NCDC
NATIONAL CENTER
FOR DWI COURTS

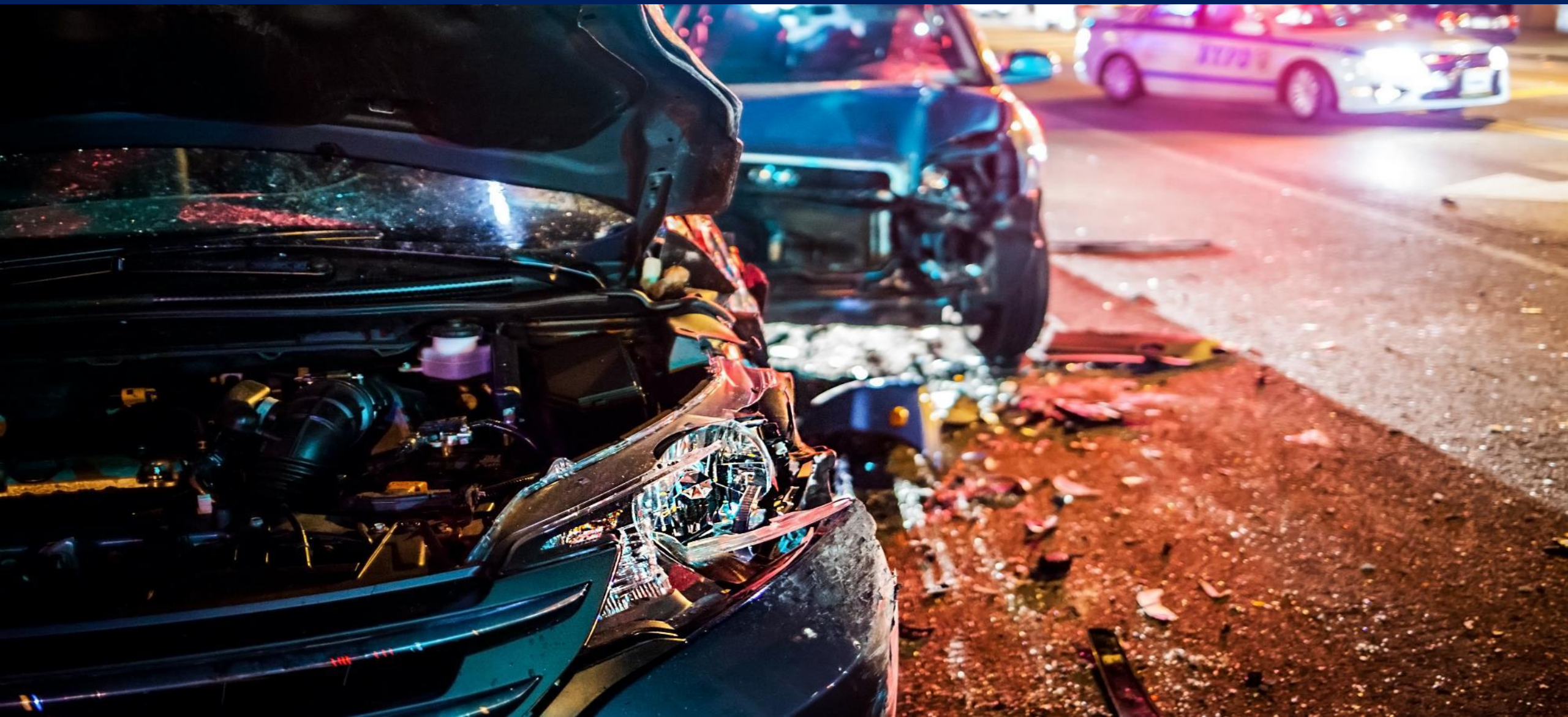
The DWI Court Difference

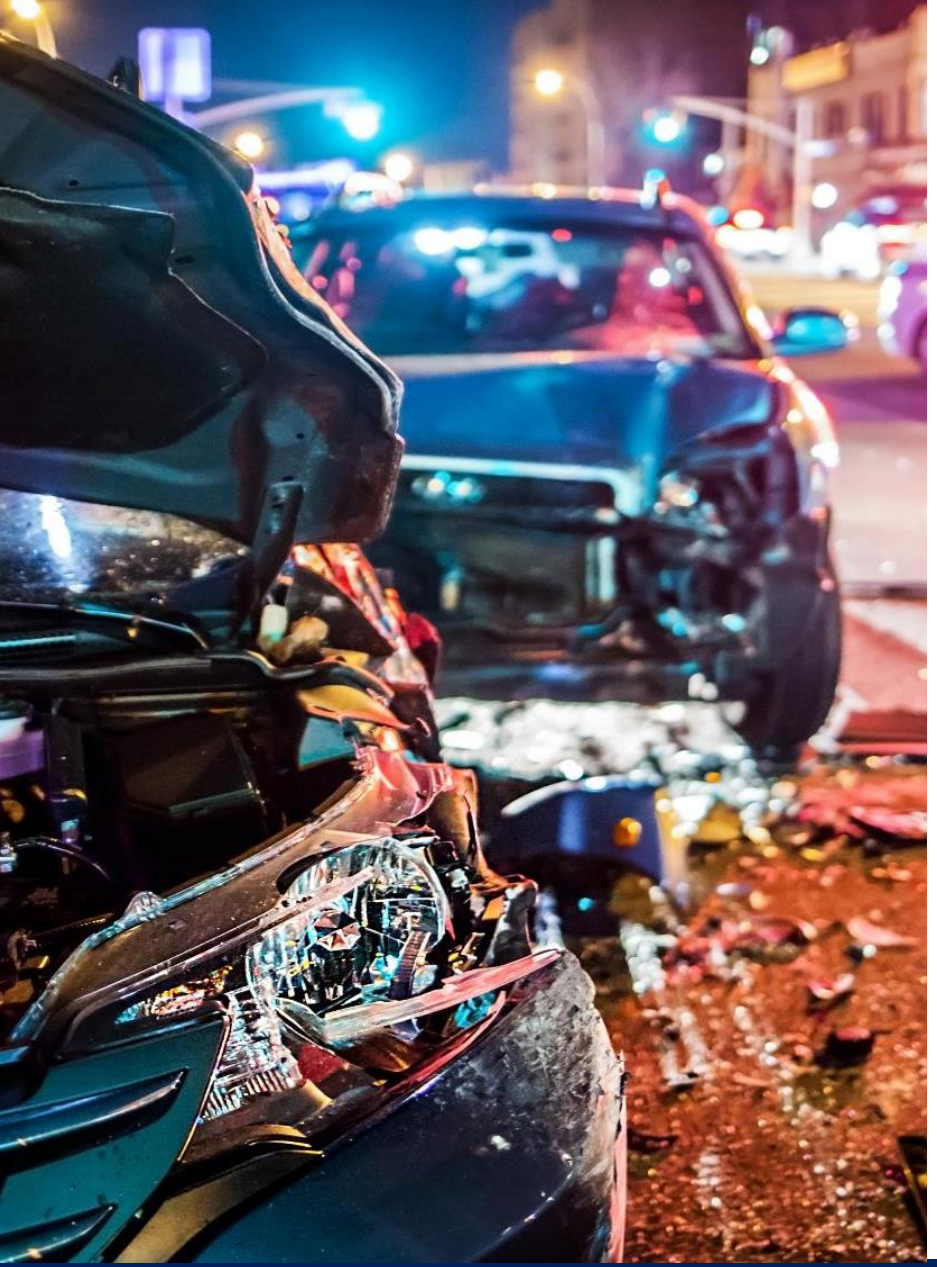
Treating Impaired Drivers in Other Models of Treatment Courts

The DWI Court Difference

- Who are impaired drivers?
- DWI court partners
- Eligibility and entry considerations
- Coordinated care & case management
- Responding to specific behaviors

Who Are Impaired Drivers?





The DWI Court Difference

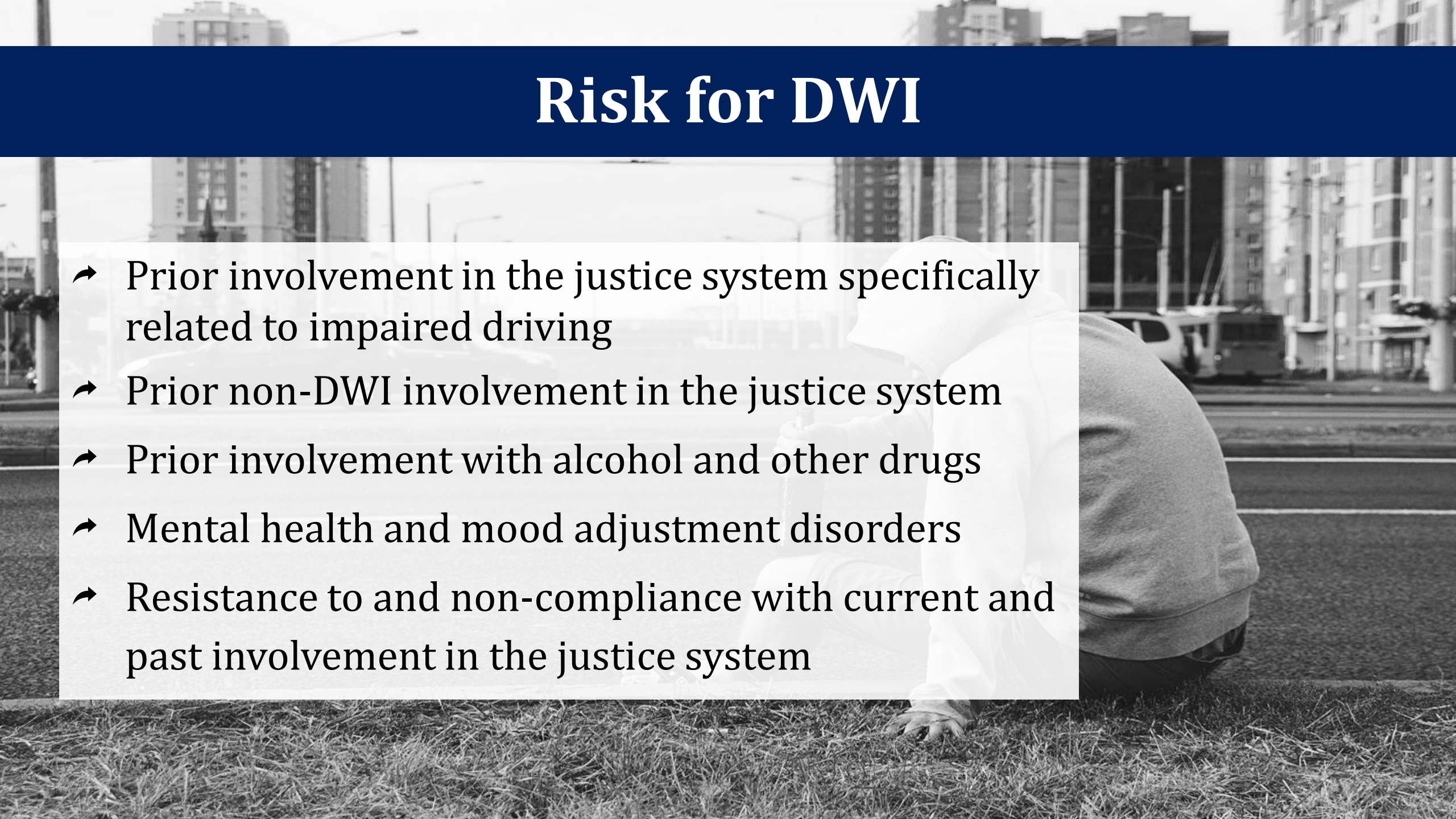
Impaired-drivers engage in **behavior** that is dangerous and frequently causes serious injury or fatalities.

Impaired-Drivers are Unique

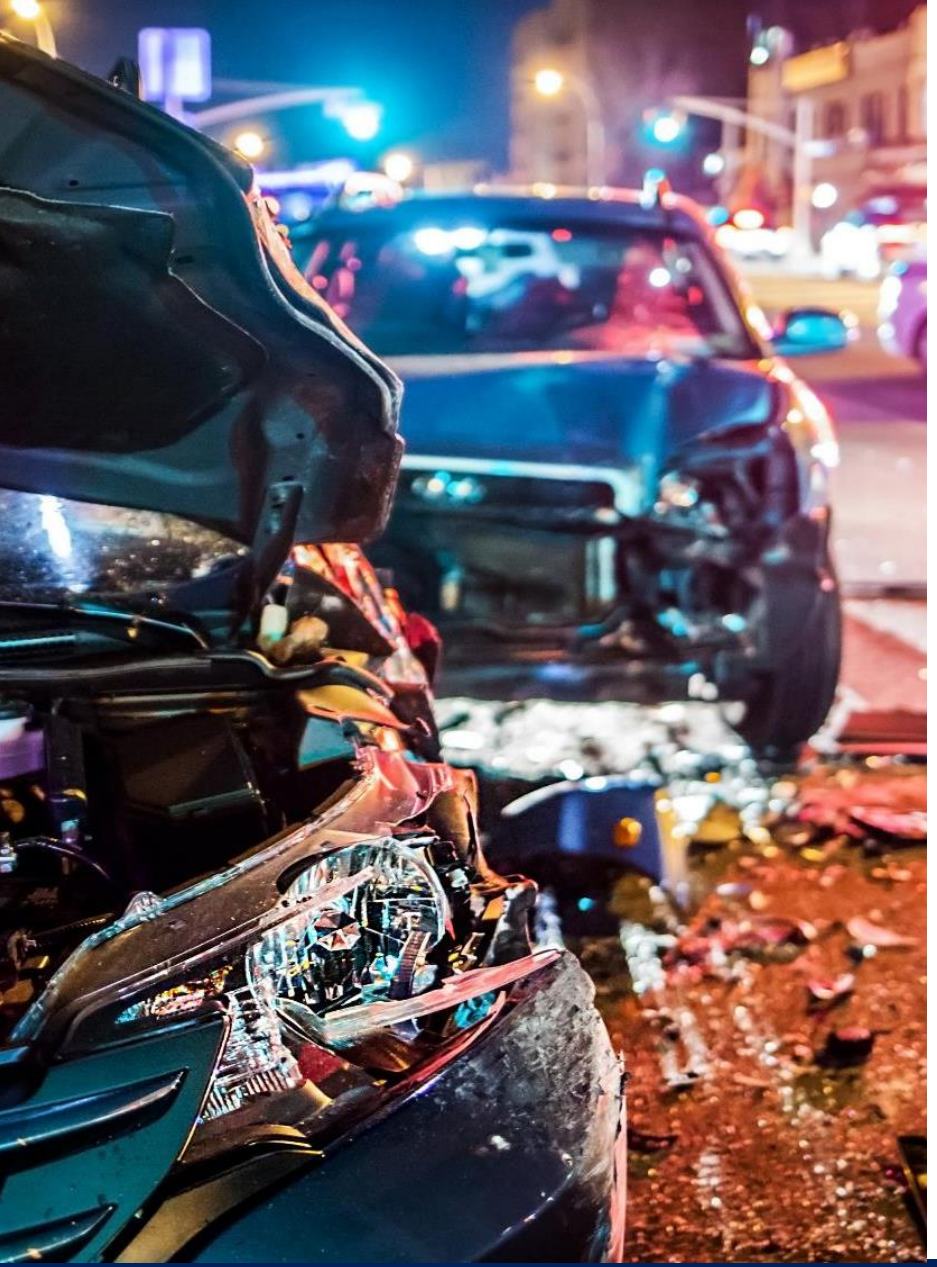
- Often lack an extensive criminal history
- High degree of denial and separation
  - Alcohol is legal, highly prevalent, and encouraged by societal norms… Marijuana and some other drugs are beginning to follow this trend
  - Tend to be employed
  - May have a stable social network
  - Do not view themselves as “criminals”
- Repeatedly engage in dangerous behavior

Impaired drivers tend to score lower on traditional risk assessments

Risk for DWI



- Prior involvement in the justice system specifically related to impaired driving
- Prior non-DWI involvement in the justice system
- Prior involvement with alcohol and other drugs
- Mental health and mood adjustment disorders
- Resistance to and non-compliance with current and past involvement in the justice system



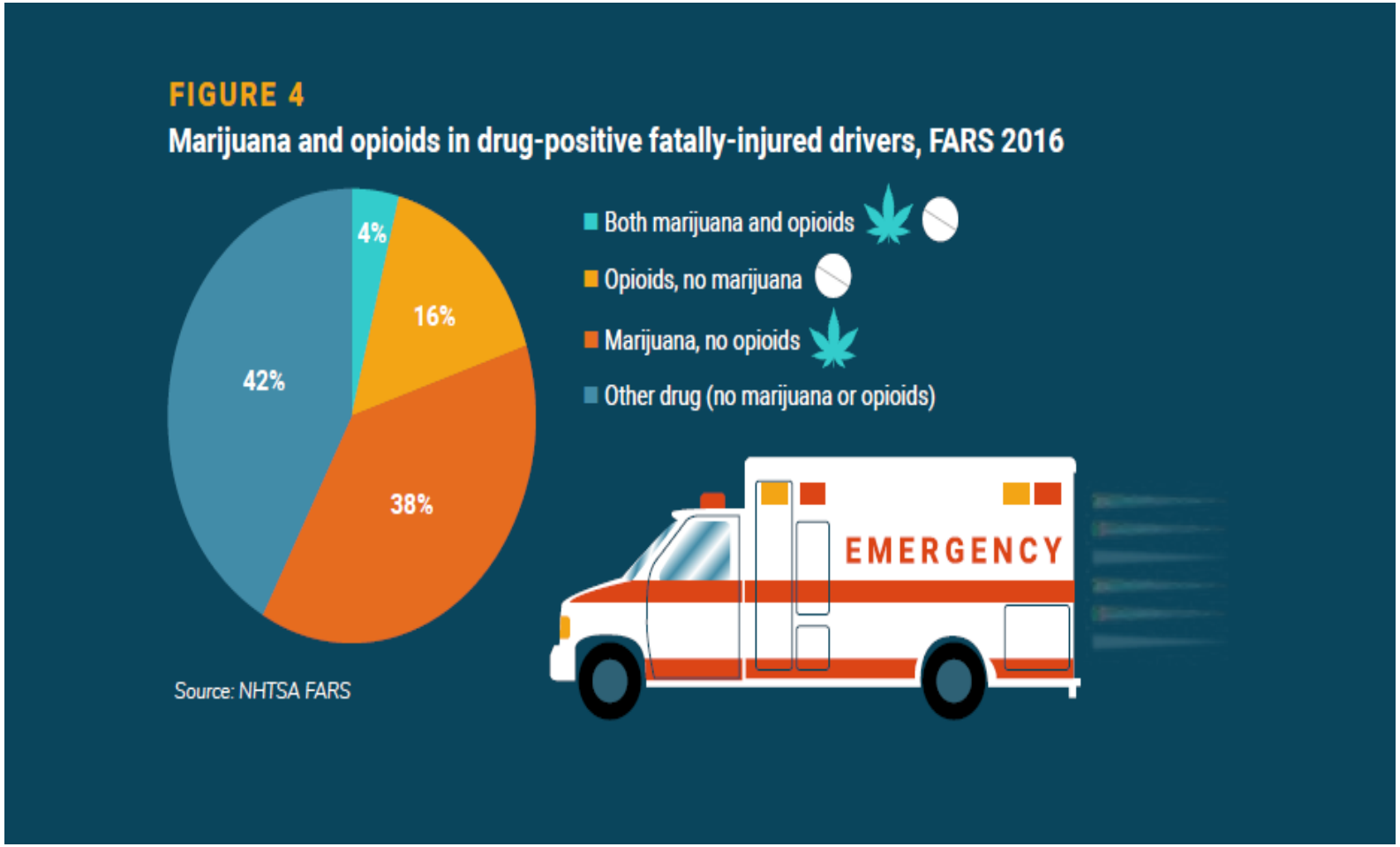
Drug-Involved

In 2016, among fatally-injured drivers, 43.6% of drivers with know drug test results were drug positive.

50.5% were positive for two or more drugs

40.7% were positive for alcohol also

Prevalence of Marijuana & Opioids



<u>NHTSA 2013-2014 Roadside Survey</u>

- Marijuana was by far the most prevalent drug
- 12.7% positive weekend nights
- 8.7% positive weekend days
- In 2007, nighttime presence was 8.7%

<u>Washington 2014-2015 Roadside Surveys</u>

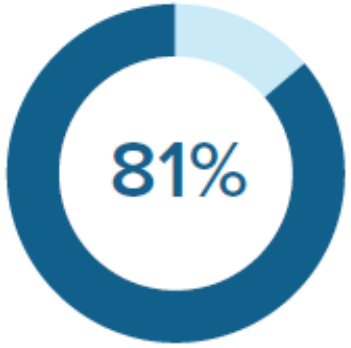
- Before, 6-mo, 12-mo after legalization
- THC-positive drivers increased 14.6% to 19.4% then to 21.4%
- Daytime use was greater than nighttime

<u>Colorado</u>

- Fatalities with driver THC-positive increased from 18 (2013) to 77 (2016)

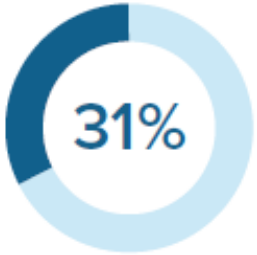
Marijuana Users' Perception of Risk

The majority (81%) of respondents are aware that driving under the influence of cannabis is illegal.



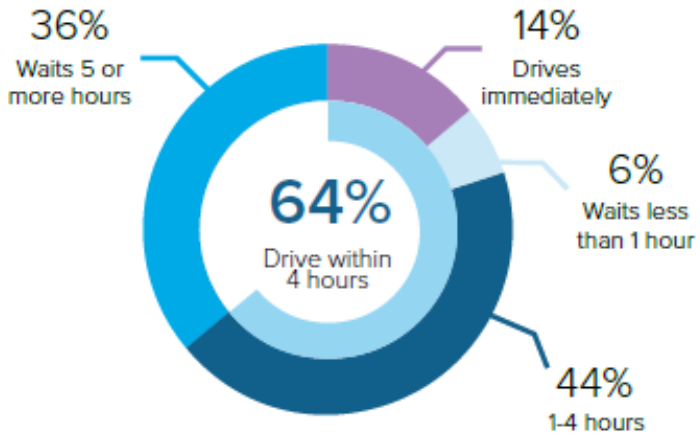
Close to half (46%) do not know whether a legal limit (per se) exists for cannabis.

The majority (62%) are unaware of the penalties that cannabis DUIs bring. Only 1 in 5 believe that fines and probation apply.

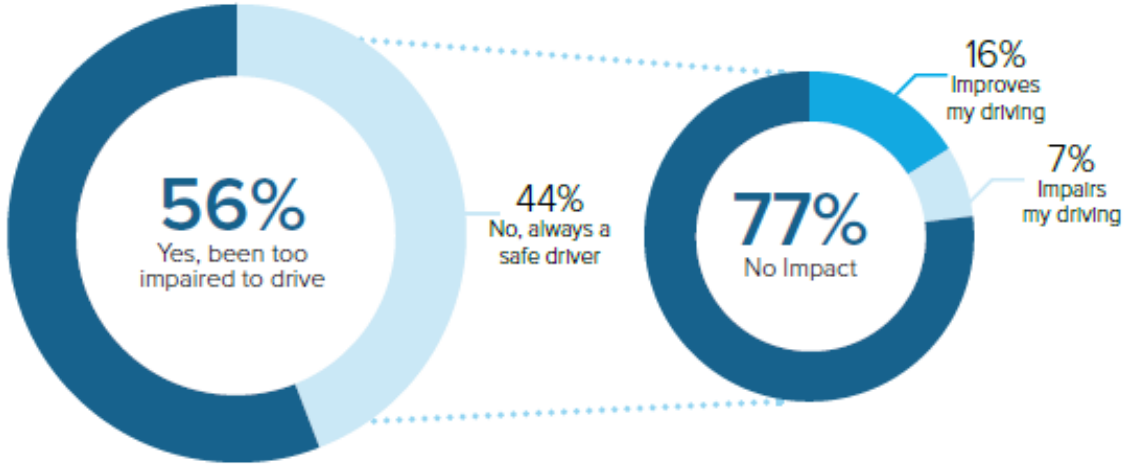


Rules around the presence of cannabis in vehicles are not well understood. Nearly one-third (31%) of respondents did not know if open cannabis containers are allowed in a vehicle.

TYPICAL WAIT TIME BEFORE DRIVING AFTER CANNABIS



DRIVING AFTER CANNABIS



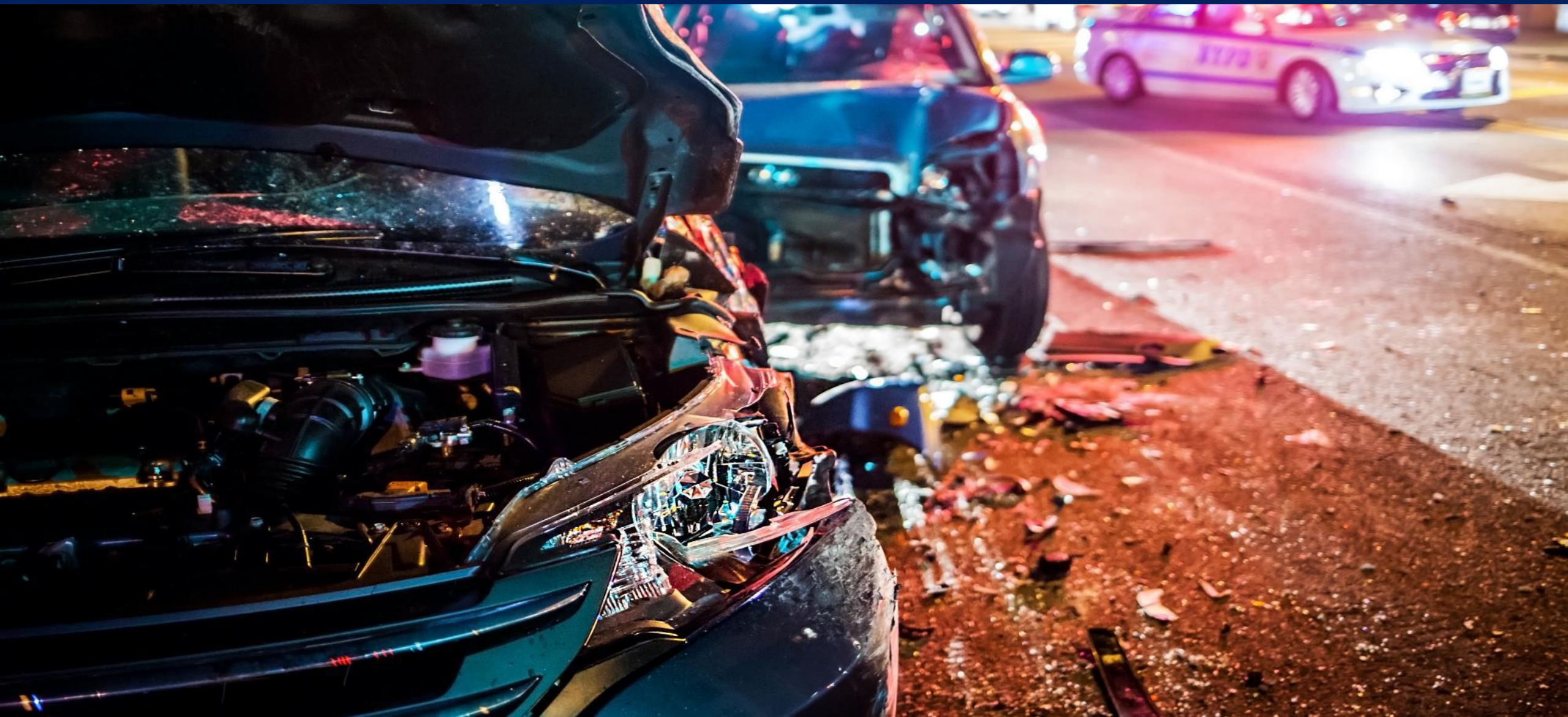
Female Impaired Drivers

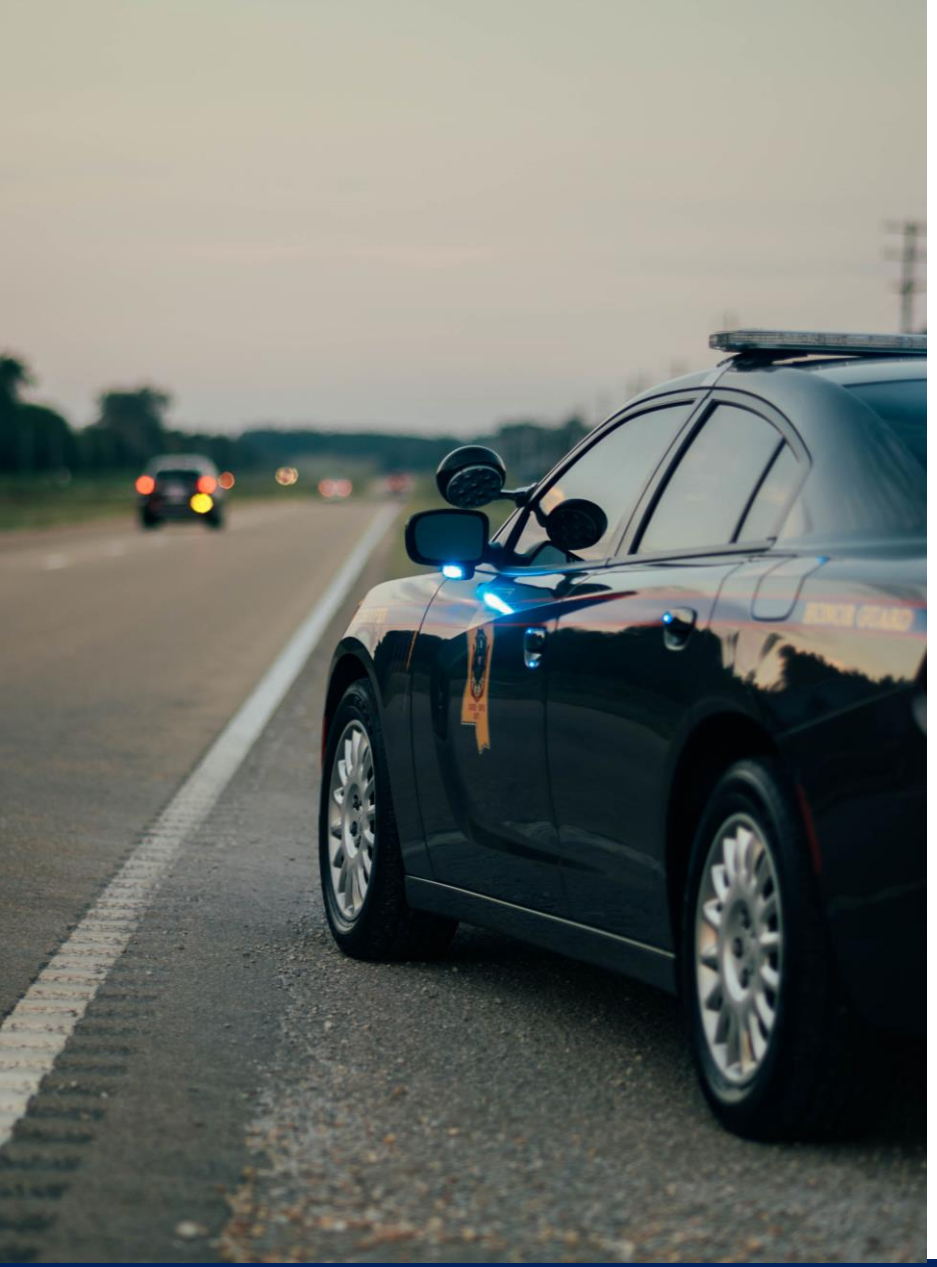
- Ages range from late teens to 60's
- Diverse education, employment and family backgrounds
- More likely to be single (divorced or separated, never married)
- Often present with a more complex range of issues
  - Mental health disorders (often undiagnosed): trauma, anxiety, depression
- Women experience a more rapid development of alcohol use disorder

Female Impaired Drivers

- Many women define their experiences in terms of emotional reactions: shame, depression, anxiety
- They were concerned that emphasis was placed on the offense and not the underlying facts
- Women reported that their sentence failed to account for life circumstances or address their issues

DWI Court Partners



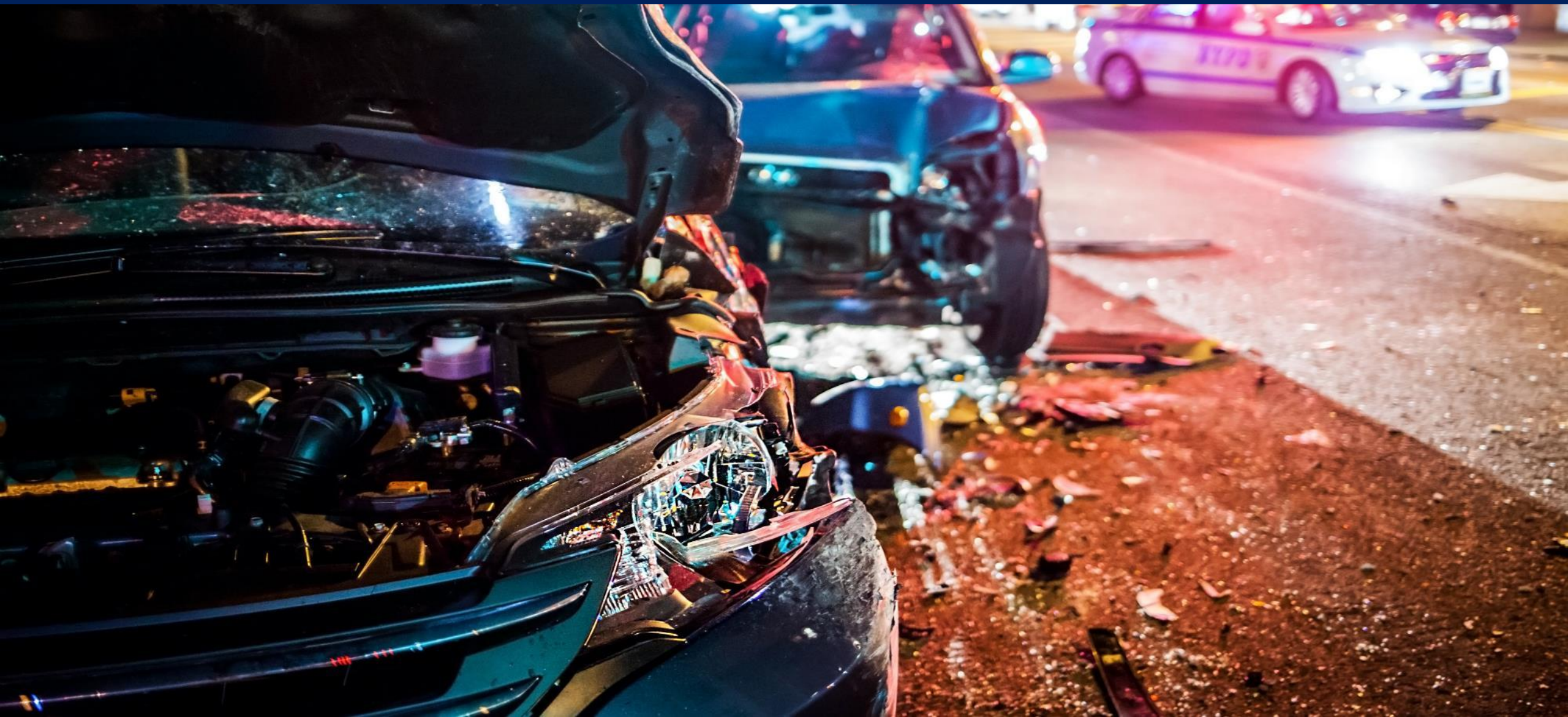


GP5: Forge Agency, Organization, & Community Partnerships

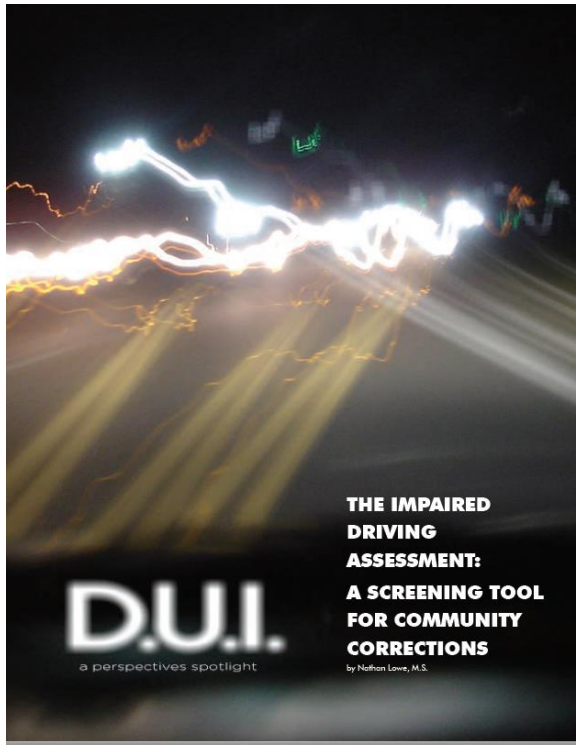
- Law enforcement
- Victim advocacy groups… MADD conditional support for DWI courts
- Recovery community
- Public
- Media

Advocacy leads to sustainability

Eligibility and Entry Considerations



Validated Tools are Critical

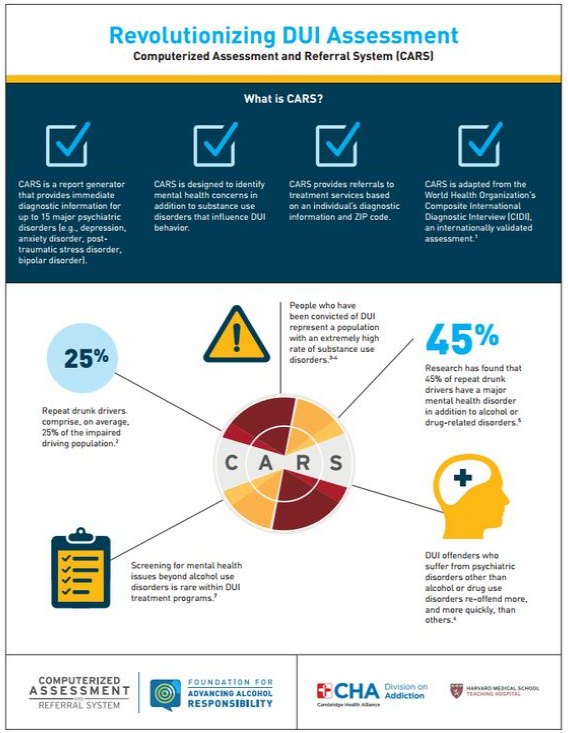


Impaired Driving Assessment

Mark Stodola

APPA Probation Fellow

probationfellow@csg.org



Computerized Assessment and Referral System

www.carstrainingcenter.org

HR/HN	LR/HN
HR/LN	LR/LN

Screening Tool:

DUI-RANT

Screening & Assessment Process

Legal

Administer risk/need tools validated for the population

Identify high-risk individuals and their criminogenic needs

If using a screening tool, follow it with a full assessment

Clinical

Administer in-depth substance use assessment to obtain diagnosis (moderate-severe) and level of care

If using a screening tool, follow it with a full assessment

Conduct both before acceptance

Timeliness

The time between arrest and program entry is 50 days or less

Recidivism↓63%

DWI courts should strive to reduce time to 30 days

Public safety is a key factor

What's in it for me?

Incentivize Participation

Motivation is different for all potential candidates. Determine a wide array of incentives that will motivate participation.

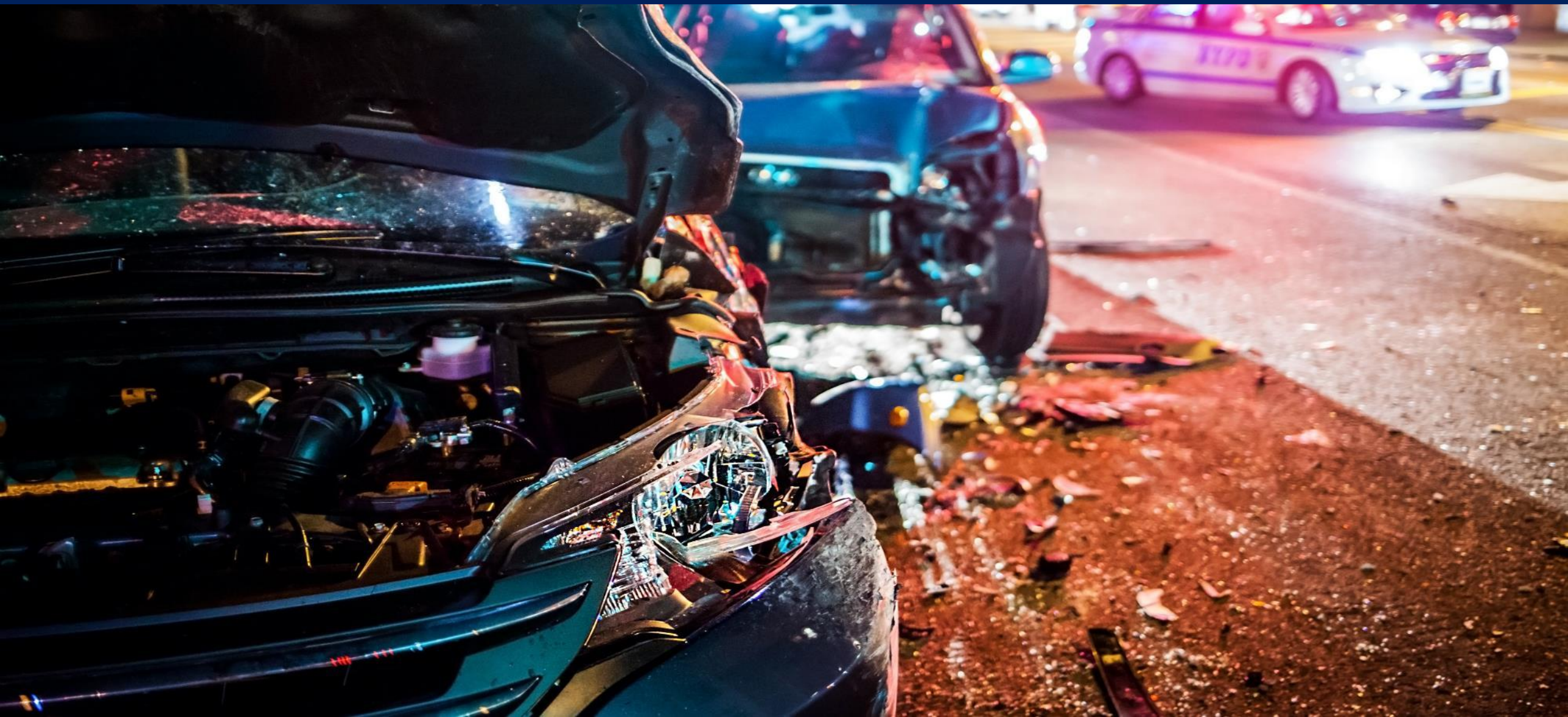
Case Processing	Sentencing	Privileges
Introduce early	Reduced incarceration	Limited driver's license
Resolve case faster	Serve sentence in less restrictive manner	Use of tools and technology
Pre-trial options	Reduced fines and costs	Freedom
Voluntary vs. Mandatory	Probation violations	Life-changing

Court Docket

If operating a hybrid court, recommendation is to separate impaired drivers into a different calendar

Remember: Impaired drivers have a unique perspective that they're not like other HR/HN individuals

Coordinated Care & Case Management



Treatment Considerations

- Ambivalent/Pre-contemplative
- Attitudes
- Use of medications for addiction treatment

ACCEPT

A ssess what is and is not working in the treatment plan

C hange the treatment plan to address those identified problems or priorities

C heck the treatment contract if the participant is reluctant to modify the treatment plan

E xpect effort in a positive direction – "do treatment" not "do time"

P olicies that permit mistakes and honesty; not zero tolerance

T rack outcomes in real time – functional change (attitudes, thoughts, behaviors" not compliance with a program

--Dr. David Mee-Lee, Tips and Topics, May 2019

Non-Clinical Considerations

- Criminal thinking programming
- Education programming… usually to comply with state mandates

Importance of Addressing Transportation

Transportation plans need to be developed immediately upon entry.

To not address this issue may set up the participant to fail.

Participants also need to understand the potential consequences for illegal driving behavior.

Testing and Technology

- Alcohol testing
  - Daily in the first three phases
  - 2x/week in the fourth phase
  - Random in the fifth phase
- Polysubstance testing
  - 2x/week in the first four phases
  - Random in the fifth phase
- Use of technology

Responding to Specific Behaviors

Driving Without a License

- Prohibition and possible response to this violation should be clearly written, vocalized, and provided to participant
- Behavior response is a high-magnitude sanction
- Opportunity to revisit transportation plan
- Response to new DWI?

Balancing Treatment and Public Safety

Scenario

Probation or law enforcement is conducting a home check with a participant. During the visit, the officer suspects the participant is under the influence. After a discussion, the participant admits to using alcohol and marijuana. Onsite tests confirm the admission. The participant committed no other program violations.

What should the officer do?

Are there any factors that impact your decision?

Balancing Treatment and Public Safety

Treatment

- Every instance of use requires a therapeutic response
- May mean a different level of care or no change at all
- Determined by treatment professionals

Public Safety

- Every instance of use requires steps to separate use from driving
- May mean brief detaining of the participant
- Therapeutic response needs to be immediate

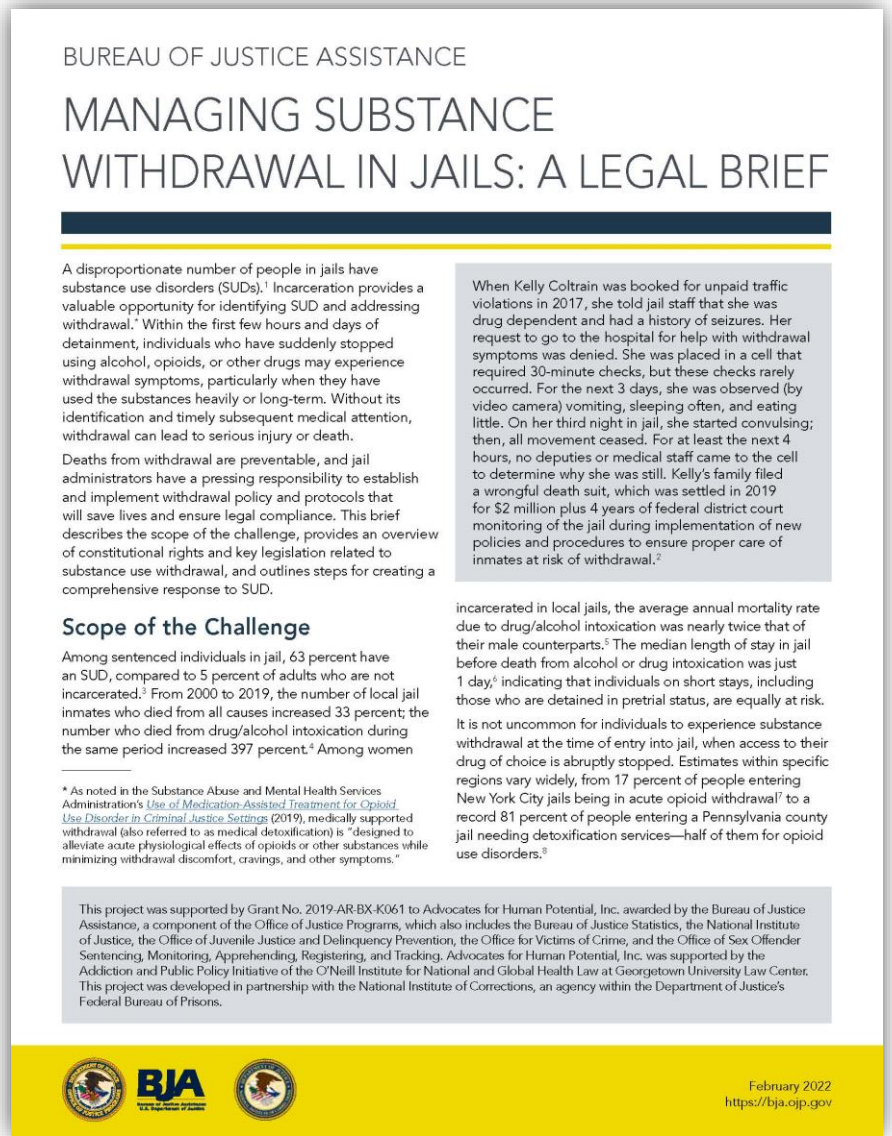
Use of Jail

In accordance with behavior modification principles, jail is a high-magnitude sanction usually used as a graduated response in short doses (no longer than six days)

Jail should not be used to hold a participant until a therapeutic response can be delivered if that response is not immediate.

Jail should not be used to keep a participant safe, from overdosing, for withdrawal, or for the health of a pregnancy.

Why We Do Not Incarcerate For Use



BUREAU OF JUSTICE ASSISTANCE

MANAGING SUBSTANCE WITHDRAWAL IN JAILS: A LEGAL BRIEF

A disproportionate number of people in jails have substance use disorders (SUDs).[1] Incarceration provides a valuable opportunity for identifying SUD and addressing withdrawal.* Within the first few hours and days of detainment, individuals who have suddenly stopped using alcohol, opioids, or other drugs may experience withdrawal symptoms, particularly when they have used the substances heavily or long-term. Without its identification and timely subsequent medical attention, withdrawal can lead to serious injury or death.

Deaths from withdrawal are preventable, and jail administrators have a pressing responsibility to establish and implement withdrawal policy and protocols that will save lives and ensure legal compliance. This brief describes the scope of the challenge, provides an overview of constitutional rights and key legislation related to substance use withdrawal, and outlines steps for creating a comprehensive response to SUD.

When Kelly Coltrain was booked for unpaid traffic violations in 2017, she told jail staff that she was drug dependent and had a history of seizures. Her request to go to the hospital for help with withdrawal symptoms was denied. She was placed in a cell that required 30-minute checks, but these checks rarely occurred. For the next 3 days, she was observed (by video camera) vomiting, sleeping often, and eating little. On her third night in jail, she started convulsing; then, all movement ceased. For at least the next 4 hours, no deputies or medical staff came to the cell to determine why she was still. Kelly's family filed a wrongful death suit, which was settled in 2019 for $2 million plus 4 years of federal district court monitoring of the jail during implementation of new policies and procedures to ensure proper care of inmates at risk of withdrawal.[2]

Scope of the Challenge

Among sentenced individuals in jail, 63 percent have an SUD, compared to 5 percent of adults who are not incarcerated.[3] From 2000 to 2019, the number of local jail inmates who died from all causes increased 33 percent; the number who died from drug/alcohol intoxication during the same period increased 397 percent.[4] Among women incarcerated in local jails, the average annual mortality rate due to drug/alcohol intoxication was nearly twice that of their male counterparts.[5] The median length of stay in jail before death from alcohol or drug intoxication was just 1 day,[6] indicating that individuals on short stays, including those who are detained in pretrial status, are equally at risk.

It is not uncommon for individuals to experience substance withdrawal at the time of entry into jail, when access to their drug of choice is abruptly stopped. Estimates within specific regions vary widely, from 17 percent of people entering New York City jails being in acute opioid withdrawal[7] to a record 81 percent of people entering a Pennsylvania county jail needing detoxification services—half of them for opioid use disorders.[8]

* As noted in the Substance Abuse and Mental Health Services Administration's *Use of Medication-Assisted Treatment for Opioid Use Disorder in Criminal Justice Settings* (2019), medically supported withdrawal (also referred to as medical detoxification) is "designed to alleviate acute physiological effects of opioids or other substances while minimizing withdrawal discomfort, cravings, and other symptoms."

This project was supported by Grant No. 2019-AR-BX-K061 to Advocates for Human Potential, Inc. awarded by the Bureau of Justice Assistance, a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, the National Institute of Justice, the Office of Juvenile Justice and Delinquency Prevention, the Office for Victims of Crime, and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking. Advocates for Human Potential, Inc. was supported by the Addiction and Public Policy Initiative of the O'Neill Institute for National and Global Health Law at Georgetown University Law Center. This project was developed in partnership with the National Institute of Corrections, an agency within the Department of Justice's Federal Bureau of Prisons.

February 2022
https://bja.ojp.gov

Among women incarcerated in local jails, the average annual mortality rate due to drug/alcohol intoxication was nearly twice that of their male counterparts.

The median length of stay in jail before death from alcohol or drug intoxication was just *one day*.

NADCP
National Association of Drug Court Professionals

QUESTIONS?