ride home. This will benefit the patron by solving their immediate need to get home safely, while helping them build good habits for when they go out to use alcohol away from home. It will benefit the rideshare providers who participate in the program and who see an increased customer base as more bar patrons seek out these discounted services. The State will benefit by seeing acute and long-term decreases in impaired driving incidences and their resultant crashes which cause serious injury and death, especially in urban/suburban areas of the State where these crashes are most common, but where rideshare services are most likely to be available.

The University of Oregon has established a program called “Duck Rides.” This is a student-led organization dedicated to providing free and accessible transportation to all university students, staff, and faculty. Transportation is available during evening hours and will pick up students within a five-mile radius of campus and is offered at sporting events. A similar program is offered at Oregon State University. These services provide a safe alternative to driving impaired. Caution should be used to discourage excessive or underage drinking.

The TSO uses impactful public service announcements that emphasize the importance of designated drivers. The use of signage in drinking establishments that promote the use of rideshare and designated drivers along with warnings about the penalties for impaired driving may encourage compliance.

Portland’s Tri-Met and C-TRAN offer free public transportation on New Years Eve to discourage impaired driving.

The TSO has worked with rideshare providers in the Portland Metro area to encourage alternative/safe ride participation in areas most affected by impaired driving crashes. There have been efforts to increase these initiatives throughout the State.

As might be expected, rideshare and public/alternative transportation programs are not financially feasible in rural and frontier portions of the State. State and local funding via grants may help promote the use of these alternatives.

Recommendations

- Proactively develop formal private/public partnerships with rideshare companies.
- Require bars and other alcohol retailers to post signage warning about penalties for impaired driving, underage drinking, providing alcohol to underage persons, and promoting the use of designated driver and safe ride alternatives.
- Require cannabis retailers to post signage warning about penalties for impaired driving, underage use, providing cannabis to underage persons, and promoting the use of designated driver and safe ride alternatives.
- Explore funding and incentives for rideshare companies to operate in rural and frontier areas of Oregon.

III. Criminal Justice System

Each State should use the various components of its criminal justice system – laws, enforcement, prosecution, adjudication, criminal penalties, administrative sanctions, and communications, to achieve both specific and general deterrence.

Specific deterrence focuses on individual offenders and seeks to ensure that impaired drivers will be detected, arrested, prosecuted and subject to swift, sure and appropriate criminal penalties and administrative sanctions. Using these measures, the criminal justice system seeks to reduce recidivism. General deterrence seeks to increase the perception that impaired drivers will face severe and certain consequences, discouraging individuals from driving impaired.

A data-driven, evidence-based, integrated, multidisciplinary approach and close coordination among all components of the criminal justice system are needed to make the system work effectively. In addition, coordination is needed among law enforcement agencies, on the State, county, municipal and tribal levels to create and sustain both specific and general deterrence.

A. Laws

Advisory

Each State should enact impaired driving laws that are sound, rigorous and easy to enforce and administer. The laws should clearly: define the offenses; contain provisions that facilitate effective enforcement; and establish effective consequences. Monitoring requirements should be established by law to assure compliance with sanctions by offenders and responsiveness of the judicial system. Noncompliant offenders should be adjudicated swiftly.

The offenses should include:

- *Driving while impaired by alcohol or other drugs (whether illegal, prescription, or over-the-counter), and treating both offenses with similar consequences;*
- *A Blood Alcohol Concentration (BAC) limit of 0.08, making it illegal per se to operate a vehicle at or above this level without having to prove impairment;*
- *Zero Tolerance for underage drivers, making it illegal per se for persons under age 21 to drive with any measurable amount of alcohol;*
- *High BAC (e.g., 0.15 or greater), with enhanced penalties above the standard impaired driving offense;*
- *Repeat offender, with increasing penalties for each subsequent offense;*
- *BAC test refusal, with administrative sanctions at least as strict as the state's highest BAC offense;*
- *Driving with a license suspended or revoked for impaired driving (DWS), vehicular homicide or causing personal injury while driving impaired as separate offenses, with additional penalties;*

- *Open container, which prohibits possession or consumption of any open alcoholic beverage in the passenger area of a motor vehicle located on a public highway or right-of-way; and*
- *Primary seat belt provisions that do not require that officers observe or cite a driver for a separate offense other than a seat belt violation.*

Facilitate effective enforcement by enacting laws that:

- *Authorize law enforcement to conduct sobriety checkpoints, in which vehicles are stopped on a nondiscriminatory basis to determine whether operators are driving while impaired by alcohol or other drugs;*
- *Authorize law enforcement to use passive alcohol sensors to improve the detection of alcohol in drivers;*
- *Authorize law enforcement to obtain more than one chemical test from an operator suspected of impaired driving, including preliminary breath tests, evidentiary breath tests and screening and confirmatory tests for alcohol or other impairing drugs;*
- *Authorize law enforcement to collect blood sample by search warrant in any chemical test refusal situation, consistent with other provisions of criminal jurisprudence which allows body fluids to be collected as evidence of a crime; and*
- *Require mandatory BAC testing of drivers involved in fatal and serious injury producing crashes.*

Effective criminal penalties and administrative sanctions should include:

- *Administrative license suspension or revocation (ALR), for failing or refusing to submit to a BAC or other drug test;*
- *Prompt and certain administrative license suspension of at least 90 days for first offenders determined by chemical test(s) to have a BAC at or above the State's per se level or of at least 15 days followed immediately by a restricted, provisional or conditional license for at least 75 days, if such license restricts the offender to operating only vehicles equipped with an ignition interlock;*
- *Enhanced penalties for test refusals, high BAC, repeat offenders, driving with a suspended or revoked license, driving impaired with a minor in the vehicle, vehicular homicide or causing personal injury while driving impaired, including: longer license suspension or revocation; installation of ignition interlock devices; license plate confiscation; vehicle impoundment, immobilization or forfeiture; intensive supervision and electronic monitoring; and imprisonment;³*

³ Limited exceptions are permitted under Federal statute and regulation, 23 U.S.C. 154 and 23 CFR Part 1270.

- *Separate and distinct criminal penalties for alcohol- and drug-impaired driving to be applied individually or in combination to a single case;*
- *Assessment for alcohol or other drug abuse problems for all impaired driving offenders and, as appropriate, treatment, abstention from use of alcohol and other drugs, and frequent monitoring.*

Effective monitoring should include:

- *supervision of out-of-state offenders;*
- *proven technology (e.g., ignition interlock device, electronic confinement and monitoring) and its capability to produce reports on compliance;*
- *impaired driver tracking systems; and*
- *periodic reports on offender compliance with administrative or judicially imposed sanctions;*
- *Driver license suspension for persons under age 21 for any violation of law involving the use or possession of alcohol or illicit drugs; and*
- *Statutory and rule support for DWI Courts as a sentencing alternative for persistent DWI offenders.*

Status

Oregon has a variety of laws to fight impaired driving.

Offenses

The primary statutes in the push against impaired driving are found in Oregon Revised Statutes [ORS] Chapter 813. Both driving under the influence by alcohol or other drugs is commonly referred to as Driving Under the Influence of Intoxicants (DUII). There is a general provision, ORS 813.010, which makes it an offense to drive under the influence of alcohol or drugs which reads:

1. (1) A person commits the offense of driving while under the influence of intoxicants if the person drives a vehicle while the person:
 - (a) Has 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150;
 - (b) Is under the influence of intoxicating liquor, cannabis, psilocybin, a controlled substance or an inhalant;
 - (c) Is under the influence of any combination of intoxicating liquor, cannabis, psilocybin, a controlled substance and an inhalant; or

(d) Within two hours after driving a vehicle, and without consuming alcohol in the intervening time period, has 0.08 percent or more by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath or blood of the person made under ORS 813.100, 813.140 or 813.150.

The Oregon statute has specific per se provisions that make it illegal to operate a motor vehicle with alcohol in the operator’s blood at levels equal to or greater than blood alcohol content (BAC) level of 0.08. There are no per se levels for any drugs or other substances. Oregon law also does not cover substances that are not “controlled.” In addition to per se cases, prosecutions may also take place without a test or at a BAC level below 0.08 where evidence can be presented that the driver’s mental or physical faculties are negatively impacted to a noticeable or perceptible degree by the use of alcohol and/or drugs.

The Oregon implied consent law allows for DUII drug testing in urine. It does not allow for drug testing in blood.

Commercial motor vehicle operators may be prosecuted at a per se BAC of 0.04.

DUII first and second are misdemeanors prosecuted with increasing punishments for subsequent violations. A third DUII conviction is a felony. In practicality, a felony conviction does not occur until an offender’s fourth arrest, as the first arrest often results in a diversion agreement that does not result in a conviction.

A first DUII conviction carries a \$1,000 to \$6,250 fine and a one-year driver license suspension. Offenders face two days to one year in jail for a first time DUII. Jail may be avoided by completing community service. Persons convicted of DUII must be placed on probation, install an ignition interlock device (IID), be evaluated for drug and alcohol dependence, and may be required to attend a Victim Impact Panel. If the evaluation indicates dependency, treatment may be required.

Fines, incarceration, and license revocations increase with each subsequent conviction as demonstrated by the chart below. A DUII conviction in Oregon that is beyond ten years old cannot be used for enhancement purposes.

OREGON DUII PENALTY CHART	
	PENALTIES
FIRST DUII CONVICTION misdemeanor	<ul style="list-style-type: none"> • Two days (or 80 hours community service) to one year in jail; • \$1,000 to \$6,250 in fines; • Probation; • One year loss of license;

	<ul style="list-style-type: none"> • Ignition Interlock Device for one year; • Alcohol/drug evaluation; • Treatment if required; and an • Optional Victim Impact Panel.
SECOND DUUI CONVICTION misdemeanor	<ul style="list-style-type: none"> • Two days (or 80 hours community service) to one year in jail; • \$1,500 to \$6,250 in fines; • Probation; • Three-year loss of license; • Ignition Interlock Device for two years; • Alcohol/drug evaluation; • Treatment if required; and an • Optional Victim Impact Panel.
THIRD DUUI CONVICTION felony	<ul style="list-style-type: none"> • Ninety days (or 80 hours community service) to five-year incarceration; • \$2,000 to \$125,000 in fines; • Probation/Parole; • Permanent loss of license; • Ignition Interlock Device for two to five years; • Alcohol/drug evaluation; and • Treatment if required.

In spite of the many penalties involved in first offense cases, most first offense defendants are placed in a “diversion” program and do not face those penalties. A diversion program in Oregon is typically one year in length. A person must pay a fee to the court, attend a drug/alcohol evaluation, may be required to attend a Victim Impact Panel, and must participate in and complete a drug/alcohol treatment program if the evaluation indicates a need. The treatment component of the diversion program lasts only 90 days which is considered inadequate to break addiction. Diversion participants are also ordered to abstain from alcohol and drive only a vehicle with an IID. To enter the program, a defendant must plead guilty or no contest. Successful completion of the program leads to a dismissal of the DUUI charge. Failure of the program will result in a conviction and the corresponding penalties.

Probation of offenders in Oregon is also lacking. In most DUUI cases, there is little supervision, no required periodic reports on offenders, and monitoring is not widespread. Technology, other than IIDs, is rarely used for monitoring offenders. Some courts do report use of offender tracking but the practice is rare.

The Oregon Legislature has addressed some aggravating factors for some DUII cases including injury and death caused by a motor vehicle operator, high BAC, and operating DUII with a minor in the vehicle. A person who is convicted of DUII with a passenger under the age of 18 years in the vehicle (and the passenger was at least three years younger than the person driving the motor vehicle) faces a maximum fine of \$10,000. The minimum is not increased for DUII with a minor passenger. Persons with a BAC of 0.15 or higher are subject to a minimum fine of \$2,000.

Causing an injury or death while operating a vehicle while intoxicated may be filed as an assault or manslaughter offense in Oregon. These offenses carry prison time for convictions. Other factors may also occur with a DUII and create enhanced charges. These factors can be factors like reckless driving, recklessly endangering another person, criminal mischief, and “hit and run.” These additional factors may create more incarceration time or enhanced penalties.

In addition to any criminal penalties, persons who operate a motor vehicle at, or above, the per se BAC of 0.08 will have their license administratively suspended for a period of 90 days.

Implied Consent

Any person who accepts the privilege of operating a motor vehicle within Oregon is deemed to have given his or her consent to submit to an approved breath, blood, or urine test for the purpose of determining the alcohol or drug content of his or her blood if the person is lawfully arrested for DUII. Refusing a breath test for alcohol is penalized by a possible administrative license revocation of one year for first offenders. Refusing a urine test for drugs also creates a one-year possible suspension. Repeat offenders or persons on a diversion program, or previously having completed a diversion program, face longer suspensions. A person refusing to take a test also faces a violation with a fine up to \$1,000.

Oregon law allows officers to seek and secure a warrant to draw blood for evidence from suspected impaired drivers. Oregon statutes do not require mandatory testing for drivers involved in fatal and serious injury crashes. The statutes require the officer to have reasonable, articulable suspicion that impairment may be a factor in the causation of the crash.

Preliminary or Portable Breath Testing (PBT) is not used for DUII in Oregon. A PBT may be used in minor in possession of alcohol cases or boating under the influence investigations. Passive alcohol detection devices are not used by law enforcement personnel in Oregon.

Other

Out of state drivers who run afoul of Oregon's DUII laws are treated the same as in-state drivers. Oregon relies on the Interstate Compact to assist with enforcement of DUII penalties for out of state drivers. There is little monitoring of drivers that are living in other states who have violated DUII laws in Oregon.

Minors under the age of 21 operating a motor vehicle while having any alcohol or marijuana in their system face a possible 90 days to one-year driving privilege suspension. Minors under 18 years of age may also be referred to the juvenile court system. If an offender is eighteen years of age (or older) or referred to adult court by the juvenile court, they may be prosecuted for DUII at adult levels of 0.08 BAC or impairment. A "no tolerance" policy for juveniles operating with alcohol in their system has not been initiated for criminal charges, only for license suspensions. Juveniles are also eligible for DUII diversion programs in Oregon.

Other laws involving minors do exist in the campaign to fight impaired driving by minors. Oregon law makes it a misdemeanor for people under 21 to buy, possess, or drink alcohol. The penalties for underage drinking are a fine of \$265 up to \$1,000. The offense also comes with a driver license suspension of one year. A diversion program for a minor in possession also exists in Oregon, allowing the young offender to get the alcohol charge dismissed.

There is a three-stage driver license acquisition procedure for younger drivers in Oregon. A person is eligible for a beginner's permit at 15 years of age if they pass a written driving test. The beginner's permit requires the new driver to be accompanied in the front seat by a licensed driver. After six months of driving, youth are allowed to apply for a second stage or intermediate license. To get a second stage license they must have completed 50 hours of behind the wheel driving and a driver's education course or 100 hours of behind the wheel driving. They also must pass a driving skills test and be enrolled in school. During this second stage, younger drivers under 18 years of age have restrictions between the hours of midnight and 5 a.m. They also have a restriction on passengers under the age of 20. At 18 years of age, drivers get a full unrestricted license.

Oregon has laws to criminalize operating a vehicle during a period of driver license suspension, including DUII or Implied Consent refusal suspensions. If a person is suspended for not paying a traffic ticket or being convicted of four traffic infractions within the last two years, it will likely be a "violation" with only a fine. If the suspension is related to criminal activity such as a DUII, the matter is generally a misdemeanor with punishment up to one year in jail and a fine up to \$6,250. If the suspension or revocation resulted from an assault that causes serious physical injury or death, resulting from the operation of a motor vehicle, the offense can be a felony with possible imprisonment. Driving while License Suspended at any level may also subject the driver to further suspension or vehicle impoundment.

Seat belts are generally required for all drivers and passengers in Oregon. Approved child safety seats are required for children at graduating levels of size and age. Oregon has a primary seat belt law allowing law enforcement to stop a vehicle for failure to wear a seat belt.

Sobriety checkpoints are not allowed under Oregon law. Several court cases from the 1980s ruled checkpoints unconstitutional under the Oregon Constitution. There is an open container law in Oregon which is considered strict. There are no open containers of alcohol allowed by any person in a vehicle whether the car is in motion or parked. There is no beverage keg registration. A keg registration statute existed but was repealed in 2021.

Oregon does impose dram shop liability against businesses and individuals licensed to sell, serve, or provide alcohol. Oregon law also does allow social hosts who supply alcohol to be held liable for damage caused by a guest's intoxication. Social Host liability is guided by case law and is not as strict as liability imposed on businesses.

Oregon has enacted laws decriminalizing drug possession and use. These laws create a difficult environment for reducing the number of persons driving while impaired.

Recommendations

- Increase the treatment component of the Driving Under the Influence of Intoxicants diversion program to a minimum of six months.
- **Amend the law to include all substances that may cause impairment and not just intoxicants that are “controlled” or scheduled.**
- **Enact legislation that allows for implied consent blood analysis for drugs so that such analysis can be used in the prosecution of Driving Under the Influence of Intoxicants.**
- Eliminate any legal impediment to the use of portable breath testing devices and passive alcohol sensors.
- Pass an Oregon Constitutional Amendment that allows the use of sobriety checkpoints.

B. Enforcement

Advisory

States should conduct frequent, highly visible, well publicized and fully coordinated impaired driving (including zero tolerance) law enforcement efforts throughout the State, utilizing data to focus on locations where alcohol related fatalities most often occur. To maximize visibility, the State should conduct frequent sobriety checkpoints, periodic saturation patrols and sustained efforts throughout the year. Both periodic and sustained efforts should be supported by a combination of paid and earned media. To maximize resources, the State should coordinate highly visible, multi-jurisdictional efforts among State, county, municipal and tribal law enforcement agencies to include liquor control enforcement officers. To increase the probability of detection, arrest and prosecution, participating officers should receive training in the latest law enforcement techniques.

States should:

- *Ensure that executive levels of law enforcement and State and local government make impaired driving enforcement a priority and provide adequate resources;*
- *Develop and implement a year round impaired driving law enforcement plan supported by a strategic communication plan which includes:*
 - *periods of heightened enforcement, e.g., three consecutive weekends over a period of 16 days, and frequent sustained coverage throughout the year; and*
 - *high levels of participation and coordination among State, liquor enforcement, county, municipal and tribal law enforcement agencies, such as through law enforcement task forces.*
- *Deploy enforcement resources based on problem identification, particularly at locations where alcohol-related fatal or other serious crashes most often occur;*
- *Conduct highly visible enforcement that maximizes contact between officers and drivers, including frequent, ongoing sobriety checkpoints and saturation patrols, and widely publicize these efforts - before, during and after they occur;*
- *Use technology (e.g., video equipment, portable evidentiary breath tests, passive alcohol sensors and mobile data terminals) to enhance law enforcement efforts;*
- *Require that law enforcement officers involved in traffic enforcement receive standardized state-of-the-art training in the latest law enforcement techniques such as Standardized Field Sobriety Testing (SFST), Advanced Roadside Impaired Driving Enforcement, (ARIDE) emerging technologies for the detection of alcohol and other drugs; selected officers should receive training in media relations and Drug Evaluation and Classification (DEC);*
- *Ensure that officers involved in traffic enforcement receive ongoing refresher training in SFST;*

- *Evaluate the effectiveness of advanced training in the identification and apprehension of drug impaired drivers;*
- *Provide training to enhance law enforcement officers understanding of ignition interlock devices;*
- *Expedite the arrest process, e.g., by reducing paperwork and processing time from the time of arrest to booking and/or release;*
- *Evaluate program effectiveness and efficiency through the use of both output and outcome based performance measures including:*
 - *the level of effort, e.g., number of participating agencies, checkpoints conducted, arrests made;*
 - *public awareness;*
 - *reported changes in behavior, e.g., reported number of drinking driving trips; and*
 - *consequences including alcohol-related fatalities, injuries and crashes.*
- *Use law enforcement professionals to serve as law enforcement liaisons within the State. Their activities would include:*
 - *Serving as a communication bridge between the highway safety office and law enforcement agencies;*
 - *Enhancing law enforcement agencies coordination in support of traffic safety activities;*
 - *Encouraging participation in high visibility enforcement of impaired driving, occupant protection and other traffic safety enforcement mobilizations; and*
 - *Improving collaboration with local chapters of police groups and associations that represent state, county, municipal, and tribal law enforcement.*

Status

Support for impaired driving enforcement among law enforcement executives and state and local government officials varies from jurisdiction to jurisdiction and agency to agency but, despite having a Governor's Advisory Committee (GAC) on Driving Under the Influence of Intoxicants (DUII), there is little indication of broad support. Law enforcement executives are often preoccupied with other issues within their communities. The newly appointed Impaired Driving Program Manager has initiated efforts to better engage executives and government officials. Full scholarships to the annual DUII Conference are provided for law enforcement command staff with invitations sent directly to Chiefs and Sheriffs encouraging their attendance. The Program Manager has

also sought to meet personally with law enforcement executives to discuss ways that the Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) could support their efforts, and to brainstorm new ways to address DUII in their communities. Individual officers or teams who go above and beyond to combat impaired driving are also being recognized via commendation letters addressed directly to executives, and often copied to local government leaders to remind them of the significance of the DUII problem, that they have the right people in place to do the work, and that those people need their support.

The GAC on DUII, established by executive order in 1983, publishes an Oregon Impaired Driving Strategic Plan. This Strategic Plan lists among its objectives, to “(e)ducate state, county, and local officials about the value of DUII initiatives,” and to “(e)ducate and encourage law enforcement agencies to utilize DUII enforcement grant funding to assist in the statewide efforts to deter DUII.” The GAC has produced the *Impaired Driving High Visibility Enforcement Emphasis Patrol Best Practices Guide* to provide best practices for conducting high visibility enforcement (HVE).

To promote DUII enforcement and to effectively use available funding, the TSO makes grant funding available to law enforcement agencies that have a data-driven need to conduct traffic enforcement projects within their communities. Seventy-four of the 174 law enforcement agencies in Oregon receive grant funding to support impaired driving enforcement; one, the Oregon State Police (OSP), is funded directly by the TSO and 73 are funded through Oregon Impact, a non-profit organization that “is in the business of saving lives by building awareness to the risks of DUI.”

The TSO has a well-established process for identifying annual impaired driving enforcement plans that begins with a problem analysis using the most recently available state crash and Fatality Analysis Reporting System (FARS) data. Using this data, TSO program managers establish performance goals against which project proposals are evaluated. The crash data used in the problem analysis is generally almost two years old.

Crash data collection is a slow, tedious process since almost all the data must be manually coded and entered at ODOT. Few agencies use electronic crash reporting. The delay in data entry delays analysis, which hampers the timely release of crash data.

The TSO shares impaired driving crash data with their partners each year to help direct enforcement to the most problematic locations; however, discretion is granted concerning the actual deployment of personnel.

The TSO requires each law enforcement agency receiving grant funding to participate in both of the National Highway Traffic Safety Administration (NHTSA)’s HVE periods, Christmas/New Years and Labor Day. However, there appears to be no consequence for an agency failing to meet this requirement. Law enforcement agencies are encouraged, but not required, to participate in stepped up enforcement for the Super Bowl, St. Patrick’s Day, Memorial Day, and the Fourth of July. They are given wide latitude in how they use impaired driving grant funds outside of the two NHTSA HVE periods so as

to better address local events that may yield impaired driving, such as fairs, festivals, and sporting events.

Each law enforcement agency must report grant-funded activity. These reports are transmitted to the TSO Impaired Driving Program Manager who closely monitors the reported activity to ensure efficient and effective use of grant funds.

The OSP regularly partner with allied agencies to help maximize enforcement efforts and enhance the perception of omnipresence. Smaller agencies are encouraged to work collaboratively, particularly during HVE periods, to maximize the law enforcement visibility but it is not required.

Article 1 Section 9 of the Oregon Constitution, dealing with unreasonable searches and seizures, prohibits sobriety checkpoints in Oregon. Saturation patrols are encouraged but there is no set number of assigned personnel to qualify as an HVE or saturation patrol, and there are no required numbers of HVE events that must be conducted.

TSO grant agreements with law enforcement agencies require pre- and post-event media releases. Copies of these releases must be submitted with claims for each event. The use of social media is an accepted mode of media release, even if it is the only mode, and it is the most common method used to inform the public of upcoming enforcement events and the results of those events. While an effective means of informing followers of an agency's social media platforms, using social media exclusively likely misses a significant segment of the target population.

Preliminary Breath Test (PBT) devices and Passive Alcohol Sensors (PAS) are not used in Oregon. Oregon law concerning the use of breath testing devices (ORS 183.335 & 813) does not specifically prohibit the use of PBTs or PAS to screen for the presence of alcohol, but the implied consent law stipulates that a driver suspected of being impaired must provide one breath sample. If a PBT, which has no evidential value in impaired driving cases, were to be used, the arresting officer could not then compel a driver to submit an evidential breath test since that driver will have already provided a sample when the PBT was used.

The TSO has historically not granted funding for equipment to enhance impaired driving enforcement. That approach is being reevaluated under new leadership.

Standardized Field Sobriety Testing (SFST) training is a required minimum standard in all law enforcement training academies in Oregon. To help ensure proficiency, any law enforcement officer working under TSO grant funding must have received basic SFST, SFST Refresher, or Advanced Roadside Impaired Driving Enforcement (ARIDE) training, within three years prior to the grant-funded activity.

To help ensure law enforcement officers have the most up-to-date impaired driving enforcement training available, numerous SFST refresher and ARIDE classes are offered each year and one DRE school is conducted.

Year	DRE Schools	DRE Students	ARIDE Classes	ARIDE Students	SFST Refresher Classes	SFST Refresher Students
2021	1	20	21	214	48	462
2020	1	16	7	117	32	291
2019	1	16	11	204	76	683
2018	1	21	11	222		
2017	2	23	7	142		

Two hundred and fifty officers received SFST refresher training in 2022. SFST refresher training consists of four hours of classroom instruction. An additional two hours are added to the class if the host agency wants to include an alcohol workshop.

Oregon takes steps to help ensure each officer has the best opportunity to succeed as they advance in levels of impaired driving enforcement training. To attend an ARIDE class, an officer must have successfully completed basic SFST training, a Drugs that Impair Driving (DID) course, a recent SFST refresher class, and have at least one year of law enforcement experience. To attend DRE training an officer must:

- have a minimum of two years of law enforcement service and be off probationary status,
- must be working in a patrol function,
- must be SFST trained to included DID,
- must be a certified Intoxilyzer 8000 operator,
- must have a reasonable background and experience level of making DUII arrests,
- must have a written endorsement and recommendation from their local prosecutor,
- must have written endorsements and recommendations from two local DREs, and
- must submit two actual DUII arrest reports for review.

Oregon has no formal process for evaluating the effectiveness of advanced training provided to improve an officer’s ability to identify and apprehend drug impaired drivers. A five-year comparison of DRE data reveals an actual decline in the number of DRE evaluations conducted despite an increase in the number of ARIDE classes and students trained. However, the comparison also reveals a decrease in the number of DREs in Oregon: a 15 percent decrease over the same five years. The State DRE Coordinator along with regional DRE coordinators in the State are exploring ways to help retain experienced DREs as it is becoming more and more difficult to replace the number who leave the program each year, much less grow the program. To help a DRE meet the required number of training hours for recertification every two years, the TSO hosts a DUII conference every year and a DRE conference every two years. Attendance at either of these would suffice for DRE retraining. Other training that a DRE attends on their own may qualify toward the required retraining at the discretion of the state DRE Coordinator.

The reduction in the number of DREs alone cannot account for the 52 percent reduction in the number of DRE evaluations conducted during the same time. Certainly, issues related to the COVID-19 pandemic had an effect on all traffic enforcement during 2020 and the passage of Ballot Measure 110 in November 2020 exacerbated the problem into 2021. However, the decline in the number of DRE enforcement evaluations began a few years prior to those circumstances.

Year	DREs	Enforcement Evaluations
2021	180	855
2020	176	882
2019	187	1,107
2018	212	1,501
2017	213	1,781

A DRE evaluation is not conducted until after a driver is arrested for a DUII offense and a breath test has been administered. Since there is no system in Oregon to determine, with any degree of certainty, the number of drivers charged with a DUII offense, it is impossible to determine if an overall drop in the number of DUII arrests contributed to the decline in DRE evaluations.

Ignition interlock devices (IID) are required under ORS 813.602 for all persons convicted of a DUII offense, whether the offense involved alcohol or drugs. The OSP is responsible for overseeing the ignition interlock program, the ignition interlock companies, service centers, and technicians throughout the State. Training to help officers determine if an ignition interlock is required, if the device has been tampered with or disabled, and how to properly charge someone who is violating any of the provisions is available. The training is not required nor is it provided as part of academy level training. It is most frequently provided at impaired driving conferences and during SFST refresher classes. The OSP has educational information, including videos, about IID and regulations on their website for officers and for drivers who are required to have an IID. Most ignition interlock infractions are reported to the Department of Motor Vehicles (DMV) by ignition interlock providers.

Oregon permits the use of electronic and telephonic search warrants to obtain evidence for impaired driving offenses, including obtaining blood specimens when a DUII suspect refuses to provide a required urine specimen. The use of electronic or telephonic search warrants is not standardized or consistent across the State, nor is training for either of these processes. The acceptance and procedures for use are established by the judiciary in each county.

While electronic and telephonic search warrants are permitted and do help expedite the DUII arrest and evidence collection process, obstacles are still encountered in some locations when a person authorized to draw blood is not available or refuses to draw the specimen. There are no laws in Oregon specifically preventing law enforcement officers from being trained as phlebotomists but there is no law specifically authorizing it either.

If law enforcement officers were authorized to draw blood specimens it is believed that would make it easier and more expeditious to obtain evidential specimens in many cases.

Oregon statutes 135.230 to 135.290 place restrictions on when an offender may be jailed pre-trial for a DUII offense. Without the establishment of an articulable risk to the community, offenders must be released after processing. They cannot be required to post bail. This allows an arresting officer to release a DUII offender immediately after processing rather than having to wait for the offender to be seen by a court officer or from having to transport the offender to a detention facility.

While only 74 of the 174 law enforcement agencies in Oregon receive grant funding and participate in HVE, TSO personnel make an effort to recruit more law enforcement agencies. This is largely the responsibility of TSO's Impaired Driving Program Manager and five Regional Transportation Safety Coordinators.

The TSO employs one Law Enforcement Liaison (LEL). The LEL's primary function seems to be coordinating training for law enforcement agencies rather than the traditional role of trying to engage more law enforcement agencies to support TSO initiatives. This traditional LEL role is currently being relegated to the Regional Transportation Safety Coordinators, none of whom have any law enforcement experience.

Breath testing on an Intoxilizer 8000 is used to determine a driver's blood alcohol concentration. If a suspected impaired driver refuses to provide a breath test, a search warrant for blood may be requested. Blood specimens obtained for alcohol analysis are tested by the OSP crime lab.

Urine is the accepted means for determining the presence of drugs in a driver's system. Urine specimens are tested by the OSP Crime Lab. In cases where a requested urine specimen is refused by a driver, a blood specimen may be obtained in compliance with a search warrant issued by a judicial officer. Blood specimens to be tested for drugs are outsourced to NMS Labs in Pennsylvania. A grant from TSO pays the expenses if an NMS toxicologist from Pennsylvania is needed for court testimony. Aside from a lack of resources, there is nothing preventing the OSP Crime Lab from testing evidentiary blood specimens for the presence of drugs.

Urine testing is unable to determine the concentration of a drug; it shows only the mere presence or lack thereof. Since the passage of Ballot Measure 110 in 2020, which legalized the possession and use of many drugs that have traditionally been illegal, showing the mere presence of a drug in a driver's system does little to help substantiate a charge of impaired driving. To help facilitate in-state testing of evidentiary blood specimens for drugs, the OSP Crime Lab has acquired six new toxicology technicians who are being trained to conduct both urine and blood testing. The training usually takes about six months.

The Coordinator of the DRE program in Oregon is, and has been since the beginning of the program in 1995, a sworn member of the OSP who is a certified DRE. OSP requires the Coordinator to work out of OSP General Headquarters in Salem. All three of these requirements tend to limit the number of potential applicants for the position of DRE Coordinator. While having experience as a DRE is deemed beneficial for a program coordinator, the need for the Coordinator to be a member of OSP and to be housed in Salem is not as obvious.

Recommendations

- Establish a clear job description for a law enforcement liaison consistent with the objectives of:
 - Serving as a communication bridge between the highway safety office and law enforcement agencies
 - Enhancing law enforcement agencies' coordination in support of traffic safety activities
 - Encouraging participation in high visibility enforcement of impaired driving, occupant protection, and other traffic safety enforcement mobilizations
 - Improving collaboration with local chapters of police groups and associations that represent state, county, municipal, and tribal law enforcement
- **Establish a statewide program of standardized electronic warrants for the purpose of obtaining evidentiary blood specimens for suspected impaired drivers and provide appropriate training.**
- Explore the necessity for and feasibility of using law enforcement phlebotomists to draw evidentiary blood specimens.
- Increase the number of Advanced Roadside Impaired Driving Enforcement (ARIDE) classes to at least pre-pandemic levels.
- Conduct at least two Drug Recognition Expert (DRE) classes each year.
- **Establish a statewide electronic crash reporting system.**
- Promote the resources available to help law enforcement officers better understand the requirements of the ignition interlock program.
- Eliminate any legal impediment to the use of portable breath testing devices and passive alcohol sensors.

- Communicate more effectively with law enforcement and government leaders to emphasize the importance of consistent impaired driving enforcement and participation in Oregon Department of Transportation’s Transportation Safety Office initiatives.

C. Prosecution

Advisory

States should implement a comprehensive program to visibly, aggressively and effectively prosecute and publicize impaired driving-related efforts, including use of experienced prosecutors, to help coordinate and deliver training and technical assistance to those prosecutors handling impaired driving cases throughout the State. Effective prosecution can include participation in a DWI Court program.

Prosecutors who handle impaired driving cases often have little experience, are responsible for hundreds of cases at a time, and receive insufficient training.⁴

States should:

- *Make impaired driving cases a high priority for prosecution and assign these cases to knowledgeable and experienced prosecutors;*
- *Encourage vigorous and consistent prosecution of impaired driving (including youthful offender) cases, particularly when they result in a fatality or injury, under both impaired driving and general criminal statutes;*
- *Provide sufficient resources to prosecute impaired driving cases and develop programs to retain qualified prosecutors;*
- *Employ experienced prosecutors, such as State Traffic Safety Resource Prosecutors, to help coordinate and deliver training and technical assistance to prosecutors handling impaired driving cases throughout the State;*
- *Ensure that prosecutors who handle impaired driving cases receive state-of-the-art training, such as in Standardized Field Sobriety Test (SFST), Drug Recognition Expert (DRE), and emerging technologies for the detection of alcohol and other drugs. Prosecutors should learn about sentencing strategies for offenders who abuse these substances and participate in multi-disciplinary training with law enforcement personnel;*
- *In drug-impaired driving cases, encourage close cooperation between prosecutors, state toxicologists and arresting law enforcement officers (including DRE). Their combined expertise is needed to successfully prosecute these cases;*

⁴ Robertson, Robyn D. and Herb M. Simpson “DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution.” Ottawa, Traffic Injury Research Foundation, 2002.

- *Establish and adhere to strict policies on plea negotiations and deferrals in impaired driving cases and require that plea negotiations to a lesser offense be made part of the record and count as a prior impaired driving offense; and*
- *Encourage prosecutors' participation in DWI Courts as a sentencing alternative for persistent DWI offenders.*

Status

Prosecuting attorneys have a significant responsibility in the administration of criminal Driving Under the Influence of Intoxicants (DUII) cases in all states including Oregon. Misdemeanor DUII cases are filed in Municipal, Justice, or Circuit Courts. Justice Courts and Municipal Courts are limited jurisdiction courts. There are 32 Justices of the Peace serving in 21 Oregon counties. There are 130 Municipal Judges sitting in 137 Municipal Courts in some of the larger cities in the State. Circuit Court Judges are state judges. There are 179 Circuit Court Judges in 27 Districts. Circuit Court Judges serve their elected counties.

In addition to handling misdemeanor DUII cases, the Justices of the Peace hear cases involving minor traffic, boating violations, fish and game offenses, small civil claims, and some county ordinances. Municipal Judges hear misdemeanor matters involving violations of city ordinance and some state statutes that regulate animal control, fire, and parking and traffic violations within the city limits of the municipality they serve. Not all Justices of the Peace or Municipal Judges handle DUII cases. Circuit Courts are the trial courts of the Oregon state unified court system. Most misdemeanor and all felony DUII cases are filed in Circuit Courts. Judges in Circuit Courts also handle most other criminal and civil matters.

Prosecutions in Circuit and Justice Courts are handled by the local District Attorney's Office. There are 36 District Attorneys, one for each county. Prosecution in Municipal Courts is handled by city attorneys.

District Attorney prosecutor's offices range in size across the State depending on case load and population. Municipal Court prosecutors, city attorneys, are hired by the municipality and offices also range in size based upon the size of the municipality.

Prosecutors are all licensed attorneys. The responsibility of each prosecutor includes the preparation and presentation of criminal cases, including DUII cases. Cases are initiated by any of Oregon's law enforcement agencies but the district or city attorneys have the final decision on whether to pursue a case. District or city attorneys also have the responsibility to handle criminal case appeals. Most prosecution offices claim that DUII cases have a high priority in their offices although some district attorneys' offices have lessened their focus on DUII cases in recent years.

The Oregon Attorney General or an Assistant Attorney General has authority to prosecute in any of the State's Courts. They will do so if a conflict exists and the local city or district attorney could not take part in the case for some ethical reason. A prosecutor from

the Attorney General's office may also have a special expertise that suggests they should take part in the prosecution of certain cases.

Oregon has a Traffic Safety Resource Prosecutor (TSRP) who works for the Oregon Department of Justice, a division of the Attorney General's Office. The TSRP acts as a liaison between prosecutors, the judiciary, law enforcement, and community groups. In addition, the TSRP provides a variety of services, such as training for law enforcement, prosecutors, and preparation of publications. When needed, the TSRP also serves as a trial prosecutor in Oregon under the authority of the Attorney General's Office. States, including Oregon, have seen a significant impact on effectiveness of prosecutorial efforts through direct TSRP assistance and training.

The Oregon State Police have two toxicology labs. Toxicologists analyze urine in drug impairment cases. Due to the number of cases, blood samples are sent out of state to Pennsylvania for analysis.

There is an Oregon prosecuting attorney's organization. It is the Oregon District Attorney's Association (ODDA). It is a statewide non-partisan organization comprised of the elected district attorneys and their staffs throughout Oregon's 36 counties.

There are no standards regarding education or training for Oregon's prosecutors. They must maintain state bar-required continuing legal education hours but prosecution-related education is not mandated. There is quality education generally offered yearly by the ODDA for the prosecution of DUII cases. The TSRP facilitates and speaks at DUII-related educational offerings.

Oregon's DUII prosecutors are also generally more inexperienced attorneys because there is turnover in most offices responsible for prosecution. Retention of prosecuting attorneys is difficult due to salaries and benefits below those provided in private practice. In addition to turnover, prosecutors also move up in the offices and handle cases considered more serious. The benefits of having more experienced litigators for DUII cases is obvious.

In some of the larger offices, there may be prosecutors who specialize in DUII cases. However, many prosecutors are spreading their time handling a variety of different tasks. Specialization often produces skill in the area of impaired driving prosecution.

Since the prosecution of DUII cases is done by prosecutors from varying office sizes and training levels, there is some concern regarding the skill of prosecution statewide. This should not be interpreted to say that a significant number of prosecutors are not dedicated, hardworking, and attempting to make a difference. However, obvious benefits in criminal prosecution, including impaired driving prosecutions, can be gained through efforts to bolster the ability of all individuals performing this important function.

Recommendations

- Ensure training opportunities are available for prosecutors that will assist their knowledge and skills in impaired driving cases including drugged driving cases.
- Improve salary and benefit packages for assistant district attorneys and city attorneys who prosecute Driving Under the Influence of Intoxicants to assist in retention of qualified prosecutors.

D. Adjudication

Advisory

States should impose effective, appropriate and research-based sanctions, followed by close supervision, and the threat of harsher consequences for non-compliance when adjudicating cases. Specifically, DWI Courts should be used to reduce recidivism among repeat and high BAC offenders. DWI Courts involve all criminal justice stakeholders (prosecutors, defense attorneys, probation officers and judges) along with alcohol and drug treatment professionals and use a cooperative approach to systematically change participant behavior. Where offender supervision⁵ is housed within the judicial branch, the guidelines of Section V(A)(1) should be utilized by the judiciary.

The effectiveness of enforcement and prosecution efforts is strengthened by knowledgeable, impartial and effective adjudication. Each State should provide the latest state-of-the-art education to judges, covering Standardized Field Sobriety Testing (SFST), Drug Recognition Expert (DRE), alternative sanctions and emerging technologies, such as ignition interlock devices (IID).

Each State should utilize DWI Courts to help improve case management and to provide access to specialized personnel, speeding up disposition and adjudication. DWI Courts also improve access to assessment, treatment, and sentence monitoring. Each State should provide adequate staffing and training for community supervision programs with the necessary resources, including technology, such as IID, to monitor and guide offender behavior.

States should:

- *Involve the State's highest court in taking a leadership role and engaging judges in effectively adjudicating impaired driving cases and ensuring that these cases are assigned to knowledgeable and experienced judges;*
- *Encourage consistency in the adjudication of impaired driving (including youthful offender) cases, and the imposition of effective and appropriate sanctions, particularly when impaired driving resulted in a fatality or injury;*

⁵ Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002.

- *Provide sufficient resources to adjudicate impaired driving cases in a timely manner and effectively manage dockets brought before judges;*
- *Ensure that judges who handle criminal or administrative impaired driving cases receive state-of-the-art education, such as in technical evidence presented in impaired driving cases, including SFST and DRE testimony, emerging technologies, such as IID, for the detection of alcohol and other drugs, and sentencing strategies for this class of offenders; and*
- *Use court strategies to reduce recidivism through effective sentencing and close monitoring, by either establishing DWI Courts, encouraging drug courts to hear impaired driving cases, or encouraging other courts to adopt DWI/Drug Court practice. These courts increase the use of drug or alcohol assessments, identify offenders with alcohol or drug use problems, apply effective and appropriate sentences to these offenders, including abstinence from alcohol and other drugs and closely monitor compliance, leading to a reduction in recidivism.⁶*
- *Eliminate ethical obstacles, such as ex parte or commitment communications, by adopting the current Model Code of Judicial Conduct so that judges can participate more freely in DWI Court administration;*
- *Provide adequate staffing and training for community supervision programs with the necessary resources, including technology such as IID and electronic confinement, to monitor and guide offender behavior and produce periodic reports on offender compliance; and*
- *Incorporate into judicial education and outreach administration the position of Judicial Outreach Liaison as a judicial educator and resource on highway traffic safety issues including impaired driving, and as an agent to create more DWI Courts.*

Status

Case Management

In Oregon, misdemeanor Driving Under the Influence of Intoxicants (DUII) cases are filed in Justice, Municipal, or Circuit Courts. Justice and Municipal Courts are limited jurisdiction courts. The Judges of Justice Courts are Justices of the Peace. There are 32 Justices of the Peace serving in Justice Courts established in 21 Oregon counties. There are 130 Municipal Judges sitting in 137 Municipal Courts in cities in the State.

Not all Justices of the Peace handle DUII cases. Justices of the Peace usually hear cases involving minor traffic, boating violations, fish and game offenses, small civil claims, and some county ordinances. Justices of the Peace are elected to six-year terms. Justices

⁶ Freeman-Wilson, Karen and Michael P. Wikosz, “Drug Court Publications Resource Guide, Fourth Edition.” Alexandria, VA: National Drug Court Institute, 2002.

of the Peace do not have to be licensed attorneys but some are. Prosecution in Justice Courts is handled by the local District Attorney's Office.

Municipal Courts are served by Judges who hear misdemeanor matters involving violations of city ordinance and some state statutes that regulate animal control, fire, and parking and traffic violations within the city limits of the municipality they serve. Some hear DUII cases or other misdemeanors but not many. Municipal Court Judges may be appointed and a few are elected. Terms vary due to each municipality's ordinances or charter. A law license is not required to serve as a Municipal Judge by State law although many are, or required by local ordinance, to be licensed attorneys. Prosecution in a municipal court is facilitated by the local City Attorney. A City Attorney may handle some cases of concern to the city.

Circuit Courts are the trial courts of the Oregon State Unified Court System. Most misdemeanor and all Felony DUII cases are filed in Circuit Courts. Circuit Courts handle more serious criminal and civil matters. Oregon has 27 Circuit Judicial Districts making up the State's general jurisdiction courts. These Circuit Courts serve Oregon's 36 counties. The 27 Judicial Districts are served by 179 Circuit Court Judges who serve their elected counties. Prosecutions in Circuit Courts are handled by the State's District Attorneys. There are 36 District Attorneys, one for each county.

All DUII trials, including misdemeanors, are held before a jury unless waived.

Appeal of Circuit Court cases, including felony DUII convictions, go to two appellate courts: the Oregon Court of Appeals and the Oregon Supreme Court. The Oregon Court of Appeals hears all appeals from the Circuit Courts with the exception of tax court cases or death penalty matters. There are 13 Court of Appeals Judges who hear cases on four panels. The Court can affirm, modify, or set aside the decisions on appeal. Judges on the Court of Appeals serve six-year terms.

The Oregon Supreme Court is the highest court in the Oregon judicial system. The Supreme Court hears appeals from the Court of Appeals along with having tax and death penalty cases. There are seven Justices on the Court and they are elected to six-year terms. Three judges must vote to hear a case appealed from the Court of Appeals or the Court of Appeals decision becomes final. If the Court accepts a case, they can affirm, modify, or set aside the decisions. Decisions at the Supreme Court are final unless challenged in U.S. Federal Courts.

Cases from Municipal and Justice Courts are appealed to the Circuit Courts. Some are appealed on the record if the court is a court of record. The Circuit Court may affirm, modify, or set aside convictions from the Justice or Municipal Courts. If the Municipal or Justice Court is not a record court, the case is tried "De Novo" meaning the defendant gets an entirely new trial in Circuit Court.

Prosecutions in Justice and Circuit Courts for DUII cases are the responsibility of the State's 21 District Attorneys. District Attorney prosecutor's offices range in size across

the State depending on case load and population. Prosecutors are all licensed attorneys. Prosecutions in Municipal Courts are handled by City Attorneys.

Education

All Judges must attend continuing legal education each year. To promote competency and professionalism, Oregon judges have in-person seminars and computer-based training and education through remote electronic means. All attorney sitting judges must obtain a minimum of 45 hours of education during each three-year reporting period. No mandatory training is required in the handling of traffic or DUII cases.

The Oregon Municipal Judges Association and the Oregon Justice of the Peace Association trade off on annual conferences in Oregon. The Municipal Judges Association stages two seminars a year and provides monthly online offerings. They also coordinate with the Oregon Department of Transportation, which has its own annual conference for judges. This conference is intensive on traffic safety and the adjudication of DUII cases. Circuit Court Judges get education at their annual Circuit Court Judges Conference and at an annual judicial conference staged by the Oregon Judicial Department. There is no annual mandatory education requirement for the handling of DUII cases. Municipal Judges and Justices of the Peace who attend conferences offered by the Municipal Judges Association receive good annual training on handling impaired driving cases. However, Circuit Court Judges receive little education on an annual basis on impaired driving adjudication.

An educational opportunity that might be lacking in Oregon would be a State-sponsored seminar dedicated to impaired driving adjudication. DUII adjudication is a significant amount of the caseload in many courts. In addition, driving while impaired by drugs is a growing problem. It could be suggested that intensive training in these areas could be beneficial.

Specialized Courts

There are currently specialized “problem solving” treatment courts in Oregon. These courts are heavily weighted in the treatment of repeat offenders. The heart of a treatment court is more intensive oversight, substance abuse testing, and additional treatment. In return for the additional supervision, offenders may avoid periods of incarceration, gain sobriety, and become more productive members of society. Members of the judiciary are supportive of the concept and success has been shown in Oregon. These programs include adult drug courts and approximately a dozen DUII courts in the State of Oregon.

Other

Driving Under the Influence reduction and diversion programs are controversial in the area of DUII adjudication nationwide. Oregon has a legal prohibition against reduction of DUII cases. Oregon does have a robust diversion program which allows first offenders to have their DUII case dismissed. Prosecutors and Judges often feel these diversion practices are necessary due to the significant numbers of DUII cases, available time, limited jail space, and court resources.

In Oregon, there is a lack of sentencing consistency and monitoring in the courts. This is primarily due to the non-centralized structure of the courts and varying population sizes of the areas being served by the courts. A thorough examination of the practice of diversions, sentencing, and treatment monitoring which would result in data-driven uniformity and enforcement of terms would be a good initial step in ensuring that offenders are being held accountable for crimes and receiving assistance in any necessary lifestyle changes.

Justice and Municipal Courts generally do not utilize formal probation services for misdemeanor DUII cases. Circuit Courts, while having more established probation services, still do not utilize probation in an in-depth manner. Probationary services for DUII offenders are generally useful in securing treatment and lifestyle changes for offenders. Adding more effective probation services will likely require additional resources for support staff and probation personnel. Exceptions in some counties and cities exist where DUII Courts or Drug Courts are active. Those counties have provided some oversight services and positive results have been shown.

Trial delays and docket management problems vary in the State with some reporting long delays and others disposing of cases in a timely manner. Most diversion programs require action within 30 days which results in quick disposal of most cases. Due to COVID-19, court cases may be further backlogged in some jurisdictions. These areas should always continue to be monitored and resources allocated to ensure effective, prompt resolution of all cases, including impaired driving filings.

The Oregon Supreme Court has shown support for treatment courts. Otherwise, the Court has not exhibited significant leadership in the efforts to curb impaired driving.

Some Justice of the Peace and Municipal Judges are not licensed attorneys. Proponents of having non-law trained judges argue it is necessary due to the low availability of attorneys in some jurisdictions. They also claim non-lawyer judges have proven skill in adjudication and are able to properly decide cases filed in their courts. Some challengers to the system of having non-attorney judges argue judges should have more legal preparation before taking the bench. They also claim some non-law trained judges fail to properly protect rights afforded defendants. Whether it is proper to have non-lawyer judges continues to be debated in forums across the country.

Oregon also utilizes a few Justice and Municipal Courts that are non-record courts. If a case is tried in a non-record court, the appeal will require a completely new trial in Circuit Court. It can be argued that the use of non-record courts is inefficient.

Oregon has a State Judicial Outreach Liaison (JOL) to assist the judiciary. State JOLs function as teachers, writers, consultants, and subject matter experts to share the latest research and best practices on addressing impaired driving and recidivism. The State JOL in Oregon has been very effective and is a strong advocate for legislative change, problem solving courts, and more DUII education. The State JOL has also been available when called upon for education to judges and law enforcement. Oregon has benefitted from the leadership shown by the State JOL.

Recommendations

- **Create an annual mandatory judicial education requirement for trial judges in the adjudication of impaired driving cases.**
- Convene periodic conferences for Circuit Court Judges on impaired driving case adjudication.
- Develop and implement an action plan to create Driving Under the Influence of Intoxicants treatment courts in more jurisdictions.
- **Create and expand probation departments to assist in monitoring of Driving Under the Influence of Intoxicants violators.**

E. Administrative Sanctions and Driver Licensing Programs

Advisory

States should use administrative sanctions, including the suspension or revocation of an offender's driver's license; the impoundment, immobilization or forfeiture of a vehicle; the impoundment of a license plate or suspension of a vehicle registration; or the use of ignition interlock devices. These measures are among the most effective actions that can be taken to prevent repeat impaired driving offenses.⁷

In addition, other driver licensing activities can prove effective in preventing, deterring and monitoring impaired driving, particularly among novice drivers.

⁷ Robertson, Robyn D. and Herb M. Simpson "DWI System Improvement for Dealing with Hard Core Drinking Drivers: Prosecution. Ottawa, Traffic Injury Research Foundation, 2002

E-1. Administrative License Revocation and Vehicle Sanctions

Advisory

Each state's Motor Vehicle Code should authorize the imposition of administrative penalties by the driver licensing agency upon arrest for violation of the state's impaired driving laws. Administrative sanctions allow the licensing agency to maintain its authority to determine the safety and competence of the driver to whom it has issued a license, and to determine whether, at any time, continued provision of driving privileges is warranted. Administrative sanctions provide for consistency and uniformity of both sanction and treatment of offenders, apart from the political or social viewpoints of the various judicial jurisdictions within a state.

The code should provide for:

- Administrative suspension of the driver's license for alcohol and/or drug test failure or refusal;*
- The period of suspension for a test refusal should be longer than for a test failure;*
- Prompt suspension of the driver's license within 30 days of arrest, which should not be delayed, except when necessary, upon request of the State;*
- Vehicle sanctions, including suspension of the vehicle registration, or impoundment, immobilization or forfeiture of the vehicle(s), of repeat offenders and individuals who have driven with a license suspended or revoked for impaired driving; and*
- Installation of ignition interlock device(s) on the offender's vehicle(s) until a qualified professional has determined that the licensee's alcohol and/or drug use problem will not interfere with their safe operation of a motor vehicle. Specific agencies within a State should be given responsibility and authority for oversight of the interlock program, including vendor selection, certification, and monitoring; review of data downloaded from the individual devices; and responsibility for administrative rules that guide sanctions for circumvention or other non-compliance with ignition interlock licensure. Licenses for drivers required to have ignition interlock devices installed on vehicles that they operate should be easily identifiable by law enforcement officers, either by virtue of a different colored background on the license or large print indicating that an ignition interlock device is required.*

Status

The Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation is responsible for driver licensing processes from testing of drivers and issuance of credentials to suspension or revocation of a license. Oregon has an implied consent statute and administrative license suspension (ALS) related to impaired driving offenses. The alcohol-related offenses subject to ALS include misdemeanor and felony

Driving Under the Influence of Intoxicants (DUII). The administrative process is independent of the judicial process and associated criminal penalties for impaired driving. ALS appeals are heard by administrative law judges separating criminal and administrative processes and allowing for uniform administrative sanctions apart from any criminal proceedings. In Oregon, intoxication is statutorily defined as: “being under the influence of alcohol, another drug, or both alcohol and another drug and, as a result, having a significantly impaired ability to function.”

In Oregon, “per se” alcohol and other drug DUII for operating a vehicle with:

- “(a) 0.08 percent or more by weight of alcohol in the blood of the person as shown by chemical analysis of the breath or blood;
- (b) is under the influence of intoxicating liquor, cannabis, psilocybin, a controlled substance or an inhalant;
- (c) Is under the influence of any combination of intoxicating liquor, cannabis, psilocybin, a controlled substance and an inhalant; or
- (d) within two hours after driving a vehicle, and without consuming alcohol in the intervening time period, has 0.08 percent or more by weight of alcohol in the blood of the person, as shown by chemical analysis of the breath or blood.”

Upon a DUII conviction or refusal of implied consent, the operator faces ALS. The following sanctions will be imposed for persons who refuse an alcohol test or who fail an alcohol test:

Chemical test refusals

- First offense: one year
- Second offense or more: three years

The enhanced second offense ALS penalties are applied for a previous refusal of a chemical test, a previous license suspension for DUII, or participation in a DUII diversion program within the past five years.

There are no vehicle sanctions provided for by statute in Oregon related to DUII offenders except for the requirement to have an ignition interlock device (IID) installed as either a component of a court-approved diversion program or upon conviction of second DUII. However, there is no unique designation on the driver license indicating that the IID is required for Oregon drivers. A notation is made on the licensee’s driver record that would be available to an officer only if there is a driver history query.

Recommendations

- Enact vehicle sanctions to revoke vehicle registration or provide for vehicle forfeiture for Driving Under the Influence of Intoxicants (DUII) violators.

- **Create a driver license format or indicator that would readily enable law enforcement to determine that the licensee is subject to Ignition Interlock Device compliance.**

E-2. Programs

Advisory

Each state's driver licensing agency should conduct programs that reinforce and complement the state's overall program to deter and prevent impaired driving, including:

- (1) *Graduated Driver Licensing (GDL) for novice drivers. GDL programs have been widely evaluated and all studies, although results vary significantly, have shown a reduction in crash and fatality rates.*

States' GDL program should involve a three-stage licensing system for beginning drivers (stage 1 = learner's permit; stage 2 = provisional license; and stage 3 = full license) that slowly introduces the young, novice driver to the driving task by controlling exposure to high risk driving situations (e.g., nighttime driving, driving with passengers, and driving after drinking any amount of alcohol). The three stages of the GDL system include specific components and restrictions to introduce driving privileges gradually to beginning drivers. Novice drivers are required to demonstrate responsible driving behavior during each stage of licensing before advancing to the next level.

Each stage includes recommended components and restrictions for States to consider when implementing a GDL system.

Stage 1: Learner's Permit

- *State sets minimum age for a learner's permit at no younger than 16 years of age;*
- *Pass vision and knowledge tests, including rules of the road, signs, and signals;*
- *Completion of basic driver training;*
- *Licensed adult (who is at least 21 years old) required in the vehicle at all times;*
- *All occupants must wear seat belts;*
- *Zero alcohol while driving;*
- *Learners permit is visually distinctive from other driver licenses;*
- *Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level;*
- *Parental certification of 30 to 50 practice hours; and*
- *No use of portable electronic communication and entertainment devices while driving.*

Stage 2: Intermediate (Provisional) License

- *Completion of Stage 1;*
- *State sets minimum age of 16.5 years of age;*
- *Completion of intermediate driver education training (e.g., safe driving decision-making, risk education);*
- *All occupants must wear seat belts;*

- *Licensed adult required in the vehicle from 10 p.m. until 5 a.m. (e.g., nighttime driving restriction) with limited exceptions (i.e., religious, school, medical, or employment related driving);*
- *Zero alcohol while driving;*
- *Driver improvement actions are initiated at lower point level than for regular drivers;*
- *Provisional license is visually distinctive from a regular license;*
- *Teenage passenger restrictions – not more than 1 teenage passenger for the first 12 months of Intermediate License. Afterward, limit the number of teenage passengers to 2 until age 18;*
- *Must remain crash and conviction free, including violations of the seat belt, zero tolerance, speed and other GDL provisions, for at least 6 consecutive months to advance to the next level; and*
- *No use of portable electronic communication and entertainment devices while driving.*

Stage 3: Full Licensure

- *Completion of Stage 2;*
- *State sets minimum age of 18 for lifting of passenger and nighttime restrictions;*
- *Zero alcohol while driving; and*
- *Visually distinctive license for drivers under the age of 21.*

(2) *A program to prevent individuals from obtaining and using a fraudulently obtained, counterfeit, or altered driver's license including:*

- *Training for alcoholic beverage sellers to recognize fraudulent or altered licenses and IDs and what to do with these documents and the individuals attempting to use them;*
- *Training for license examiners to recognize fraudulent documents and individuals seeking to apply for them; and*
- *A means by which to ensure that individuals cannot obtain driver licenses using multiple identities.*

Status

Oregon has a Graduated Driver License (GDL) program consisting of three stages of licensure. An Instruction Permit can be obtained as early as 15 years of age. A Provisional license at a minimum age of 16 and at age 18 a full license can be obtained. The requirements and restrictions associated with each stage are:

Class C Instruction Permit

- Must pass written and visual examinations
- At least 15 years of age
- Must have a licensed driver at least 21 years of age in the passenger seat when driving

Class C Provisional License

- At least 16 years of age
- Must have held a Class C Instruction Driver Permit for at least six months
- Driver must complete 50 hours of supervised driving and complete an approved driver education course, or must certify completion of 100 hours of supervised driving
- Driver must pass the driving skills test
- Except when driving with a traffic safety instructor or parent:
 - For the first year may not drive between midnight and 5:00 a.m. unless accompanied by a licensed driver 25 years or older, or driving to and from home and school and/or work;
 - For the first six months may not carry any passengers under 20 years of age who are not immediate family members;
 - For the second six months may not carry more than three passengers under 20 years of age who are not immediate family members.

Class C Driver License - No Restrictions

- At least 18 years of age

A full driver license issued to a minor under 21 years of age is markedly different with distinguishing characteristics in the format of the license that enable alcohol sellers or servers to readily determine that the person is underage for purchasing or consuming alcoholic beverages.

It should be noted that since driver education is not required, novice drivers may not receive any information regarding the dangers or consequences of impaired driving.

The driver system is supported by fraudulent document recognition training for licensing personnel and by facial image verification technology for license applicants. A one-to-many verification analyzes a new applicant's facial image against the file of all currently licensed driver facial images to identify an individual seeking to obtain multiple licenses under different identities, while a one-to-one image verification validates the license applicant to their previous facial image.

The driver system complies with national standards and systems in place to aid in the reduction of identity fraud including the Systematic Alien Verification for Entitlements, the Social Security Online Verification, the Commercial Driver License Information System, and the State Pointer Exchange Service databases. These systems enable Oregon to determine if individuals who have lost or are ineligible for driving privileges in another state are attempting to obtain an Oregon driver license and enable Oregon to exchange driver history and conviction information with other states including DUII arrest and conviction information.

Recommendations

- Require an awareness training regarding the dangers and consequences of impaired driving as a condition of provisional licensing.

IV. Communication Program

States should develop and implement a comprehensive communication program that supports priority policies and program efforts, including high visibility enforcement (HVE). Communication strategies should specifically support efforts to increase the public perception of the risks of detection, arrest, prosecution and sentencing for impaired driving. Additional communication strategies should address underage drinking, impaired driving, and reducing the risk of injury, death and the resulting medical, legal, social and other costs if there are specific programs underway in the community. Communications should highlight and support specific program activities underway in the community and be culturally relevant and appropriate to the audience.

Advisory

States should:

- *Focus their publicity efforts on creating a perception of risk of detection, arrest, prosecution and punishment for impaired driving;*
- *Use clear, concise enforcement messages to increase public awareness of enforcement activities and criminal justice messages that focus on penalties and direct costs to offenders such as loss of license, towing, fines, court costs, lawyer fees, and insurance;*
- *Employ a communications strategy that principally focuses on increasing knowledge and awareness, changing attitudes and influencing and sustaining appropriate behavior;*
- *Develop a year-round, data-driven, strategic and tactical communication plan that supports the state's priority policies and programs such as alcohol's effects on driving and consequences of being caught driving impaired or above the state's zero tolerance limit;*
- *Implement a communication program that:*
 - *Uses messages that are coordinated with National campaigns and messages that are culturally relevant and linguistically appropriate;*
 - *Considers special emphasis during holiday periods and other high risk times throughout the year, such as New Year's, 4th of July, Labor Day, Halloween, prom season and graduation;*
 - *Uses paid, earned and donated media coordinated with advertising, public affairs, news, and advocacy; and*
 - *Encourages communities, businesses and others to financially support and participate in communication efforts.*
- *Direct communication efforts at populations and geographic areas at highest risk or with emerging problems such as youth, young adults, repeat and high BAC offenders and drivers who use prescription or over-the-counter drugs that cause impairment;*

- *Use creativity to encourage earned media coverage, use of a variety of messages or “hooks” such as inviting reporters to “ride-along” with law enforcement officers, conducting “happy hour” checkpoints or observing under-cover liquor law enforcement operations, and use of social media;*
- *Monitor and evaluate the media efforts to measure public awareness and changes in attitudes and behavior; and*
- *Ensure that personnel who are responsible for communications management and media liaison are adequately trained in communication techniques that support impaired driving activities.*

Status

The Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) Impaired Driving Program has a dedicated media plan for impaired driving. The TSO’s impaired driving media plan (IDMP) is created under contract with Gard Communications. The plan is approved by the TSO Impaired Driving Program Manager before implementation.

The IDMP strategy for media messaging emphasizes the importance of making the “right choices” with a focus on behavioral change. The current campaign is focused on maintaining consistency of a responsibility message in both television and digital screens and rerun on the program’s “A Crash is No Accident” and “Know the Signs” videos with a strategy of promoting the message that bad decisions can have bad consequences.

The IDMP also utilizes other messages in a rotation to keep the messaging fresh.

Other messages incorporated are:

- A crash is no accident. It’s caused by a series of decisions.
- Look out for one another, let’s all get home safe.
- Impairment is impairment – by alcohol or any drug – make safe choices.
- Whether you use rideshare, public transportation or a designated driver, have a plan to get home safely.
- Make the right choice. Drive sober.

These messages are vetted and approved by the Impaired Driving Program Manager before deployment.

The IDMP participates and coordinates messaging that supports the National Highway Traffic Safety Administration (NHTSA)’s impaired driving enforcement campaigns, Superbowl, St. Patrick’s Day, Fourth of July, and Labor Day enforcement, through radio advertising.

The TSO media campaign is year-round and uses a variety of tactics.

Tactics utilized are billboards, Over The Top Streaming, TV/digital media, social media (Meta/Instagram), geo fencing at sports, music events, and radio.

The media tactics and creative content are based on data to reach the appropriate audiences. Oregon statistics show that predominantly male drivers ages 21-34 are involved in the majority of fatal crashes related to alcohol and drugs. Data also shows that the effects of alcohol impairment are compounded by nighttime driving with the rate of alcohol impairment among drivers involved in fatal crashes 3.3 times higher at night than during the day.

The TSO media plan also considers tactics and creative content to reach the Spanish-speaking roadway user audience in Oregon. Latinos are the largest minority group in Oregon, accounting for nearly 14 percent of the State's population. To impact this growing population, the TSO media plan incorporates Spanish language media and assets targeted to the Spanish-speaking Oregon communities, encouraging and reminding this population of the consequences of impaired driving and the impact to families and communities.

Changes in Oregon through Ballot Measure 91 (Recreational Cannabis) and Ballot Measure 110 (Drug Addiction Treatment and Recovery Act) created an environment where the TSO increased its media focus on impaired driving manifesting from drugs other than alcohol. Oregon has more cannabis dispensaries per capita than any other state.

Requests from media on TSO impaired driving enforcement and education activities go through the Oregon Department of Transportation Office of Communications.

Additional opportunities for public education and awareness campaigns may exist as Oregon is home to seven public universities and five minor league baseball teams.

Recommendations

- Create educational material on impaired driving that can be used at events to educate on impaired driving laws and alternatives rides.
- Explore partnerships with Oregon's five minor league baseball and other sports teams to reach their audiences with information on impaired driving laws and alternative ride programs.
- Explore partnerships with Oregon's universities and colleges to reach their audiences with information on impaired driving laws and alternative ride programs.
- Develop partnerships with the Oregon Cannabis Association to develop creative media content that can be posted at point of sale that informs cannabis consumers of the dangers and consequences of driving while impaired by cannabis.

V. Alcohol and Other Drug Misuse: Screening, Assessment, Treatment and Rehabilitation

Impaired driving frequently is a symptom of the larger problem of alcohol or other drug misuse. Many first-time impaired driving offenders and most repeat offenders have alcohol or other drug abuse or dependency problems. Without appropriate assessment and treatment, these offenders are more likely to repeat their crime. One-third of impaired driving arrests each year involve repeat offenders.⁸ Moreover, on average, individuals with alcohol or other drug abuse problems, drive several hundred times within two hours of drinking before they are arrested for driving while impaired.⁹

States should have a system for identifying, referring and monitoring convicted impaired drivers who are high risk for recidivism for impaired driving.

Nationally, the number and diversity of problem solving courts has grown dramatically. One such problem solving model is the DWI Court. These courts provide a dedicated docket, screening, referral and treatment and intensive monitoring of impaired driving offenders. States and localities that implement DWI Courts should ensure that they are established and operated consistent with the Guiding Principles recommended by the National Center for DWI Courts. www.dwicourts.org/sites/default/files/ncdc/Guiding_Principles_of_DWI_Court_0.pdf

In addition, alcohol use leads to other injuries and health care problems. Almost one in six vehicular crash victims treated in emergency departments are alcohol positive, and one third or more of crash victims admitted to trauma centers—those with the most serious injuries - test positive for alcohol. In addition, studies report that 24-31percent of all emergency department patients screen positive for alcohol use problems. Frequent visits to emergency departments present an opportunity for intervention, which might prevent these individuals from being arrested or involved in a motor vehicle crash, and result in decreased alcohol consumption and improved health.

Each State should encourage its employers, educators, and health care professionals to implement a system to identify, intervene, and refer individuals for appropriate substance abuse treatment.

A. Screening and Assessment

Each State should ensure that all convicted impaired drivers are screened for alcohol or other substance abuse and dependency. The most immediate screening should take place in the criminal justice system. However, states should also encourage its health care professionals, employers and educators to have a systematic program to screen and/or assess drivers to determine whether they have an alcohol or drug abuse problem and, as appropriate, briefly intervene or refer them for appropriate treatment. Many individuals who are drivers and who have alcohol or other drug abuse problems present themselves in a variety of settings, e.g.

⁸ Repeat DWI Offenders in the United States. “Washington, DC: NHTSA Technology Transfer Series, Traffic Tech No. 85, February 1995.

⁹ On average, 772 such episodes, according to Zador, Paul, Sheila Krawchuck, and Brent Moore, “Drinking and Driving Trips, Stops by Police, and Arrests: Analyses of the 1995 National Survey of Drinking and Driving Attitudes and Behavior.” Washington, DC: U.S. Department of Transportation, NHTSA Technical Report No. DOT HS 809 184, December 2000.

emergency departments, in which Screening and Brief Intervention (SBI) and referral are appropriate and serve to prevent the individual from being involved in a future impaired driving crash or arrest.

A-1. Criminal Justice System

Advisory

Within the criminal justice system, people who have been convicted of an impaired driving offense should be assessed to determine whether they have an alcohol or drug abuse problem and to determine their need for treatment. The assessment should be required by law and completed prior to sentencing or reaching a plea agreement.

The assessment should be:

- *Conducted by a licensed counselor or other alcohol or other drug treatment professional or by a probation officer who has completed training in risk assessment and referral procedures;*
- *Used to decide whether a treatment and rehabilitation program should be part of the sanctions imposed and what type of treatment would be most appropriate;*
- *Based on standardized assessment criteria, including validated psychometric instruments, historical information, e.g., prior alcohol or drug-related arrests or convictions, and structured clinical interviews; and*
- *Appropriate for the offender's age and culture using specialized assessment instruments tailored to and validated for youth or multi-cultural groups.*

Status

Oregon has specific statutes addressing the screening and assessment of impaired drivers. Oregon Revised Statute 813.021 states that:

(1) When a court, in accordance with ORS 813.020, requires a person to complete a screening interview and a treatment program, the court shall require the person to do all of the following:

(a) Complete a screening interview for the purpose of determining appropriate placement of the person in a program for treatment for alcoholism, drug dependency or dependency on inhalants.

(b) Pay directly to the agency or organization conducting the screening interview a fee of \$150.

(c) Complete the treatment program to which the person is referred.

(d) Pay for the treatment program to which the person is referred.

(2) The screening interview required by this section shall be conducted by an agency or organization designated by the court. The designated agency or organization must meet the standards set by the Director of the Oregon Health Authority to conduct the screening interviews. Wherever possible a court shall designate agencies or organizations to perform the screening interview that are separate from those that may be designated to carry out a treatment program.

(3) An agency or organization doing a screening interview under this section may not refer a person to a treatment program that has not been approved by the Director of the Oregon Health Authority.

(4) The agency or organization conducting a screening interview under this section shall monitor the progress of the person referred to the agency or organization. The agency or organization shall make a report to the referring court stating the person's successful completion or failure to complete all or any part of the screening interview or of the treatment program to which the person was referred by the agency or organization. The report shall be in a form determined by agreement between the court and the agency or organization. [1999 c.126 §3; 1999 c.619 §8a; 2005 c.303 §1; 2009 c.595 §1140]

All Driving Under the Influence of Intoxicants (DUI) offenders entering a treatment program are required to participate using an American Society of Addiction Medicine (ASAM) Assessment using DSM 5 Diagnostic Curriculum. Only Substance Use Disorder Providers approved by the Oregon Health Authority may conduct these assessments. The results of this assessment will determine the most appropriate treatment setting. Typically, DUI assessments cost the client \$150, though it may cost more in other areas. There are occasions in which Judges ignore these statutes and waive the screening for defendants.

There are major barriers in clients having access into treatment. This is most acute in rural parts of the State. The use of Telehealth Services offers virtual treatment providing opportunities for participants in rural/frontier communities or with populations with unique needs surrounding language, culture, or gender.

There may be significant lag time to a treatment referral as this can't occur until the client presents themselves. A client is given one year to complete treatment and there are no consequences for non-compliance, i.e., multiple restarts based on positive urine analysis test results. It appears there are loopholes that may result in delay from sentencing to treatment. It may take well over a year from the date of the DUI offense until the client begins treatment. These delays place the community at risk when an individual with a substance use disorder remains untreated.

The unintended consequence of individuals who are injured due to their impaired driving is the designation of having a substance use disorder (SUD) which may keep them from being accepted into rehabilitation facilities.

Anecdotally, trauma centers are admitting DUII offenders who are legally too young to consume alcohol. This includes individuals as young as 15 years of age.

Recommendations

- Discussions should take place with the Oregon judiciary to ensure that ORS 813.021, “Requirements for screening interview and treatment program,” is adhered to consistently.
- Revise existing orders to specify shortened timelines from sentencing to assessment and assessment to treatment.

A-2. Medical and Other Settings

Advisory

Within medical or health care settings, any adults or adolescents seen by health care professionals should be screened to determine whether they have an alcohol or drug abuse problem. The American College of Surgeons mandates that all Level I trauma centers, and recommends that all Level II trauma centers, have the capacity to use Screening and Brief Intervention (SBI). SBI is based on the public health model which recognizes a continuum of alcohol use from low risk, to high risk to addiction. Research from the Centers for Disease Control and Prevention indicates that an estimated 25 percent of drinkers are at risk for some harm from alcohol including impaired driving crashes. These individuals’ drinking can be significantly influenced by a brief intervention. An estimated four percent of the population has a serious problem with alcohol abuse or dependence. A brief intervention should be conducted and, if appropriate, the person should be referred for assessment and further treatment.

SBI can also be implemented in other settings including: Employee Assistance Programs (EAP), schools, correctional facilities, at underage drinking party dispersals and any setting in which at-risk drinkers are likely to make contact with SBI providers.

Screening and brief intervention should be:

- *Conducted by trained professionals in hospitals, emergency departments, ambulatory care facilities, physicians’ offices, health clinics, employee assistance programs and other settings;*
- *Used to decide whether an assessment and further treatment is warranted;*
- *Based on standardized screening tools (e.g., CAGE, AUDIT or the AUDIT-C) and brief intervention strategies;¹⁰ and*

¹⁰ For a discussion of assessment instruments, see: Allen, John and M. Columbus (Eds.), NIAAA Handbook on Assessment Instruments for Alcohol Researchers (2nd edition). Rockville, MD: National Institute on Alcohol Abuse and Alcoholism, 2003. For an overview of alcohol screening, see: “Screening

- *Designed to result in referral to assessment and treatment when warranted.*

Status

Screening Brief Intervention and Referral to Treatment (SBIRT) is encouraged throughout the State but is not necessarily focused on the Driving Under the Influence of Intoxicants (DUII) population. Approximately 80 percent of inpatient admissions to Oregon hospital trauma centers, where testing determines the presence of ethanol or impairing drugs, receive the SBIRT. Approximately 25-35 percent of drivers admitted to trauma centers after a vehicle crash test positive for impairing drugs. Since the passage of the Drug Addiction Treatment and Recovery Act (Ballot Measure 110) did not come into effect until February 1, 2021, it may be too early to determine a true impact.

Recommendations

- Promote the use of Screening Brief Intervention and Referral to Treatment (SBIRT) for alcohol/ drug use in medical settings.

B. Treatment and Rehabilitation

Advisory

Each State should work with health care professionals, public health departments, and third party payers, to establish and maintain programs for persons referred through the criminal justice system, medical or health care professionals, and other sources. This will help ensure that offenders with alcohol or other drug dependencies begin appropriate treatment and complete recommended treatment before their licenses are reinstated.

These programs should:

- *Match treatment and rehabilitation to the diagnosis for each person based on a standardized assessment tool, such as the American Society on Addiction Medicine (ASAM) patient placement criteria;*
- *Provide assessment, treatment and rehabilitation services designed specifically for youth;*
- *Provide culturally appropriate treatment and rehabilitation services;*
- *Ensure that offenders that have been determined to have an alcohol or other drug dependence or abuse problem begin appropriate treatment immediately after conviction,*

for Alcohol Problems – An Update,” Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, Alcohol Alert No. 56, April 2002. For a primer on helping patients with alcohol problems, see: “Helping Patients with Alcohol Problems: A Health Practitioner’s Guide,” Bethesda, MD: National Institute on Alcohol Abuse and Alcoholism, NIH Publication No. 04-3769, Revised February 2004.

based on an assessment. Educational programs alone are inadequate and ineffective for these offenders;

- *Provide treatment and rehabilitation services in addition to, and not as a substitute for, license restrictions and other sanctions; and*
- *Require that offenders, who either refused or failed a BAC test, and/or whose driver's license was revoked or suspended, complete recommended treatment, and that a qualified professional has determined the offender has met treatment goals before license reinstatement.*

Status

The Oregon Governor's Advisory Committee (GAC) on Driving Under the Influence of Intoxicants (DUII) 2021 Impaired Driving Strategic Plan had 10 stated strategic goals for the coming year. Strategic Goal #9 addresses DUII treatment and rehabilitation.

Strategic Goal #9 – Supporting DUII Treatment and Rehabilitation Programs

Impaired driving is frequently an indicator of serious alcohol or substance abuse problems. These problems reflect the importance to assess impaired driving offenders for a substance use disorder and implement early treatment interventions. Often, DUII behavior can be eliminated if the substance use disorder is recognized and treated in its early stages. The GAC on DUII understands and supports the statewide efforts to properly and effectively treat and rehabilitate DUII offenders. These are ever-challenging and understaffed areas. It is important that key stakeholders assist in determining its effectiveness in meeting the needs of the impaired drivers and develop recommendations to enhance treatment efforts and reduce the incidents of repeat DUII. Strategies in the Area of Supporting DUII Treatment and Rehabilitation Programs:

1. Support the concept that prevention and education are critical components in deterring DUII and an effective piece of the IDSP.
2. Continue to promote effective strategies to reduce impaired driving and address underage drinking by developing a multi-faceted approach to reach the highest number of target individuals
3. Support and promote effective and mandatory treatment of DUII offenders.
4. Continue efforts with the various workgroups to improve programs and reduce DUII recidivism rates among offenders
5. Continue to expand the partnership with the DUII courts to provide access to the proper DUII and substance abuse treatment providers for high risk offenders.
6. Assist in increasing access to treatment services for those individuals needing substance abuse treatment.
7. Support provider training opportunities to enhance treatment practices and understanding of co-occurring disorders

Oregon Health Authority Treatment Requirements

Oregon Health Authority, Health Systems Division: Behavioral Health Services states the following regarding service providers:

Outpatient Substance Use Disorders (SUD) Treatment Programs approved by the Division as DUII Services Providers shall provide DUII Education, DUII Rehabilitation, and Recommendations for Hardship Permits as outlined in this rule.

(2) A DUII Services Provider may not provide Alcohol and Other Drug Screening Specialist (ADSS) services except as allowed in OAR 415-054-0545 (Sole Service Provider Designation Approval Process) through 415-054-0570 (Revocation or Denial of Approval for Demonstration Projects).

(3) DUII Services Providers shall assess, as outlined in OAR 309-019-0135 (Entry and Assessment)(3), all individuals seeking DUII services. Level of care, diagnosis, frequency of contact, and duration of treatment services shall be consistent with the current DSM diagnostic and ASAM Criteria.

(4) DUII Education shall be provided for individuals who:

(a) Do not currently meet DSM diagnostic criteria for a SUD; and

(b) Meet ASAM Criteria for Level 0.5; and

(c) Have never been diagnosed with a SUD; and

(d) Have never been enrolled in a DUII or SUD treatment program.

(5) DUII Education shall include a minimum of four sessions over a four-week period and include the provision of a minimum of 12 hours of didactic education. The minimum 12 hours does not include diagnostic assessment, service planning, or transfer planning. DUII Education shall include but is not limited to:

(a) Completion of a Division approved DUII Education Pre and Post Test;

(b) DUII Laws and Consequences in Oregon;

(c) Use of alcohol and other drugs, and their effects on driving;

(d) Physical and psychological effects of alcohol and other drugs of abuse;

(e) SUD signs and symptoms;

(f) SUD recovery support services; and

(g) Alternatives to intoxicated driving.

(6) No more than four of the 12 minimum hours shall be conducted utilizing educational films or pre-recorded audio-visual presentations.

(7) DUII Rehabilitation shall be provided for individuals who:

(a) Meet DSM diagnostic criteria for a SUD; or

(b) Meet ASAM Criteria for Level 1 or higher; or

(c) Have been previously diagnosed with a SUD; or

(d) Have previously been enrolled in a DUII or SUD treatment program.

(8) DUII Rehabilitation shall include:

(a) DUII Education as described in section (5) of this rule; and

(b) SUD treatment services as outlined in the individual's service plan.

(9) DUII Service Providers shall use urinalysis testing for use of substances of

abuse following procedures in OAR 309-019. Urinalysis tests shall be conducted as deemed clinically appropriate, but no less than:

(a) At the time of assessment; and
(b) Twice per calendar month with no more than 14 calendar days between tests;
and

(c) Within two weeks prior to completion; and

(d) Within 72 hours of receipt of laboratory results indicating that a urinalysis sample was identified as out of range for Creatinine, pH, or Specific Gravity as defined by the urinalysis laboratory results;

(10) Urinalysis shall, at a minimum, test for the following substances of abuse:

(a) Alcohol;

(b) Marijuana;

(c) Cocaine;

(d) Amphetamines;

(e) Opiates; and

(f) Benzodiazepines.

(11) In addition to the substances of abuse outlined in section (10), an EtG/EtS test for alcohol shall be conducted, at a minimum, at the time of assessment and within two weeks prior to completion.

(12) Individuals enrolled in DUII Education are expected to demonstrate abstinence from use of intoxicants as evidenced by negative urinalysis reports, except as allowed in ORS 813.200 (Notice of availability of diversion).

Individuals who provide a positive urinalysis test or who self-report use of a substance shall be required to complete DUII Rehabilitation.

(13) Individuals enrolled in DUII Rehabilitation are expected to maintain abstinence from use of intoxicants as evidenced by negative urinalysis tests, except as allowed in ORS 813.200 (Notice of availability of diversion), while outside of a controlled environment for no less than the final 90 days of the DUII Rehabilitation program.

(14) Notwithstanding sections (9)-(11), DUII Services Providers may issue a DUII Treatment Completion Certificate for individuals convicted of DUII or proof of completion for individuals under a diversion agreement, if the individual has fulfilled all other requirements of this rule except for submission of urinalysis testing as required due to a state of emergency declared by the state or county in which the individual or DUII Services Provider is located. The individual's service record must clearly document the reason the state of emergency prevented submission of urinalysis as required in sections (9)-(11).

(15) Division approved DUII Services Providers shall issue a DUII Treatment Completion Certificate (DTCC) for individuals convicted of a DUII using Division approved forms and procedures after:

(a) Receipt of referral from an ADSS; and

(b) Completion of DUII Education or DUII Rehabilitation, including applicable abstinence requirements, as outlined in these rules; and

(c) Compliance with the terms of the fee agreement between the provider and the individual.

(16) The Division shall issue a DTCC for individuals completing an out-of-state

intoxicated driving program after:

- (a) Documentation of the individual's residency in a state other than Oregon; and
- (b) Receipt of a copy of the individual's referral from an ADSS; and
- (c) Documentation of completion of an intoxicated driving program as allowed for the equivalent conviction in the individual's state of residence. Residents of states that do not require DUII treatment shall complete a program that is substantially equivalent to Oregon's standards.

(17) Division approved DUII Services Providers must report:

- (a) To the Division using the mandated state data system; and
- (b) To the referring ADSS as allowed by HIPPA and 42 CFR Part 2:
 - (A) No later than 30 calendar days from the date of referral;
 - (B) Every 30 calendar days while enrolled in DUII Rehabilitation;
 - (C) No later than 14 calendar days from the date of discharge;
 - (D) No later than seven calendar days from the written request of the ADSS.

(18) The individual's Service Record must include all information necessary to document the individual's successful or unsuccessful completion of DUII Services.

(19) Division approved DUII Services Providers are designated by the Authority to determine whether an individual has a problem condition involving alcohol, inhalants, or controlled substances as defined in ORS 813.040 (Standards for determination of problem condition involving alcohol, inhalants or controlled substances) and to provide recommendations for issuance of a hardship permit as allowed in ORS 813.500. Issuance of a hardship permit is at the sole discretion of DMV.

(20) When a DUII Services Provider determines that an individual does not have a problem condition involving alcohol, inhalants, or controlled substances as described in ORS 813.040 (Standards for determination of problem condition involving alcohol, inhalants or controlled substances), a recommendation for a hardship permit may be provided using the forms and procedures required by DMV if:

- (a) The recommendation does not create a health or safety risk to the individual or the public; and
- (b) The individual:
 - (A) Is enrolled in or has completed a Division approved DUII Education Program; and
 - (B) Maintains abstinence as defined in this rule; and
 - (C) Agrees to ongoing contact and abstinence monitoring after successful completion of the DUII Education Program as often as deemed clinically appropriate, but no less than once per calendar month while the individual is issued a hardship permit.

(21) The ongoing contact and abstinence monitoring shall be documented in the service plan and included in the individual's service record

(22) When a DUII Services Provider determines that an individual has a problem condition involving alcohol, inhalants, or controlled substances as described in ORS 813.040 (Standards for determination of problem condition involving alcohol, inhalants or controlled substances), a recommendation for a hardship

permit may be provided using the forms and procedures required by DMV if:

- (a) The recommendation does not create a health or safety risk to the individual or the public; and
- (b) The recommendation is deemed clinically appropriate; and
- (c) The individual is:
 - (A) Enrolled in or has completed a Division approved DUII Rehabilitation Program; and
 - (B) Maintaining abstinence as defined in this rule;
 - (C) Agrees to ongoing contact and abstinence monitoring after successful completion of the DUII Rehabilitation Program as often as deemed clinically appropriate, but no less than once per calendar month while the individual is issued a hardship permit.

(23) The ongoing contact and abstinence monitoring shall be documented in the service plan and included in the individual's service record.

(24) The recommendation for issuance of a hardship permit shall be completed using forms and procedures required by DMV and shall state specifically the times, places, routes, and days of the week minimally necessary for the individual to:

- (a) Seek or retain employment;
- (b) Attend any alcohol or drug treatment or rehabilitation program;
- (c) Obtain necessary medical treatment for the individual or a member of the individual's immediate family; or
- (d) Get to and from a gambling addiction treatment program.

(25) The recommendation for issuance of a hardship permit shall be withdrawn if:

- (a) A health or safety risk to the individual or public exists; or
- (b) The individual:
 - (A) Tests positive, except as allowed in ORS 813.200 (Notice of availability of diversion); or
 - (B) Discontinues contact with the DUII Services Provider; or
 - (C) Does not successfully complete a Division approved DUII Education or Rehabilitation Program.

(26) The Individual Record must include all information necessary to document the DUII Services Provider's decision to issue, not issue, or withdraw a recommendation for hardship permit to DMV.

(27) Division approved DUII Services Providers shall establish a procedure for individuals to appeal in the event that a recommendation for issuance of a hardship permit is denied or withdrawn. The appeal process shall include but not be limited to:

- (a) Information on how to file a complaint with the Division directly; and
- (b) Recourse to the staff supervisor, program director, and CMHP Director.

Complaints that are unresolved at the provider level may be referred to the Division for review.

Upon completion of court-ordered treatment after a DUII conviction, the client must comply with:

813.022 Proof of treatment. (1) A person who has been convicted of driving while under the influence of intoxicants under ORS 813.010 shall provide proof to the Department of Transportation that the person completed a treatment program to which the person was referred under ORS 813.021. (2) The department may not reinstate a person's driving privileges unless: (a) The person has provided proof of completing a treatment program as required under subsection (1) of this section; (b) The person has an order from the circuit court of the county in which the person was convicted that the person has taken sufficient steps to satisfy the requirement under ORS 813.021 to complete a treatment program.

The 2020 National Survey on Drug Use and Health ranks Oregon as No. 2 in the nation for addiction and last in the nation for access to treatment. This is a decline from 2019, when it ranked fourth worst for addiction and was No. 47 for access to treatment.

In Oregon, 18.22 percent of residents age 12 and older had an alcohol and/or drug use disorder in 2020, the national survey found. Meanwhile, 18.08 percent of residents needed treatment at a facility for alcohol or drug addiction but didn't get the care they needed, the survey said.

Oregon ranks No. 1 for meth use, No. 1 for prescription drug misuse, No. 2 for marijuana use, No. 7 for cocaine use, and No. 11 for heroin use, according to the survey. The study found that Oregon has consistently failed to provide long-term, adequate funding for residential treatment beds.

Oregon offers education, intensive outpatient, and residential services to DUII offenders screened, assessed, and found to be in need of treatment. Oregon requires specific topics to be covered within DUII education and requires a minimum number of treatment contact hours, per level of care. There is a lack of evidence-based services, especially in the area of DUII education programming where there is no standardization or certification of curriculum.

Compounding the delay in access to services is the continued effects of COVID-19 on treatment facilities. Many residential placements went out of business or lost essential staff due to lack of funds. The lingering effect of these closures further delays access to residential beds. There are ongoing workforce shortages with former treatment employees opting to pursue other professions, further crippling access to programming.

Oregon's Healthcare Plan (OHP) covers treatment costs for low-income residents. However, those individuals just above the OHP thresholds with minimal commercial or no health insurance, may find the cost of treatment to be prohibitive. Given the issues of housing and food insecurity in Oregon, this could be an additional barrier to services.

Victim Impact Panels

A victim impact panel (VIP) is a meeting where a person convicted of a DUII is ordered to attend a panel of DUII victims (usually three to four) who speak about how an impaired driving event has affected their lives or the lives of their loved ones. The victims discuss a DUII incident with the hopes of educating the offender and deterring future impaired driving.

Some DUII offenders are required to attend these panels as part of their criminal sentencing. VIPs are used in many states across the U.S. and they are often put together and conducted by Mothers Against Drunk Driving (MADD).

The main goals of a VIP include:

- giving the victims a voice to share their feelings and experiences,
- making DUII offenders aware of how serious their crime was, and
- raising awareness of impaired driving, victims of impaired driving, and the prevention of driving impaired.

Per ORS 813.235:

Oregon counties may require attendance at victim impact treatment session as condition of diversion. In a county that has a victim impact program a court may require as a condition of a driving while under the influence of intoxicants diversion agreement that the defendant attend a victim impact treatment session. If the court requires attendance under this section, the court may require the defendant, as part of the diversion agreement, to pay a reasonable fee to the victim impact program to offset the cost of the defendant's participation. The fee shall be established for each county by the victim impact panel coordinator and steering committee of that county and shall be not less than \$5 or more than \$50. [1987 c.830 §2; 1993 c.468 §2]

Oregon has a number of organizations that offer VIPs throughout the State. Oregon's VIPs provide essentially the same structure though these may occasionally be presented in a virtual format and attendance may vary based on geographic location. Support for these programs also varies as courts may only refer to a particular program. Research is inconsistent regarding the positive long-term impact of VIPs.

Additionally, there are no nationally recognized best practices (pre- and post-tests, longitudinal recidivism studies, appropriate audience size, etc.) to assist users in developing a VIP. However, in order to establish program consistency throughout the State, there would be value in setting program parameters for panels including the use of

a standardized pre- and post-test. This would allow the ability to measure the effectiveness of VIPs and their impact in changing short- and long-term DUII behaviors.

Oregon has a limited number of DUII Courts in the State. Given the success of DUII Courts in lowering recidivism for high risk/high needs impaired drivers, more of these specialty courts are needed.

While individuals convicted of multiple DUIIs once received supervised probation, budget cuts have resulted in this rarely being the case with Oregon Courts. Typically, if any probation supervision is ordered by the court, it is informal and there is no assignment to a probation officer. If a probationer commits a new DUII, there are often no new sanctions and in fact, the individual may receive yet another term of unsupervised probation. In 2021, 215 people in Oregon lost their lives due to the actions of impaired drivers. This represents 36 percent of all traffic fatalities in the State, five percent higher than the national average. Given the dangers posed by this population, there is a need to provide more formal community supervision to those individuals who have been assessed as high risk to reoffend.

There are 13 youth treatment beds available in Oregon. Based on Oregon's population size and the increase in juvenile drug use, this number is inadequate.

Recommendations

- **Provide supervised probation services to Driving Under the Influence of Intoxicants offenders assessed and determined to be at high risk to reoffend.**
- Establish policies and procedures to accelerate the time from Driving Under the Influence of Intoxicants conviction to treatment.
- Promote the use of licensed treatment providers in underserved areas.
- Expand the use of telehealth services to close the gap in accessing services.
- Establish standards for Victim Impact Panels in Oregon.
- Increase the number and availability of juvenile residential treatment beds throughout Oregon.

VI. Program Evaluation and Data

A. Evaluation

Advisory

Each State should have access to and analyze reliable data sources for problem identification and program planning as well as to routinely evaluate impaired driving programs and activities in order to determine effectiveness. Development of a Strategic Highway Safety Plan and a Highway Safety Plan, are starting points for problem identification and evaluation efforts. Problem identification requires quantifying the problem, determining the causes, and identifying available solutions. Strategies should be evaluated for their cost effectiveness and potential for reducing crash risk. Evaluations should include measurement of activities and outputs (process evaluation) as well as the impact of these activities (outcome evaluation). Evaluations are central to the State's traffic safety endeavors and provide a guide to future projects and evaluations.

Evaluations should:

- Be planned before programs are initiated to ensure that appropriate data are available and adequate resources are allocated to the programs;*
- Identify the appropriate indicators to answer the question: What is to be accomplished by this project or program?*
- Be used to determine whether goals and objectives have been met and to guide future programs and activities;*
- Be organized and completed at the State and local level; and*
- Be reported regularly to project and program managers and policy makers.*

The process for identifying problems to be addressed should be carefully outlined. A means for determining program/project priority should be agreed upon, and a list of proven methodologies and countermeasures should be compiled. Careful analysis of baseline data is necessary, and should include historical information from the crash system. Other data that are useful for evaluation include data from other records systems as well as primary data sources such as surveys. Record systems data include state and driver demographics, driver histories, vehicle miles traveled, urban versus rural settings, weather, and seatbelt use. Survey data can include attitudes knowledge and exposure to risk factors.

The Traffic Records Coordinating Committee can serve as a valuable resource to evaluators by providing information about and access to data that are available from various sources.

Status

The Oregon Department of Transportation (ODOT) Transportation Safety Office (TSO) administers approximately \$13 million in federal traffic safety funds annually. Project proposals are developed by TSO program managers or recommended by interested

groups including the Governor's Advisory Committee on Driving Under the Influence of Intoxicants Task Force (GAC-DUII). There are nine TSO program managers who monitor activities within each of their assigned program areas to ensure they meet specific objectives and five Regional Transportation Safety Coordinators who are housed within each of the ODOT regional offices and support multiple highway safety programs. Project problem identification is a structured process based on data analysis indicating high crash or fatality areas or based on recommended projects from safety stakeholders that are evaluated based on data to determine if there is correlating problem identification to support a recommended activity. The project selection and evaluation process is used to create objectives for the Highway Safety Plan, Strategic Highway Safety Plan, and other guiding documents promoting traffic safety in the State. Traffic safety funds are distributed to state, county, and local jurisdictions for projects that support the State's highway safety objectives.

TSO funding of traffic safety activities is primarily delivered through High Visibility Enforcement (HVE) program grants to the Oregon State Police and the Oregon Impact organization who distributes funds to support county and municipal traffic safety HVE activities. TSO project evaluations include documentation and tracking of deliverables for each project with the grantee complying with monitoring and auditing practices. Additionally, crash statistics are evaluated to determine whether projects are having their desired impact in reducing serious injuries and fatality crashes, Serious injury crashes are evaluated along with fatality crashes since if only a small characteristic of the crash or emergency response were different the serious injury could have resulted in a fatality.

TSO has a public information component delivering public information campaigns regarding impaired driving and other safety program messaging. The office has contracted with a commercial marketing firm to develop media content and purchase paid media. Concurrent with paid media buys, some added value services are provided but little additional earned media coverage is received. Social media outreach is provided by the Driver and Motor Vehicles Service Division Public Information Office. Public Information ad buys are not formally evaluated by the State or media contractor to determine their influence on public attitudes and behaviors but are judged based on view rates and anecdotal responses.

Recommendations

- Determine if it is feasible to correlate crash and citation data to determine if there are high incident areas to direct high visibility enforcement activities that are not identified from crash data alone.
- Implement structured public information campaign evaluations to evaluate the impact of media programs and their influence on public attitudes and behaviors.

B. Data and Records

Advisory

The impaired driving program should be supported by the State's traffic records system and use data from other sources, such as the U.S. Census, the Fatality Analysis Reporting System (FARS) and the Crash Outcome Data Evaluation System (CODES). The traffic records system should be guided by a statewide traffic records coordinating committee that represents the interests of all public and private sector stakeholders.

The state traffic records system should:

- *Permit the State to quantify:*
 - *the extent of the problem, e.g., alcohol-related crashes and fatalities;*
 - *the impact on various populations;*
 - *the level of effort dedicated to address the problem, e.g., level of enforcement activities, training, paid and earned media; and*
 - *the impact of the effort, e.g., crash reduction, public attitudes, awareness and behavior change.*
- *Contain electronic records of crashes, arrests, dispositions, driver licensing actions and other sanctions of DWI offenders;*
- *Permit offenders to be tracked from arrest through disposition and compliance with sanctions; and*
- *Be accurate, timely, linked and readily accessible to persons authorized to receive the information, such as law enforcement, courts, licensing officials and treatment providers.*

Status

Oregon has an active Traffic Records Coordinating Committee (TRCC) that is a comprehensive, functional body of data system managers and stakeholders. The TRCC includes representation from all six core traffic record systems (crash, citation/adjudication, driver, vehicle, roadway, and injury surveillance systems) which hold a wide range of data that would be useful to highway safety evaluations if it were accessible and correlated.

The Oregon crash system is a repository of all public and police crash reports and is managed by the Oregon Department of Transportation, Traffic Data Division. There is no real time interface between the crash system and the driver and vehicle files to assist in the recording and validation of crash report information. Police reports are received and processed manually. Crash report information is provided to the Crash Analysis Reporting (CARS) Unit who codes and geolocates crash reports for analysis and provides reports for problem identification and program evaluation. Additionally, CARS provides

an interactive map of crash locations and some related data for public and internal use to aid in problem identification and planning.

There is no statewide citation processing or tracking system available for use by all law enforcement agencies within Oregon. Several disparate citation reporting systems exist, ranging from a statewide system managed by the Oregon State Police (OSP) used for recording their enforcement activity, including Driving Under the Influence of Intoxicants (DUII) citation records. While some other law enforcement agencies have procured citation and case management systems from commercial providers, there is no interoperable communication between systems. Additionally, many agencies rely on paper citations that are presented to the local court clerk and must be manually recorded into a court case management system. Consequently, there is no statewide database of citation information and no source for calculating all DUII arrests on a statewide basis.

There is no statewide court case management system utilized by all courts. Court case management systems are either procured by an individual court or by the local county for all courts within its jurisdiction. As a result, there is no single repository of cases filed and the related disposition information available to determine the number of active cases and evaluate the timeliness of court processing time from arrest to final disposition. Court clerks are responsible for providing misdemeanor and felony DUII-related case disposition information to the Driver and Motor Vehicles Service Division (DMV) of the Oregon Department of Transportation for entry on the driver record.

DMV maintains the driver license history file, which includes the license status, any impaired driving convictions, and crash occurrences. Additionally, driver histories contain Ignition Interlock Device (IID) program indicators to notify officers that an IID is required for the licensee. DMV participates in the State-to-State (S2S) driver history exchange program and the State Pointer Exchange Services (SPEXS) to assign Oregon as the licensee's state of record for driver licensing purposes. DMV driver history information, including conviction reports, court orders, and IID compliance documents, are received and processed manually.

Oregon does have statewide Emergency Medical Services and a Trauma Registry system that provide injury and toxicology data when individuals are injured and receive treatment resulting from crashes. Data is completed by either the ambulance service or the treating medical facility. There are some problems correlating the injury data with the crash incident due to inconsistent identity information being recorded in the two systems; therefore, some value of evaluating the outcomes of crash impacts may be lost.

The Oregon Ignition Interlock Device Program (IID) is segmented in its design and practice. OSP promulgates program rules, certifies vendors, and approves service centers to support the program. IID participation is mandated by court orders and those are provided to DMV for notation on the driver record; however, no restriction or notation is made on the driver license to enable law enforcement officers to readily identify drivers subject to IID requirements. There are some statutory IID offenses that carry penalties for attempting to circumvent normal functions of the device. However, compliance violation

reports provided to the OSP and the DMV carry no enforcement sanction for positive alcohol violations. Compliance oversight with program mandates is vested in the court that issued the order for DUII diversion. An IID may be required for a term of one to five years after the expiration of a driver license suspension and may only be removed after a vendor certifies that no IID violations were detected for the last 90 days the unit was installed. Due to the disparate nature of the IID program structure and oversight, there is no centralized authority to ensure that drivers are complying with program requirements as they are intended in the statute and no way to determine the effectiveness of IID as a deterrence to DUII recidivism.

Oregon traffic record systems supporting impaired driver processing are not linked to exchange interoperable data nor can they be readily utilized for in-depth problem evaluation analysis. Each system requires manual data entry to create records resulting in the potential for a single individual to have multiple records (i.e. driver, citation, or crash especially) that are not correlated to a single individual.

Oregon does not have the functional components of a DWI (DUII) tracking system. Citation and court management systems are not integrated to be able to account for every DUII incident from the initial citation through completion of all court-imposed compliance and/or treatment requirements. As a result, there is no way to determine that every DUII citation reaches the prosecutor and that the case is processed through to a final adjudicated disposition.

Recommendations

- **Determine effective solutions to link traffic record systems to reduce data entry functions and identify records in the driver, vehicle, citation, and court adjudication systems that would have a common unique identifier.**
- **Pursue the ability for citation and court case management systems to electronically transmit information to enable the tracking of each Driving Under the Influence of Intoxicants case from citation through to final disposition.**
- Automate the transmission of conviction reports and court orders between court clerks and the Oregon Department of Motor Vehicles, Driver and Motor Vehicle Services Division.
- Centralize the ignition interlock device processes to provide for broader participation, compliance, and effectiveness in reducing impaired driver recidivism.
- Create policies and procedures for timely reporting of ignition interlock device program violations to the courts.

C. Driver Records Systems

Advisory

Each State's driver licensing agency should maintain a system of records that enables the State to: (1) identify impaired drivers; (2) maintain a complete driving history of impaired drivers; (3) receive timely and accurate arrest and conviction data from law enforcement agencies and the courts, including data on operators as prescribed by the commercial driver licensing (CDL) regulations; and (4) provide timely and accurate driver history records to law enforcement and the courts.

The driver license system should:

- *Include communication protocols that permit real-time linkage and exchange of data between law enforcement, the courts, the State driver licensing and vehicle registration authorities, liquor law enforcement and other parties with a need for this information;*
- *Provide enforcement officers with immediate on-the-road access to an individual's licensing status and driving record;*
- *Provide immediate and up-to-date driving records for use by the courts when adjudicating and sentencing drivers convicted of impaired driving;*
- *Provide for the timely entry of any administrative or judicially imposed license action and the electronic retrieval of conviction records from the courts; and*
- *Provide for the effective exchange of data with State, local, tribal and military agencies, and with other governmental or sovereign entities.*

Status

The Driver and Motor Vehicle Services Division (DMV) of the Oregon Department of Transportation (ODOT) maintains all driver license and driver history information for state residents. All traffic convictions, including impaired driving, are transmitted from the courts to DMV and posted to the driver record. However, most of the Driving Under the Influence of Intoxicants conviction reports and related court orders are reported via paper forms must be posted manually. Additionally, Implied Consent and Ignition Interlock Device (IID) violation documentation are transmitted to DMV for appropriate driver license suspension actions and are also processed manually. DMV applies driver license suspension and revocation actions based on conviction information and orders from courts related to IID program compliance and the issuance of hardship permits. Additionally, all reported crash involvement is recorded on the driver record.

Driver system and license information are available to law enforcement and court users in real-time. Driver history information allows for accurate evaluation of driver status both at the roadside and in the courtroom. Driver system data can be auto-populated to crash and citation reports when the law enforcement agency software is equipped with this functionality. However, there are no real-time interfaces between the driver record

system, the vehicle records system, and the crash records system that could be used to validate crash data with driver demographics or vehicle attribute information.

Recommendations

- **Develop real time driver and vehicle data interfaces to aid in the capturing and validation of driver demographic information and vehicle attributes in completing crash report processing.**

APPENDIX

2023 IMPAIRED DRIVING ASSESSMENT AGENDA

DAY 1 Tuesday, April 11, 2023

- 8:00 a.m. – 8:45 a.m.** **Introduction | State Leadership Panel**
- Amy Joyce – DMV Administrator
 - Traci Pearl – ODOT Transportation Safety Office Manger
 - Miguel Lopez – ODOT Transportation Safety Office Assistant Manager
 - Ryan Stone – ODOT Impaired Driving Program Manager
- 8:45 a.m. – 10:00 a.m.** **Transportation Safety Office Programs | Department of Human Services**
- Ryan Stone – Impaired Driving Program Manager
 - Jeff Greiner – Motorcycle Safety Program Manager
 - Debi Hueckman – Program Analyst, Oregon Department of Human Services
- 10:00 a.m. – 10:15 a.m.** **BREAK**
- 10:15 a.m. – 11:15 a.m.** **Impaired Driving Countermeasures Advocacy Groups**
- Cate Duke – Mothers’ Against Drunk Driving Program Manager, Oregon
 - Lois Harvick – Executive Director, Lane County Victim Impact Panel
 - Heather Jefferis – Executive Director, Oregon Council for Behavioral Health
- 11:15 a.m. – 12:00 p.m.** **Traffic Records Data**
- John Bonnett – ODOT Transportation Data Manager
 - Walt McAlister – ODOT Traffic Records Program Manager
 - Tiana Tozer - ODOT Region 1 Transportation Safety Coordinator
- 12:00 p.m. – 1:00 p.m.** **LUNCH**
- 1:00 p.m. – 1:45 p.m.** **Prevention / Advocacy to include Underage Drinking**
- Janelle Lawrence – Executive Director, Oregon Impact
 - Mandi Puckett – Executive Director, CLEAR Alliance (Virtual)

- Officer Adam Lillengreen – University of Oregon Police Department
- Deborah Ruiz – Director, ADES of Portland

1:45 p.m. – 2:30 p.m.

Media / Outreach Efforts

- Katherine Benenati – ODOT Assistant Communications Director (Virtual)
- Sergeant Tom Speldrich – Public Information Officer, Lane County Sheriff’s Office
- Heidi Manlove – Pedestrian|Bike Safety Program Manager (ODOT – TSO)
- Jeff Greiner – Motorcycle Safety Program Manager

2:30 p.m. – 2:45 p.m.

BREAK

2:45 p.m. – 3:30 p.m.

Impaired Driving Law Enforcement Training

- David Beatty – DPPST Traffic Safety Training Coordinator
- Sergeant Kevin Ely – Oregon State Police
- Deputy Jason Moser – Washington County Sheriff’s Office

3:30 p.m. – 4:15 p.m.

Driver Licensing / Program Issues | TSO Data & Planning

- Jonathan Munson – Oregon DMV Driver Control Unit
- Colleen O’Hogan – ODOT Work Zone Program Manager
- Ryan Stone – ODOT Impaired Driving Program Manager

4:15 p.m.

Team Meeting and Report Section Writing

DAY 2 Wednesday, April 12, 2023

8:00 a.m. – 8:45 a.m.

Adjudication of DUI Cases

- Honorable Eric Bergstrom – State Judicial Outreach Liaison
- Honorable Steve Todd – Municipal Courts Judge (Virtual)
- Honorable Juliet Britton – Beaverton B-SOBR Court Judge

- 8:45 a.m. – 9:30 a.m.** **DUI Enforcement | Law Enforcement Executives**
- Undersheriff Brandon Bowdle – Yamhill County Sheriff’s Office (Virtual)
 - Chief Mike Iwai – Ontario Police Department
 - Lieutenant Jason Lindland – Oregon State Police
 - Chuck Hayes – Chair, Governor’s Advisory Committee on DUII (Virtual)
- 9:30 a.m. – 9:45 a.m.** **BREAK**
- 9:45 a.m. – 10:45 a.m.** **DUI Enforcement**
- David Beatty – Oregon Law Enforcement Liaison, DPSST
 - Sergeant Josh Wilson – Washington County Sheriff’s Office
 - Sergeant Ty Engstrom – Portland Police Bureau
 - Chief Mike Iwai – Ontario Police Department
- 10:45 a.m. – 11:15 a.m.** **TSO Media Outreach**
- Alexis Wong – GARD Communications
 - Ryan Stone – ODOT Impaired Driving Program Manager
- 11:15 a.m. – 11:30 a.m.** **BREAK**
- 11:30 a.m. – 12:30 p.m.** **DUII Prosecution**
- Deena Ryerson – Oregon Department of Justice, Traffic Safety Resource Prosecutor (TSRP)
 - R. Lynn Howard – Lincoln County District Attorney’s Office
 - Lori Evans – City of Salem Prosecutor
- 12:30 p.m. – 1:15 p.m.** **LUNCH**
- 1:15 p.m. – 2:00 p.m.** **Impaired Driving Legislation**
- Deena Ryerson – Oregon Department of Justice (TSRP)
 - Lt. Robert Hayes – Albany Police Department
 - Kayla Hootsmans – ODOT Legislative Analysis (Virtual)
 - Lt. Evan Sether – Oregon State Police (DUII Enforcement)
 - Chief Mike Iwai – Ontario Police Department

- 2:00 p.m. – 2:45 p.m.** **Toxicology | Treatment**
- Robert Jones – Oregon State Police Crime Lab Supervisor
 - Justin Nielsen – Owner, Oregon Recovery
 - Kevin Campbell – Lobbyist, OACP and OSSA (Virtual)
- 2:45 p.m. – 3:00 p.m.** **BREAK**
- 3:00 p.m. – 3:45 p.m.** **Acute Treatment | Health Authority**
- Dr. Mitchell Sally – Oregon Health & Science University (OHSU)
 - Heather Wong MHS BSN RN TCRN – OHSU
 - Dr. Dagan Wright – Oregon Health Authority Public Health Division
 - Marisha Elkins – Oregon Health Authority Health Systems Division
 - Jody Berryhill- Trauma Program Coordinator, OHSU
 - Sara Gould - Injury Prevention Coordinator, OHSU
- 3:45 p.m. – 4:00 p.m.** **State Leadership Panel Returns (Questions/Answers)**
- Traci Pearl – ODOT Transportation Safety Office Manager
 - Ryan Stone – ODOT Impaired Driving Program Manager
- 4:00 p.m.** **Team Meeting and Report Section Writing**

DAY 3 Thursday, April 13, 2023

- 8:00 a.m. - 8:00 p.m.** **Assessment Team Writes Consensus Report**

DAY 4 Friday, April 14, 2023

- 8:00 a.m. – 9:30 a.m.** **Assessment Team Presents Report to State**

Team Credentials

ROBERT BURROUGHS

Summary of Experience

Bob Burroughs has over 29 years of law enforcement experience including over 20 years of progressive management and executive level experience in highway safety, regulatory programs, and driver licensing programs. He has over twelve (12) additional years providing consulting services in the motor vehicle programs.

Bob's transportation career began as a highway patrolman and driver licensing trooper. He progressed through the ranks and served in several highway safety program oversight positions covering motor carrier, vehicle safety inspection, driver licensing, and information technology programs. He was instrumental in automating roadside commercial motor vehicle inspections and traffic citations for the Texas DPS. He also served as a project sponsor for the Texas Crash Records Information System project and as an executive member of the Texas Traffic Records Coordinating Committee.

Professional Business Experience

- Manager of the Motor Carrier Bureau responsible for statewide data management of Commercial Motor Vehicle Roadside Inspection data and oversight of the Motor Carrier Compliance Audit program of the Texas Department of Public Safety
- Program director for the statewide Vehicle Inspection Program responsible for program oversight and enforcement
- Highway Patrol Division record management and information technology manager responsible for integrating citation and disposition data as well as development and deployment of the Texas Highway Patrol In-Car computer program
- Directed the statewide Driver License Field Operations and the Internal Fraud Investigation Unit
- Directed the development of the Compliance and Enforcement Service for the newly formed Regulatory Services Division of the Department of Public Safety.

Consulting Business Experience

- Worked with the Massachusetts Registry of Motor Vehicles documenting business processes for re-engineering revenue operations, citation processing, and driver sanctioning activities.
- Prepared response to Jamaica Department of Motor Vehicles request for proposals to upgrade the driver licensing and vehicle title and registration programs.
- Work as a subcontractor assessing traffic record system interoperability within various States and United States Territories as a condition of their receiving federal highway funds for traffic record interoperability improvement programs.

Professional Societies and National Committees

- Member of the Federal Motor Carrier Safety Administration, Commercial Driver License Advisory Group
- Member of the Federal Motor Carrier Safety Administration, Federal Negotiated Rulemaking Committee to Enhance Driver License and Identity Security Standards
- Past Regional Vice President of the Commercial Vehicle Safety Alliance
- Member of the Information Systems Committee of the Commercial Vehicle Safety Alliance
- Past International Chair of the Law Enforcement Committee of the American Association of Motor Vehicle Administrators
- Past International Chair of the Vehicle Safety Inspection Committee of the American Association of Motor Vehicle Administrators
- Past Region II Chair of the Law Enforcement Committee of the American Association of Motor Vehicle Administrators
- Past Region II Chair of the Vehicle Safety Inspection Committee of the American Association of Motor Vehicle Administrators

Education

B.S., Criminal Justice, Wayland Baptist University

Graduate of the Bill Blackwood Law Enforcement Management Institute and the State of Texas Governor's Executive Management Development Program

GLENN DAVIS

Glenn Davis is the Colorado Department of Transportation's (CDOT) Highway Safety Manager in the Governor's Highway Safety Office. Glenn and his staff are responsible for the administration of programs addressing Impaired Driving, Police Traffic Services, Motorcycle Safety, Young Drivers, Traffic Records and Speed Enforcement.

Glenn has served on the following Colorado entities: Peace Officer Standards and Training curriculum committee, State Emergency Medical and Trauma Services Advisory, Prevention Leadership Council, Young Driver's Alliance, Persistent Drunk Driver Committee and Mothers Against Drunk Driving (MADD) Advisory and Steering Committees, Colorado Governor's Cannabis Cabinet and Marijuana Education Oversight Committee.

Glenn is the Chair of the Colorado Task Force on Drunk and Impaired Driving, Vice Chair and former Chair of the Motorcycle Operator Advisory Board, and Parliamentarian of the State Traffic Records Advisory Committee.

Glenn has participated as a panel member for the Model National Administrative Standards for Motorcycle Rider Training Programs and Enhancing Motorcycle Awareness in Education, Licensing and Outreach projects.

Glenn has facilitated Colorado's three motorcycle technical assessments, and an Impaired Driving Assessment. Glenn has participated in NHTSA motorcycle technical assessments for the states of Maine (2), Nevada, Washington, and Virginia and a Standard Field Sobriety Testing assessment for the state of Missouri.

Glenn is an Executive Committee Member and Western Regional Representative of the State Motorcycle Safety Association.

Glenn retired from Littleton Police (CO) after 25 years of law enforcement where he was the Coordinator of the Drug Recognition Expert and Impaired Driving Enforcement Programs. Glenn has been recognized by The International Association of Chiefs of Police with the Drug Evaluation and Classification Emeritus Award, MADD Colorado's Welter Award for commitment to traffic safety and Responsibility.org Kevin Quinlin Award for Excellence in Traffic Safety.

Glenn has a bachelors degree in criminal justice and a masters degree in education from Colorado State University.

JUDGE ROBIN D. SMITH

Judge Robin D. Smith was the Presiding Judge of the City of Midland, Texas Municipal Court. He served in that position from 1984 until his retirement in 2015. He continued to serve the Court and hear cases as required until 2022. Prior to the 1984 appointment, he practiced law as a prosecutor for the City of Midland in 1982-83 and operated as a solo practitioner in 1983-84.

Judge Smith's educational accomplishments include a Bachelor's Degree in Economics and Psychology from Oklahoma State University and his Juris Doctorate from Texas Tech University. He has also received a *Professional Certificate in Judicial Development* for Special Court Trial Skills from the National Judicial College.

His professional Association work includes serving as Chair of the American Bar Association's National Conference of Specialized Court Judges in 1996-97. Also in 1997, Judge Smith was appointed by Chief Justice Tom Phillips to serve on the Texas Judicial Council where he served until 2001. He has been President of the Texas Municipal Courts Association (TMCA) twice in 1991-92 and 2008-09. He was Chair of the State Bar of Texas Municipal Judges Section in 1989-90 and 2013-2014. He also served on the Section's Council for many years. He served on the TMCA Board of Directors from 1986-1997 and again in 2001 to 2005 and 2006 to 2010. Most notably, Judge Smith served as the United States Department of Transportation National Highway Traffic Safety Administration Judicial Fellow from 2002-2004.

Among honors, the Texas Municipal Courts Association named Judge Smith *Judge of the Year* in June 1998 and the State Bar of Texas Municipal Judges Section presented Judge Smith with the *Michael J. O'Neal Outstanding Jurist Gavel Award* in 2002. In 2001, Judge Smith was presented the American Bar Association's National Conference of Specialized Court Judges' *Education Award*. Judge Smith also was recognized by the Texas Junior Chamber of Commerce as one of *Five Outstanding Young Texans* in 1994 and is a five-time winner of the *City of Midland Management Awards*. In 2007, he was selected to be a *Fellow of the Texas Bar Foundation*.

He has been a frequent speaker for several groups including the National Judicial College and the Texas Municipal Courts Education Center. In addition, he has spoken at judicial training seminars in numerous states. He is considered to have expertise in the areas of search and seizure, constitutional criminal procedure, traffic safety and juvenile law.

In addition to his activities and position at the Midland Municipal Court, he edited and published the *Texas Municipal Court - Justice Court News*. The publication had more than 800 monthly subscribers and was printed for more than thirty years.

MARK STODOLA

Mark Stodola has served as the American Probation and Parole Association's Probation Fellow for over eight years. He brings over 30 years of experience working in the field of court management and adult probation in Arizona. Mark has presented training on topics surrounding high risk impaired drivers at national, regional and state conferences throughout the country.

Mark received his undergraduate degree in History from the University of Wisconsin-Madison and his Master's Degree in Education from Northern Arizona University.