



Prosecutor Training on the Treatment and Referral Services for the Impaired Driving Offender in Texas

Final Technical Memorandum
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List of Acronyms

CARS	Computerized Assessment and Referral System
DUI -RANT	Driving Under the Influence—Risk and Needs Triage
DWI	Driving While Intoxicated
IDA	Impaired Driving Assessment
LS/CMI	Level of Service/Case Management Inventory
MH	Mental Health
MHMR	Mental Health and Mental Retardation
NADCP	National Association of Drug Court Professionals
ORAS	Ohio Risk Assessment System
RANT	Risk and Needs Triage
RIASI	Research Institute on Addiction Self Inventory
RNR	Risk Needs Responsivity
SAMHSA	Substance Abuse and Mental Health Services Administration
SBIRT	Screening, Brief Intervention, and Referral to Treatment
SUD	Substance Use Disorder
TxDOT	Texas Department of Transportation
TxDPS	Texas Department of Public Safety

Disclaimer

The opinions and conclusions expressed in this document are those of the authors and do not represent those of the State of Texas, the Texas Governor's Office, or any subdivision of the state or federal governments.

This document is a compilation of the project activities performed during the 2021 fiscal year.



Executive Summary

Impaired driving is a potentially devastating yet preventable offense that continues to account for about 25% of all traffic-related fatalities in Texas (Texas Department of Transportation [TxDOT], 2020). To reduce the impaired driving recidivism rate in Texas, we need to address the issue through thoughtful evaluation and treatment. With that in mind, Texas A&M Transportation Institute (TTI) investigators developed a project to measure the understanding that prosecutors have about this topic and create a training to provide education on mental health disorders and effective sentencing and referral practices.



The first objective of the project was to survey prosecutors. The goal of the survey was twofold: first, to determine the level of knowledge these criminal justice professionals have about mental health disorders and substance use disorders, and second, to identify best practices. This survey revealed that standard protocols in prosecuting driving while intoxicated (DWI) cases are not consistent across Texas counties. The majority (89%) of the prosecutor respondents acknowledged that their office does not have DWI specialized caseloads. When asked about screening and assessments, more than half (60%) of the prosecutors indicated that their offices screen all DWI defendants. Interestingly, only one survey participant stated their prosecutor's office required screenings for all subsequent offenders, the majority (97%) said their office does not. This survey indicates that there is a lack of understanding about the variety of screening and assessment tools that have been designed specifically for impaired drivers. Most of the survey participants (57%) did not know which tools are commonly used by their office to screen defendants. Ninety-seven percent of the prosecutors surveyed believe that DWI defendants might need treatment services. The survey's results suggest that increasing prosecutors' awareness of the topics above can lead to a deeper understanding of how these topics would aid in their jobs of dealing with DWI defendants.



The second objective was to interview prosecutors to pinpoint the types of identification and referral protocols they have in place when sentencing DWI defendants. The TTI team observed that several of the prosecutors shared similar concerns regarding community size and resources. Others mentioned how critical teamwork and collaboration is among those engaged in cases involving mental health. The TTI team noted that rural counties generally have fewer mental health and screening resources, thus making it more difficult to mandate effective and quality treatment programs as part of a defendant's plea bargain agreement.

The third objective was to create a document listing helpful resources that are available to criminal justice professionals. The TTI team developed a handout with the course outline for the training, which includes presenter bios. This document also contains a list of helpful resources that were discussed during the trainings. The document was distributed to participants of the Prosecutor Training for Criminal Justice Professionals on Intervention Plans for DWI Offenders.

The fourth objective was to conduct live trainings for prosecutors about sentencing practices that involve treatment and referrals for DWI defendants. The TTI trainers discussed mental health concepts and common jargon, shared statewide mental health resources, and worked to develop

partnerships with treatment providers and stakeholders with the goal of eliminating DWI recidivism and impaired driving crashes on Texas roadways. Six, 2.5-hour trainings were conducted. The trainings had 78 registrations, with 46 prosecutors and staff participating.

The final objective was to draft a technical memorandum containing in-depth information about Objectives 1–4 and an analysis of the project’s impact. The TTI team observed that the results of the surveys, interviews, and training sessions pointed to a significant gap in understanding the nuances of DWI defendants’ needs and the available services in place. The TTI team will continue to advocate for increasing prosecutor awareness of interventions, treatments, and referral practices that might benefit DWI defendants to improve traffic safety, reduce recidivism, and reduce crime. The training session materials are posted online at the [Center for Alcohol and Drug Education Studies \(CADES\)](#) website for on-demand access.

Introduction

Nationally, the criminal justice system has been grappling for years with the issues related to defendants with mental health conditions. The impaired driver is no different. Researchers have found that a significant portion of first-time and repeat DWI defendants suffer from some substance use disorder, mental health disorder, or both (Nelson et al., 2015; Shaffer et al., 2007). These mental health disorders, left untreated, can worsen over time, and often lead to repeat offenses. The national DWI re-arrest recidivism rate in 2010 was at the 25% level (Warren-Kigenyi, 2014). The Texas Department of Public Safety (TxDPS) reported that in Texas, the DWI re-arrest recidivism rate in 2020 was 33.7% (TxDPS, 2021).

Because of the current COVID-19 pandemic, more than ever, understanding the toll that mental health has on Texans' lives is becoming an everyday concern. These times have further normalized the understanding that mental health is common and there is a great need for services. Understanding that DWI defendants have clinical and social needs is crucial to reducing recidivism rates in the state.

Preventing impaired driving episodes goes beyond sanctions and supervision. That is why prosecutors have an opportunity to intervene by identifying DWI defendants who may have mental health concerns and addressing their needs using informed sentencing practices and referrals to evidence-based intervention programs.

TTI recognizes that prosecutors play a crucial role in influencing the sentencing of DWI defendants who have clinical needs. TTI understands that growing prosecutors' literacy on mental-health-related topics might improve the awareness of the need for identifying these individuals and providing referral recommendations based on the profile of a DWI defendant. Thus, the TTI team developed a series of activities to gauge prosecutors' understanding of mental-health-related topics to provide a comprehensive training curriculum that would cover potential gaps in the existing knowledge among the group. The team proposed accomplishing the goal of reducing DWI recidivism by performing the following objectives:



Objective 1: To survey 100 prosecutors on common practices during plea bargains and sentencing negotiations related to treatment referrals for the impaired driver offender.

Objective 2: To collect in-depth programmatic information from 25 county attorney (CA) and district attorney (DA) offices from regions in Texas with the highest impaired driving crash rates.

Objective 3: To identify 25 helpful treatment resources that prosecutors can use when dealing with impaired driving offenders.

Objective 4: To develop curriculum and train 5 CA and DA offices on common practices related to treatment intervention plans used in plea bargains for impaired driving offenders.

Objective 5: To submit one final technical memorandum detailing project efforts.

This technical memorandum details the results of each of the objectives above. The TTI team concludes the document with an analysis of the project's impact.

Project Activities

Objective 1: To survey 100 prosecutors on common practices during plea bargains and sentencing negotiations related to treatment referrals for the impaired driver offender.

TTI, in partnership with the Texas Governor's Office, developed a survey to understand the decisions of criminal justice professionals when dealing with DWI offenders. The goal was to gain a better understanding of how screening tools and assessments are utilized in determining mental health and behavioral needs in order to reduce recidivism. The results of the survey helped identify best practices and guide training curriculum content for prosecutors across the state of Texas. Ultimately, education and proper application of screening and assessment tools will lead to safer roadways for all communities.

Methods

The Prosecutor Training for Criminal Justice Professionals on Intervention Plans for DWI Offenders project was designed to first understand the current practices employed by prosecutors in DWI cases. The next step was to identify best practices that are being utilized in counties across the state. Once researchers had the knowledge of the available tools and strategies, the next phase of the project was to develop training curriculum based on an understanding of what prosecutors would like to learn regarding mental health referrals and treatment.

TTI investigators created the survey using the Qualtrics tool and received approval to distribute the survey from the Institutional Review Board (IRB) on January 21, 2021. The team compiled a master list of prosecutors' contact information utilizing the Texas District & County Attorneys Association (TDCAA) membership list. The link to the survey was distributed in the months of February, March, April, and June. Additionally, the primary investigator on the project had the opportunity to present to the TDCAA's Prosecutor DWI Task Force, and individual interviews were conducted after the presentation.

Survey Results

A total of 105 survey responses were received. Of those responses, two people opted not to participate and 14 provided incomplete responses. Eighty-nine of the survey participants satisfactorily completed the survey.

Survey Participants by Profession

Figure 1 shows the background information of the survey respondents by professional title. Most of the survey participants, a total of 55, hold the designation of assistant district attorney. There were 18 respondents that identified as assistant county attorneys, 17 county attorneys, and 12 district attorneys.

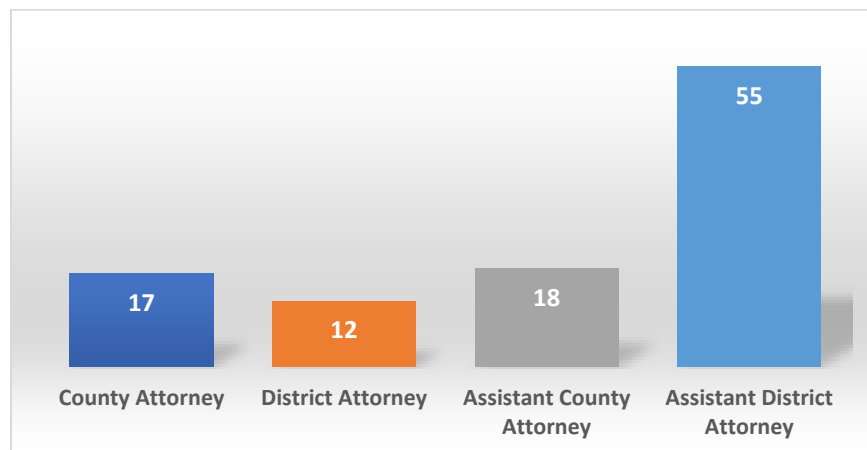


Figure 1. Survey respondents by profession.

Figure 2 displays the self-reported counties of representation by survey participants.

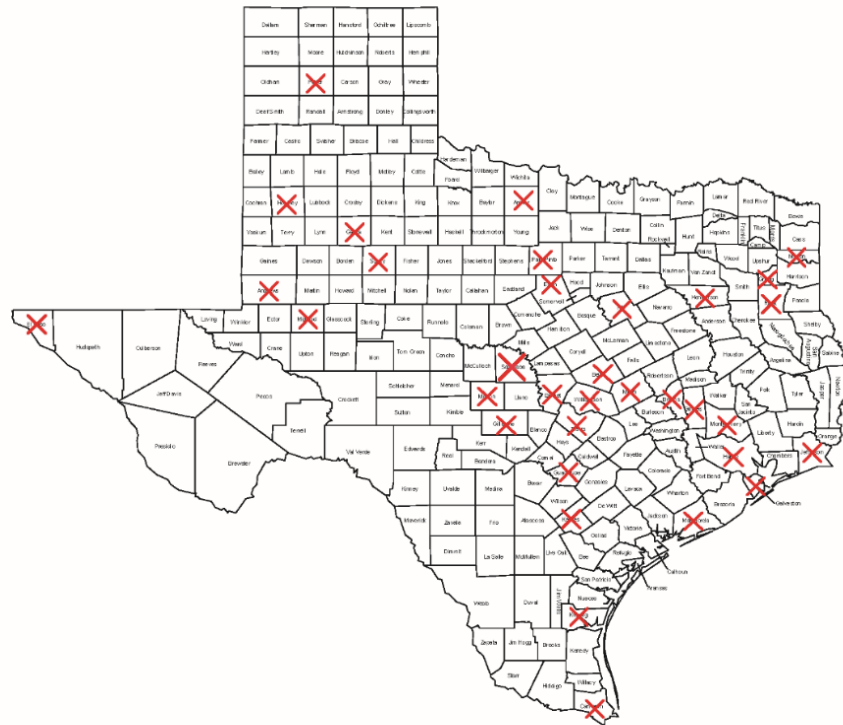


Figure 2. Survey participants by county.

Initial Questions: Prosecutor Office Protocol

TTI investigators began by asking a series of questions about the current protocol within the prosecutors’ offices. The following questions reflect standard operating procedures that are employed when adjudicating DWI cases in the counties of participation.

Does your office offer pre-trial services for DWI defendants?

Figure 3 shows the response breakdown for this question. Pre-trial services allow for investigations and supervision to be conducted on individuals while they are out on bond before they are convicted of a crime. Investigations can include screenings, interviews, and background checks, which are all reportable to the court. Supervision includes alcohol and drug testing as well as substance abuse and mental health evaluations, which can be followed by treatment recommendations (American Bar Association, n.d.).

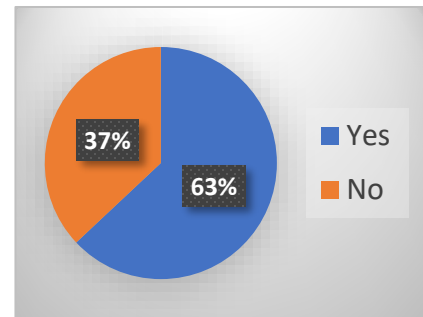


Figure 3. Does your office offer pre-trial services for DWI defendants?

Does your office have a DWI specialized caseload?

Figure 4 shows the breakdown of responses to this question. Specialized caseloads allow for focused, intensive supervision for defendants with specific needs. The DWI population can be at high risk for reoffending. Tailored supervision allows for targeted strategies designed to provide the treatment the individual requires to reduce recidivism (Haneberg, 2021).

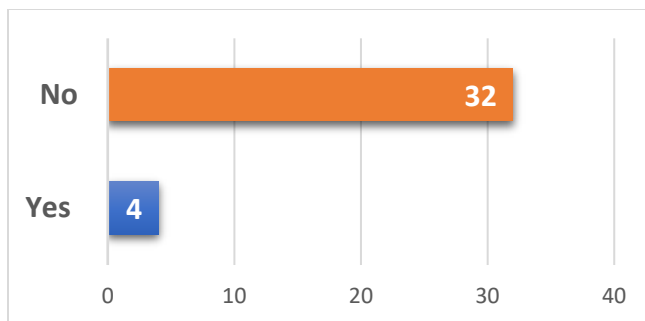


Figure 4. Does your office have a DWI specialized caseload?

Do you have an in-house DWI recovery program?

Figure 5 displays the results of this question. Out-patient, court-mandated DWI recovery programs require the individual to remain drug and alcohol free. The programs typically integrate treatment and aftercare as well as regular contact with community supervision and treatment providers. They also allow for immediate intervention if relapse should occur (e.g., Midland County, Texas).

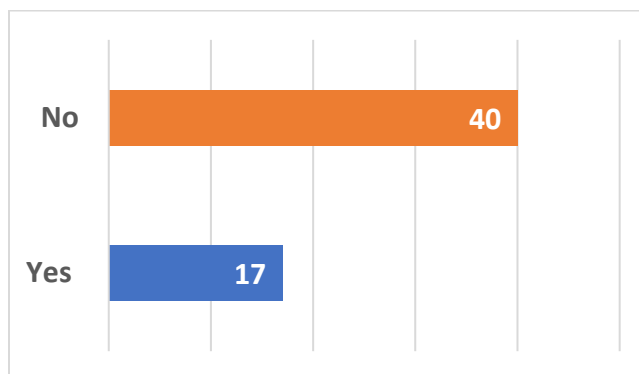


Figure 5. Do you have an in-house DWI recovery program?

Gauging Best Practices

The National Center for State Courts (NCSC) has published key findings on effective court response of “high-risk” drunk drivers. Their first conclusion states, “Avoid pretrial detention: use pretrial risk assessment tools, pretrial supervision, alcohol/drug monitoring, and driving restrictions to reduce risk of non-appearance and/or recidivism.” They also note that while persons convicted of DUI offenses are not high risk for committing other crimes, they are 7 times more likely to commit another crime of driving under the influence (NCSC, 2018).

With these findings in mind, TTI investigators focused on identifying prosecutor offices that are employing strategies to properly assess DWI offenders and offer them support services to reduce the risk of reoffending.

Does your office screen all DWI defendants?

Figure 6 shows the results for this question. Screenings are the initial step in determining whether an individual needs further evaluation for mental health or substance use disorders. These brief evaluations help uncover any problematic signs that an individual should undergo a more comprehensive assessment to determine the level of service needed (National Judicial Opioid Task Force, 2019).

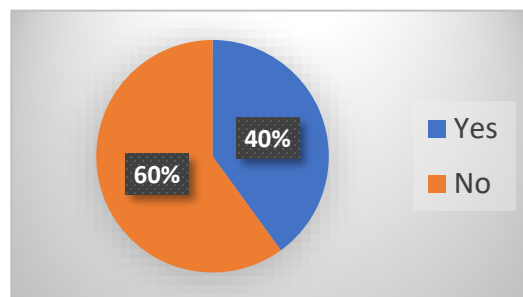


Figure 6. Does your office screen all DWI defendants?

What is the procedure for DWI defendant screening? Select all that apply.

Figure 7 displays the results of this question.

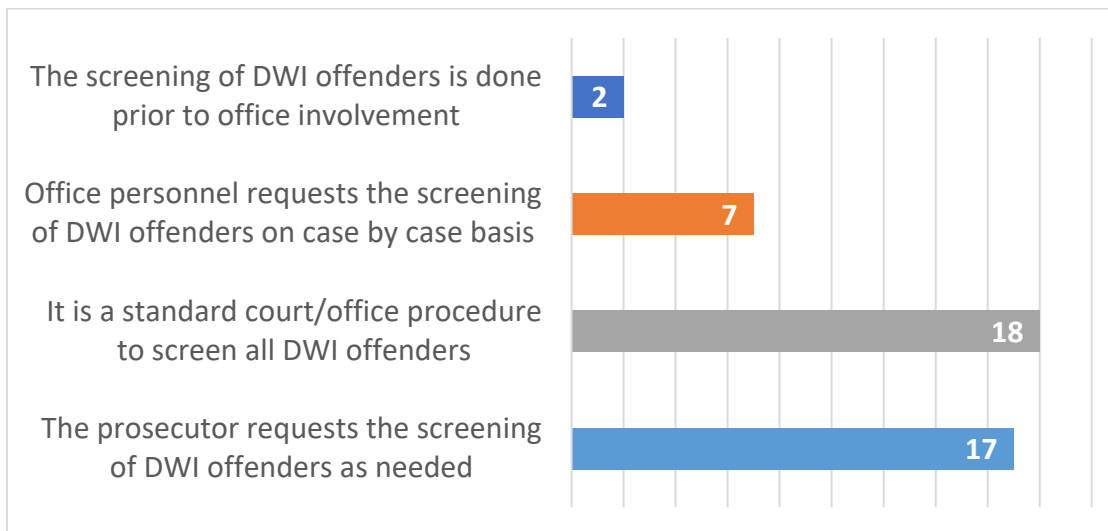


Figure 7. What is the procedure for DWI defendant screening?

What is the title/position of the individual that requests the screening of DWI defendants on a case-by-case basis?

Of the five responses that were recorded, the following titles/positions were listed: court prosecutors, assistant district attorney, assistance county attorney, chief, and unsure.

Who requests the screening (e.g., organization, requestor position) of DWI defendants prior to office involvement?

There were two responses to this question. One survey participant indicated that mental health screenings are conducted at the jail, upon arrest. The other respondent answered that screenings are facilitated during the pre-trial phase.

Does your office/court require the screening of all subsequent DWI offenders (e.g., repeat offenders)?

Figure 8 shows the response breakdown for this question. Subsequent DWI offenders are high risk for alcohol-involved traffic crashes. One Australian study tracked fatal crashes over a three-year period. Of the drivers that caused the crashes, 44% recorded at least one prior alcohol-related driving offense within the preceding five years (Wundersitz & Raftery, 2017).

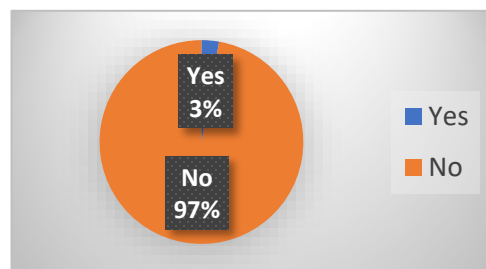


Figure 8. Does your office/court require the screening of all subsequent DWI offenders?

If the screening points towards a need for an assessment, who requests the assessment of the DWI defendant to be done? Select all that apply.

Figure 9 shows the results of this question.

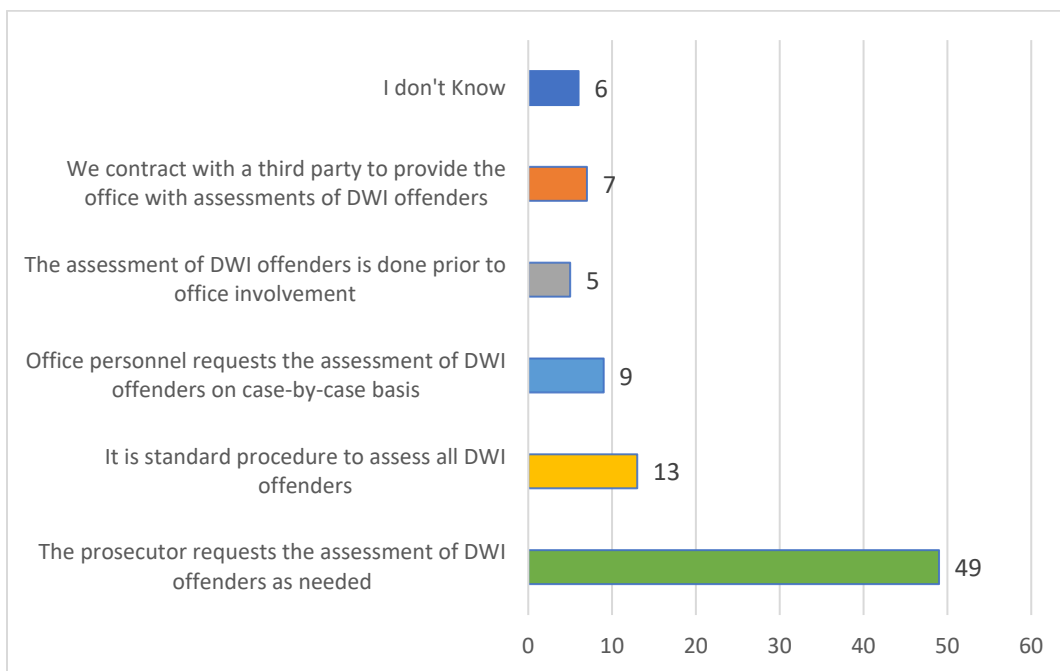


Figure 9. If the screening points towards a need for an assessment, who requests the assessment of the DWI defendant to be done?

What is the title/position of the individual that requests the assessment of DWI defendants on a case-by-case basis?

The most common response to this question was that it is the responsibility of the prosecutor to request the assessment of a DWI defendant on a case-by-case basis. It was also noted by respondents that assessments can be ordered after a request is submitted by the defense counsel. One participant indicated that the probation office would order the assessment and one respondent indicated that there is no one responsible, as it does not happen in their county.

List the organization that conducts the assessment of DWI defendants prior to court involvement.

There was one valid response to this question, which stated that the Center for Health Care Services and the jail are the organizations that would conduct the assessment on the DWI defendants. The other two responses listed “none” and “not applicable.”

List the third-party organizations that you contract with to provide assessment of DWI defendants.

In response to this question, approximately half of the survey participants listed local providers. One response listed an individual counselor, and another response indicated that private providers may be chosen by the defense attorney. PermianCare was also listed, which serves eight counties in the Permian Basin. The other half of the responses included county resources including community supervision, as well as counseling and education services.

What screening/assessment tool(s) is (are) commonly used by your office/court to screen DWI defendants? Select all that apply.

The responses to this question are shown in Figure 10.

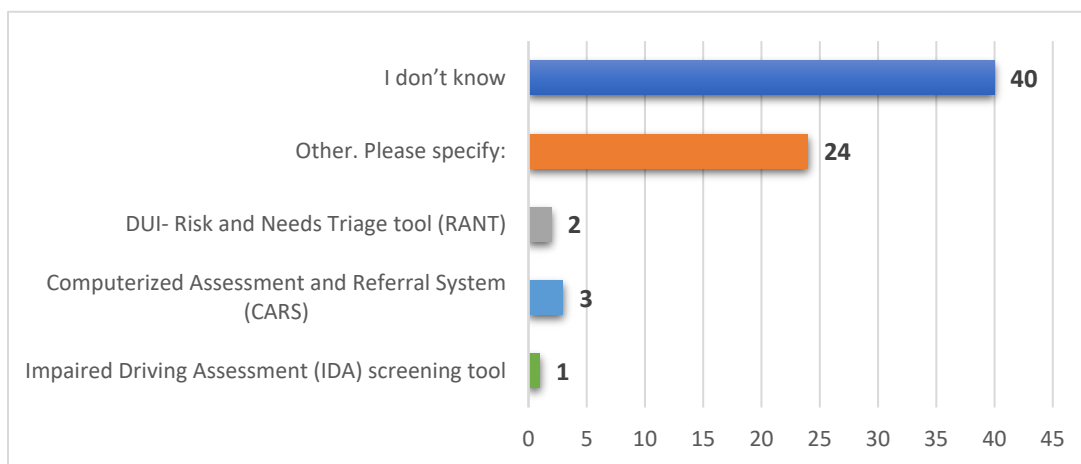


Figure 10. What screening/assessment tools are commonly used by your office/court to screen DWI defendants?

Other: Please specify.

The Texas Risk Assessment System, which interprets an offender’s criminal background along with their criminogenic needs (Texas Department of Criminal Justice, 2015), was the most frequently listed assessment. Mental health assessment and the Substance Abuse Screening Inventory (SASSI) were both listed multiple times. One respondent mentioned the Short Michigan Alcohol Screening Test (SMAST).

Other responses include the department, or individual who conducts the assessment, not the tool used. These responses included the probation department, DWI/Drug Court, chemical dependency counselors, and the Treatment Alternative to Incarceration Program (TAIP).

What are DWI defendants typically screened for? Select all that apply.

Figure 11 displays the findings of this question.

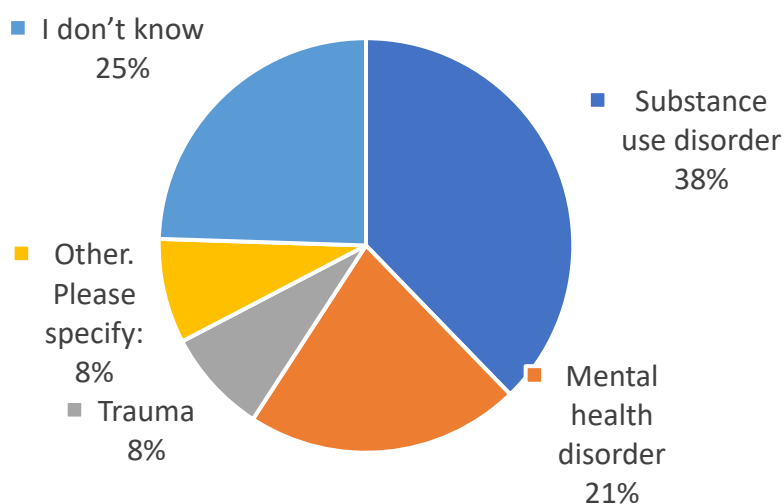


Figure 11. What are DWI defendants typically screened for?

Other: Please specify.

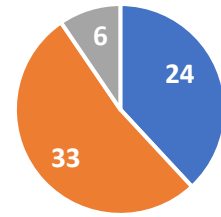
Additional responses included criminal history, risk assessment, family circumstances, and other societal factors.

Do you share the screening results of DWI defendants with other stakeholders?

Figure 12 shows the breakdown of responses to this question.

List the stakeholders who typically receive DWI defendants' screening results.

The most popular answer to this question was the defense attorney. Other common answers were the court, or the judge, community supervision, and state prosecutors. There were several answers that included some type of mental health treatment provider, including state mental health services, MHMR. One respondent made the distinction between pre-trial screenings and probation screenings, in that pre-trial diversion screenings are only shared with the defendant, while probation screenings are shared with all the stakeholders listed above.



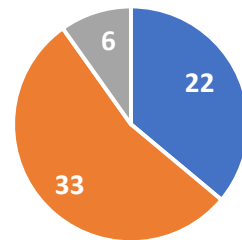
■ Yes ■ No ■ I don't know
 Figure 12. Do you share the screening results of DWI defendants with other stakeholders?

If a DWI defendant has been assessed, do you share the assessment results with other stakeholders?

Figure 13 displays the breakdown of responses to this question.

List the stakeholders who typically receive DWI defendants' assessment results.

The most common answer to this question was the defense attorney. The next most frequently stated stakeholders were the court, community supervision, and the state. A couple of respondents listed specific programs such as diversion coordinators or drug court coordinators. One participant listed treatment providers.



■ Yes ■ No ■ I don't know
 Figure 13. If a DWI defendant has been assessed, do you share the assessment results with other stakeholders?

Treatment Referral Practices

In the next segment, TTI investigators sought information regarding treatment services referral practices. The following responses capture the prosecutors' perspectives of adjudicating DWI cases.

Do you believe that DWI defendants might have a need for treatment services?

Figure 14 shows the breakdown of responses to this question.

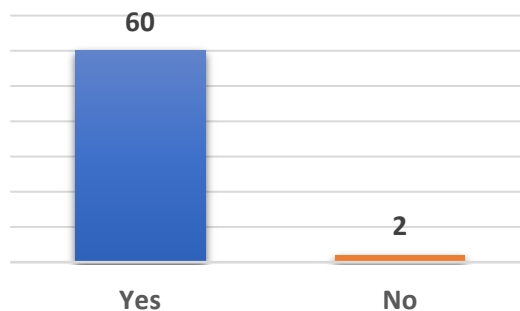


Figure 14. Do you believe that DWI defendants might have a need for treatment services?

Are your plea bargain decisions in DWI cases somewhat influenced by screening or assessment results?

Figure 15 displays the results for this question.

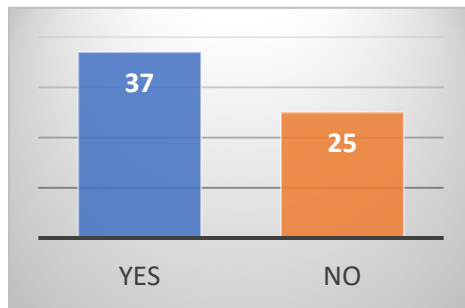


Figure 15. Are your plea bargain decisions in DWI cases somewhat influenced by screening or assessment results?

Are you aware of the types of treatment services available for DWI offenders in your area?

The breakdown of responses is shown in Figure 16.

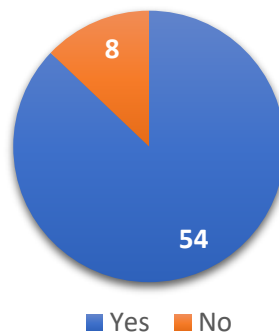


Figure 16. Are you aware of the types of treatment services available for DWI offenders in your area?

Does your office collaborate with mental health organizations to provide services to the DWI defendant?

Figure 17 presents the results.

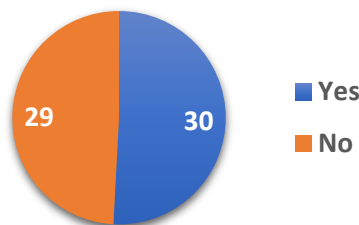


Figure 17. Does your office collaborate with mental health organizations to provide services to the DWI defendant?

Does your office have established MOUs or agreements with mental health providers?

Figure 18 shows the breakdown of responses.

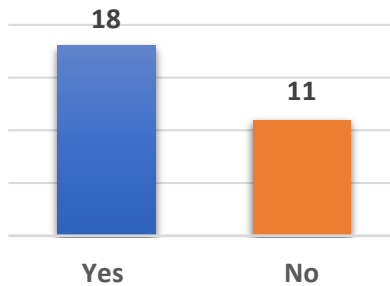


Figure 18. Does your office have established MOUs or agreements with mental health providers?

What type of providers do you collaborate with to provide treatment services to the DWI defendant? Please select all that apply.

The responses to this question are displayed in Figure 19.

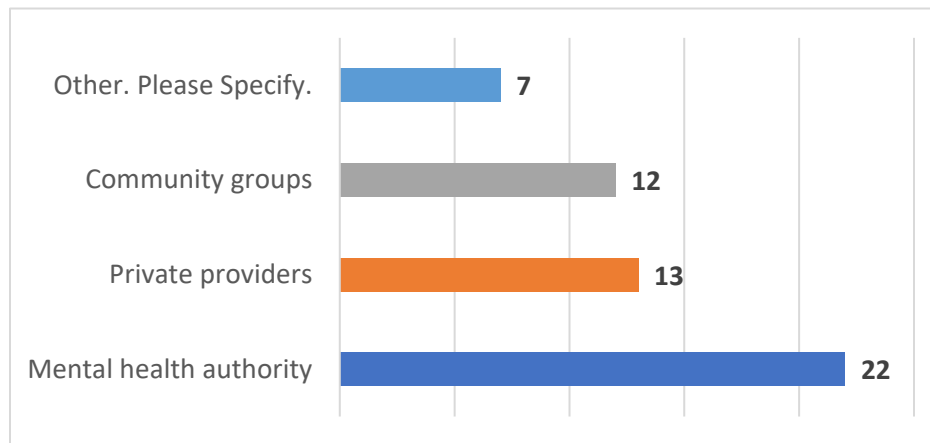


Figure 19. What type of providers do you collaborate with to provide treatment services to the DWI defendant?

Other: Please specify.

The common responses to the “other” category were community supervision/probation, specialty courts, MHMR and county-owned counseling centers, and private providers.

Is there mutual sharing of DWI defendant mental health data between your office and the mental health providers?

Figure 20 provides the responses to this question.

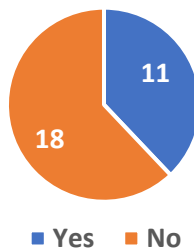


Figure 20. Is there mutual sharing of DWI defendant mental health data between your office and the mental health providers?

Do you receive all necessary mental health information needed to make an informed decision for your job tasks involving DWI defendants?

Figure 21 shows the responses.

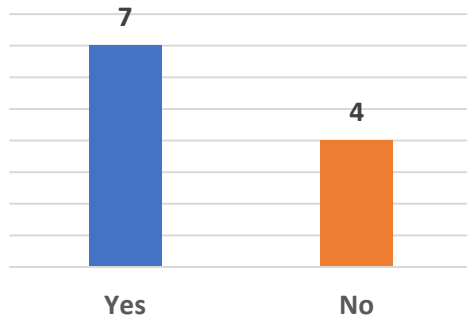


Figure 21. Do you receive all necessary mental health information needed to make an informed decision for your job tasks involving DWI defendants?

Are you aware of the CCP 16.22 code: Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability?

The breakdown of responses to this question are show in Figure 22. Texas Code of Criminal Procedure, Article 16.22, states within 12 hours after a sheriff or jailer having custody of a defendant receives credible information that the individual has a mental illness or intellectual disability, they must provide written notice to the magistrate. The magistrate is required to order a mental health provider to conduct an interview with the defendant and report the findings back to the court. Findings are shared with the defense counsel, attorney representing the state, and the trial court. The report must include whether the defendant is a person with mental illness or intellectual disability, whether the person is competent to stand trial, as well as any appropriate treatment or service (Texas Code of Criminal Procedure, 1993).

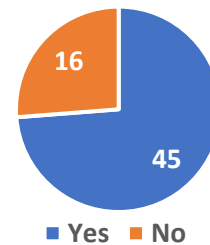


Figure 22. Are you aware of the CCP 16.22 code: Early Identification of Defendant Suspected of Having Mental Illness or Intellectual Disability?

Do you find that DWI defendants fall under the CCP 16.22?

Figure 23 displays the response breakdown for this question.

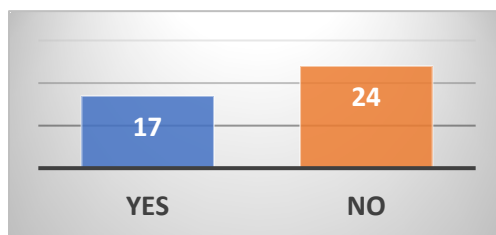


Figure 23. Do you find that DWI defendants fall under the CCP 16.22?

Have you heard of SAMSHA’s Sequential Intercept Model (SIM)? SIM details how individuals with mental health and substance use disorders come into contact with and move through the criminal justice system.

Table 1 displays the results of this question.

Table 1. Have you heard of SAMSHA’s Sequential Intercept Model (SIM)?

#	Answer	%	Count
1	Yes	23.21%	13
2	No	76.79%	43

Are you aware of the Texas Judicial Commission on Mental Health?

The breakdown of responses is shown in Table 2.

Table 2. Are you aware of the Texas Judicial Commission on Mental Health?

#	Answer	%	Count
1	Yes	75.81%	47
2	No	24.19%	15

What would you like to know about mental health that would aid your job of dealing with DWI defendants? Select all that apply.

Figure 24 provides the breakdown of responses to this question.

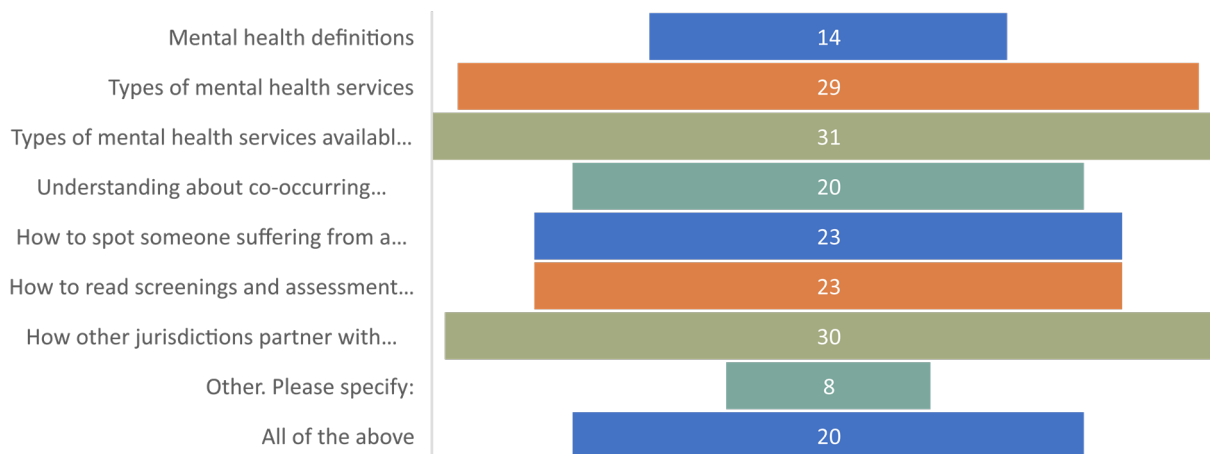


Figure 24. What would you like to know about mental health that would aid your job of dealing with DWI defendants?

Other: Please specify.

Additional information that would help aid these survey participants in their jobs include the following:

- Ways to manage mental health services with limited resources in county.
- Opportunities to partner with services outside of the county.
- Available grants that may help pay for some of these services.
- Admission process to state hospital for judicial emergency mental health commitment.

In the past 2 years, have you participated in mental health training?

Figure 25 shows the breakdown of responses.

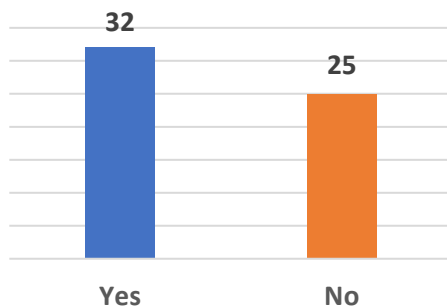


Figure 25. In the past 2 years, have you participated in mental health training?

TTI investigators then asked the survey participants to list the organizations that have provided training sessions they have attended recently. Below are the organizations that were listed, in order of frequency.

- Texas District & County Attorneys Association
- The District or County Attorney's Office where they are employed
- Texas Judicial Commission on Mental Health
- Texas State Bar Association
- National Alliance on Mental Illness
- Texas Specialty Court Organization
- County Behavioral Services
- National Associations of Drug Court Professionals
- National Drug Court Institute
- Texas Correctional Office on Offenders with Medical or Mental Impairment
- Mental Health Division
- Integral Care
- Treatment Alternatives for Safe Communities
- Meadows Foundation

Discussion

Effective court practices utilizing screening and assessment tools, proper sentencing, and supervision for DWI defendants has an impact on whether a person will reoffend. TxDPS reported a 33% recidivism rate in 2020 in its quarterly recidivism reports (TxDPS, 2020). These high-risk DWI offenders are often the cause of alcohol-impaired fatality-related traffic crashes. Reducing DWI recidivism is a high priority in order to keep Texas roadways and communities safe from preventable loss of life and serious injuries.

This survey revealed that standard protocols in prosecuting DWI cases is not consistent across Texas counties. The majority (89%) of the prosecutor respondents acknowledged that their office does not have DWI specialized caseloads. This missed opportunity provides the intensive supervision necessary for this specific population. Additionally, most (70%) of respondents indicated that they do not have an in-house DWI recovery program. These treatment services require sobriety and monitor the offender's relationship with alcohol or drugs.

When asked about screening and assessments, more than half (60%) of the prosecutors indicated that offices do screen all DWI defendants. This is a favorable response; however, it is important for the remaining offices (40%) to find value in the screening process, as it is an indicator for defendants that require further evaluation for mental health and substance use disorders. More

concerning was the question about screening for subsequent DWI offenders. There was only one survey participant that stated their prosecutor's office required screenings for all subsequent offenders. The majority (97%) said their office does not.

This survey indicates that there is a lack of understanding about the variety of screening and assessment tools that have been designed specifically for impaired drivers. Most of the survey participants (57%) did not know which tools are commonly used by their office to screen defendants. Many of them were aware of the Texas Risk Assessment System, probably because it is required in the state of Texas. There are several other tools available that when used in conjunction will provide a high-quality, comprehensive analysis.

In terms of what the offices are screening for, it appears that the majority (37%) are screening DWI defendants for substance use disorders. Mental health came in third, with a 21% positive response rate. The second most chosen answer was "I don't know," which is an opportunity for knowledge sharing and education.

Ninety-seven percent of the prosecutors surveyed believe that DWI defendants might have a need for treatment services. Additionally, 87% were also aware of treatment service resources available in their communities. Regarding plea bargain decisions, only 60% were somewhat influenced by screening or assessment results. This suggests there is a gap between the belief that DWI offenders have treatment needs and the ability to properly provide those behavioral supports.

When asked about collaboration with mental health organizations to provide services to DWI offenders, most agreed that they do collaborate. Many of the offices also have agreements in place with service providers. The most common institution that prosecutors collaborate with is the Mental Health Authority.

It is important for these criminal justice professionals to have the tools that they need to make informed decisions about their job tasks involving DWI defendants. While the majority (63%) of survey respondents did indicate they receive all necessary information, only 11 prosecutors answered that question. It is unclear if they did not want to answer or if they were unsure whether they have all the information needed to make sound, informed decisions in these cases.

When asked what they would like to know about mental health that would aid their jobs in dealing with DWI defendants, the number one answer was the types of mental health services available in their own county, followed by how other jurisdictions partner with mental health providers. The answers that followed indicated the desire for a better understanding of mental health issues in general. The types of mental health services that are available, how to spot someone who is suffering from a mental health episode, and how to read screening and assessment reports all scored a high response on the list of interests for training. A slim majority of participants had received some sort of mental health training in the last two years; however, based on the ability to select all topics that apply, it was clear that they were enthusiastic about further educational opportunities. See Attachment A for the survey protocol and Attachment B for the survey responses' snapshot.

Conclusion

Based on the results of this survey, there are some promising practices being employed across the state. It is difficult to discern which areas could use the most resources. It is likely that the smaller counties struggle with the number of services providers need to complete the task of rehabilitating DWI defendants.

The survey also indicates that there is an opportunity for additional training on mental health and substance use disorders, particularly the key role that screenings and assessments play in identifying defendants who need additional supports to overcome the struggles that are causing

them to offend. If those root issues are not addressed, the criminal justice system becomes a revolving door for these defendants and the community is at risk.

Collecting survey data was challenging this fiscal year. The TTI investigators made several attempts to collect information for the stakeholders. The deadline was extended, and the team reached out to professional organizations to assist with survey distribution. While the investigators did reach the target goal for the number of surveys collected, not all the participants completed the questionnaire in its entirety.

To gain a better understanding of the practices of adjudicating DWI cases across the state, TTI investigators followed-up with prosecutors' offices to discover best practices. It is important to identify the offices utilizing screening and assessment tools, collaborating with treatment providers, and sharing information. With that knowledge, the team will be able to communicate those practices through educational trainings in areas that desire a better understanding of how to effectively manage the unique challenges of DWI defendants.

Objective 2: To collect in-depth programmatic information from 25 county attorney (CA) and district attorney (DA) offices from regions in Texas with the highest impaired driving crash rates.

TTI's Training for Criminal Justice Professionals on Intervention Plans for DWI Offenders project focuses on the importance of providing mental health literacy to DWI criminal justice practitioners and identifying treatment and referral practices for DWI defendants during sentencing and supervision practices. With the goal to reduce recidivism among DWI defendants, the TTI team developed a series of objectives to identify best intervention practices for this population. This section describes the objective of collecting in-depth interview responses from 25 CA and DA offices from regions in Texas with the highest impaired driving crash rates.

Methods

The TTI team conducted a series of interviews with prosecutors from across the state to answer questions related to how their office handles cases where mental health may be affecting the person who has been charged with a DWI. The TTI team created an IRB-approved (IRB: 2021-0711) interview protocol to pinpoint ways in which prosecutors identify and draft plea bargains for DWI offenders suffering from mental health issues. TTI investigators started requesting interviews during the month of June 2021. All interview participants were contacted by email and phone calls, and additional information was obtained through websites.

Survey Results

The investigating TTI team collected interview responses from 25 county and district attorney offices; these counties are shown in Table 3.

Table 3. Counties contacted, population size, and DWI charges from 2018 and 2019.

County	Population (2020)*	DWI Charges from 2018 and 2019**
Archer	8,560	42
Bee	31,047	67
Bell	370,647	158
Bexar	2,009,324	11,121
Burleson	17,642	112
Cameron	421,017	2,112
Collin	1,064,465	4,631
Dallas	2,613,539	14,490
Denton	906,422	4,472
El Paso	865,657	6,312
Fort Bend	822,779	2,024
Harris	4,731,145	28,392
Hidalgo	870,781	4,640
Hunt	99,956	158
Jefferson	256,526	921
Lubbock	310,639	1,028
Matagorda	36,255	263
Montgomery	620,443	5,171
Palo Pinto	28,409	56
Potter	118,525	1,584
Rusk	52,214	90
San Saba	5,730	51
Tarrant	2,110,640	12,412
Wichita	129,350	506
Williamson	609,017	3,030

*Population (US. Census Bureau, 2020)

**DWI Charges from 2018 and 2019 (TxDPS, 2020)

Thirteen of the prosecutors who were interviewed reported that they had at least one designated mental health prosecutor and/or a mental health division in their office. If the county reported that they had specialty diversion courts, several of the prosecutors shared the same message that in order to be accepted into that court, those who would be close to working the case would be involved in deciding whether or not the defendant was eligible to participate. Part of the decision is based on whether the defendant has a substantial probability to be successful by participating in this specialty court. Team members involved in the decision can include social work employees, the defense attorney, the judge, the prosecutor, treatment providers, jail staff, friends, and family members.

Oftentimes, the defense attorney is also responsible for bringing mental health concerns and/or history to the attention of the prosecution. This may be the only way the prosecution team is aware of any mental health conditions that may present in the defendant. This is especially important if only generic screening is conducted at the jails, or if there is not an established relationship with the jailer, as in many cases, it is a jailer who initially alerts the prosecution team of any concerns over a defendant’s mental wellbeing. Other key takeaways include:

- Ten prosecutors reported that screening is a part of the standard routine for DWI defendants. Four prosecutors expressed that screening is conducted on a case-by-case basis, with the determining factors including:
 - The arrest video/defendant behavior.
 - If someone shares concern for the mental wellbeing of a defendant (jailer, defense attorney, family and friends).
 - If competency is in question.

- A few of the prosecutors shared that their perspective regarding the Code of Criminal Procedure (16.22) is that DWI defendants do not fall under this article and are therefore not regularly screened.
- Eleven prosecutors shared that they have an established relationship with the jailer, and that this relationship is crucial in both helping identify mental health needs among defendants as well as ensuring the defendant is receiving the treatment services as per the terms of their plea contract.
- Fourteen prosecutors reported that they do like waiting for requested screening results to be delivered prior to drafting a plea bargain agreement; depending on the results of the screening, the prosecutor has the opportunity to be flexible and creative with conditions that are included in the plea bargain contract—such as mandating treatment services.

Discussion

As Texas' recidivism rates remain above the national average (Roberto et al, 2020), it is as important as ever for those involved in the DWI charging process to take a look at their current policies and procedures to see if any updates should be made regarding how screening is being conducted (if at all) among DWI defendants, what kinds of services or referrals can be offered to treat those who exhibit characteristics of having mental health conditions, and what the overall perspective or bias may be toward these DWI defendants.

Several of the prosecutors shared similar concerns regarding community size and resources, and others mentioned how critical teamwork and collaboration is among those involved in cases involving mental health. The TTI team noted that rural counties generally have fewer mental health and screening resources, thus making it more difficult to mandate effective and quality treatment programs as part of a defendant's plea bargain agreement. Prosecutors shared that no two cases are exactly the same and should not be treated as if they are. Being flexible and creative with bond conditions is essential in these instances. Teamwork is a crucial component to the defendant's success as they navigate the criminal justice system and treatment. By having the jailers, judges, prosecutors, and defense attorneys regularly communicate on the kinds of treatment services that are available, if a defendant is presenting symptoms of having a mental health condition, the team can remain informed and more aware on how to effectively treat those with mental health conditions, thus reducing recidivism in their communities.

See Attachment C for the interview protocol.

Objective 3: To identify 25 helpful treatment resources that can be used by prosecutors when dealing with impaired driving offenders.

The TTI team recognized that resource scarcity often hinders the prosecutor's ability to recommend defendants to services. The team created a handout that contains basic information about mental and behavioral health in an outline format. The team also added a list of helpful resources that prosecutors can refer to when identifying local treatment services. Lastly, the group included a few literature pieces that might further the understanding of the DWI defendant's clinical needs. The team distributed the handout during all training sessions.

Course Outline

Module I: Snapshot of the Impaired Driving Problem

- Impaired driving numbers
- DWI definition
- Statistics on the number of impaired driving deaths and crashes in Texas—5-year range, top 5 regions with highest percentage of impaired driving deaths per population
- Statistics on national and Texas DWI recidivism rates

- DWI driver profile
 - DWI 1st driver profile
 - Repeat DWI driver profile
 - Prevalence of mental health and substance use among DWI offenders

Module II: Overview of Criminal Activity Literature

- Basic overview of the psychology of criminal conduct: risk/needs/responsivity model
- Types of screenings/assessments—distinguish between screening tools utilized to measure risk and how to identify the need for a mental health or substance use disorder assessment

Module III: Mental Health and Substance Use Disorders

- Prevalence of mental health and substance use problems in general and in criminal justice setting
- Disorder information
 - Mental health
 - Substance use
 - Co-occurring disorders
 - Developmental and medical factors that can affect presentation
- Risk assessment overview
- How problems are diagnosed
- Legal processes relevant to mental health and substance use problems
 - Competency cases
 - Not guilty by reason of insanity
 - Court-ordered treatment
- What to expect when working with an offender who has a mental health or substance use disorder
 - Poorer compliance with terms, chronic mental health, or substance use difficulties
 - Issues in treatment compliance

Module IV: Applications of Psychological Information in Legal Settings

- Detecting psychological problems
 - Having the conversation/understanding challenges like stigma
 - Communication skills
 - Signs that someone is having a significant mental health or substance disorder issue in the moment
- Managing a crisis
- Defining a crisis
- De-escalating a crisis
- Referral resources
- Potential outcomes

Module V: Mental Health Resources in the Community

Module VI: Criminal Justice Best Practices

- National recommendations: Sequential Intercept Model (SIM)
- Connecting with community resources

Module VII: Wrap-Up and Discussion

- Q&A
- Evaluation

Resources for Prosecutors

Local Crisis Lines and Units

- National Suicide Prevention Lifeline: 1-800-273-8255
- Veterans Crisis Line: 1-800-273-TALK (8255) and press 1; or text 838255
- Crisis Text Line: text the word 'Home' to 741-741
- **Beginning in July 2022, 9-8-8**
- [Texas MHMR Crisis List](#)
- [Texas Youth Helpline](#)
- [Texas Suicide and Crisis Hotlines](#)
- [Here for Texas](#)



Locating Services in Texas

- [Texas Health and Human Services- A community Support Guide for Alternativesto Inpatient Mental Health Treatment](#)
- [United Way Texas-211](#)
- [Behavioral Health Resource Hub](#)
- [Texas Court of Criminal Appeals -Texas Mental Health Resource Guide](#)

Community Resources

- [Texas Health and Human Services](#)
- [National Alliance on Mental Illness \(NAMI\)- Texas](#)
- [National Telehealth](#)
- [Texas A&M Telehealth Care](#)
- [Health Resources & Services Administration](#)
- [Resources for Mental Health and COVID-19](#)
- [MHA: COVID-19 Screening Tool – Take a Mental Health Test](#)
- [MedCircle](#)
- [Texas Judicial Commission on Mental Health](#)
- [The Texas Toolkit for Rightsizing Competency Restoration Services](#)
- [A Guide to DUI Pretrial Services – Key Components & Best Practice Recommendations](#)
- [Rural Health Information Hub – Staggered Sentencing for Repeat Drunk Driving Offenders](#)
- [Screening, Brief Intervention, and Referral to Treatment \(SBIRT\)](#)

Validated DWI Screening Tools

- [Computerized Assessment and Referral System \(CARS\)](#)
- [Impaired Driving Assessment \(IDA\)](#)

Get Trained

- [Mental Health First Aid](#)
- [Maintaining Independence and Sobriety through Systems Integration, Outreach and Networking \(MISSION\)](#)

Motivational Interviewing Training Opportunities

- [Motivational Interviewing Network of Trainers \(MINT\)](#)
- [Texas Department of State Health Services](#)

- [National Council for Mental Wellbeing](#)

Peer Support Groups

- [Texas Peer Support Training](#)
- [Mental Health America \(MHA\)](#)
- [Substance Abuse and Mental Health Services Administration \(SAMHSA\) PeerSupport Information](#)
- [Faces of Recovery](#)

Traffic Safety Local Coalitions List

- [Traffic Safety Coalition Finding Tool](#)

24/7 DWI Programs

- [24/7 Sobriety Systems](#)
- [RAND Corporation 24/7 Sobriety Program](#)
- [Washington State 24/7 Sobriety Program](#)
- [The Montana Sobriety 24/7 Program](#)
- [24/7 Sobriety Monitoring Programs Resource Center](#)
-

Literature for Reference

Figure 26 through Figure 31 display the literature for reference.

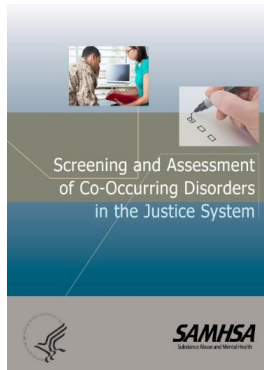


Figure 26. Screening and Assessment of Co-Occurring Disorders in the Justice System.

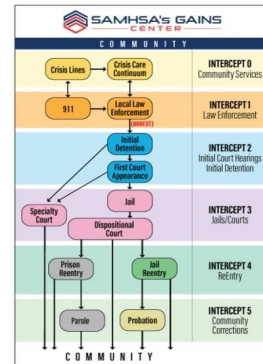


Figure 27. SAMHSA's Sequential Intercept Model (SIM).



Figure 28. GHSA—High-Risk Impaired Drivers: Combating a Critical Threat.

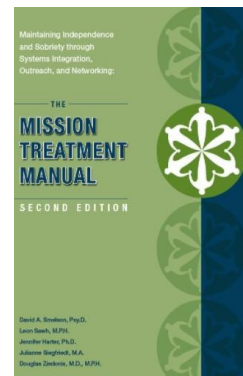


Figure 29. The MISSION Justice Treatment Manual.

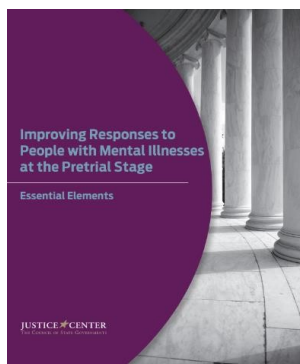


Figure 30. Council of State Government's Improving Responses to People with Mental Illnesses at the Pretrial Stage.

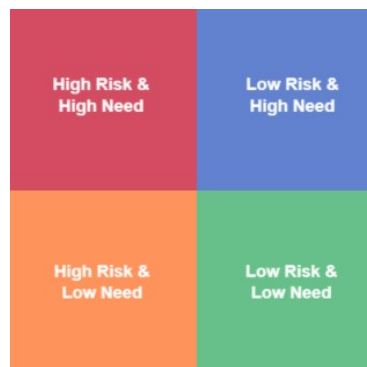


Figure 31. NADCP's The ARK: Evidence-Based and Promising Programs Database.

Objective 4: To develop curriculum and train 5 CA and DA offices on common practices related to treatment intervention plans used in plea bargains for impaired driving offenders.

This section summarizes TTI's efforts to develop a curriculum to train Texas district and county prosecutors in matters regarding mental health and referral practices in DWI cases.

Training Promotion and Recruitment

The TTI team interviewed prosecutors via phone and email and shared the training information with them as well. The investigators distributed upcoming training opportunity emails via Constant Contact to prosecutors who oversee DWI cases. These contacts were generated from TTI's local training database. The training information and registration page are posted to the Center for Alcohol and Drug Education Studies website. Lastly, the team encouraged those we were in contact with to forward and share this training information with prosecutors they felt would like to attend as well. Please see Attachment D to see all the communication correspondence done for this task.

Training Covered Topics

These trainings were conducted in a live-webinar format. TTI investigators focused this training on mental health concepts and common jargon, located and shared statewide mental health resources, and worked to develop partnerships with treatment providers and other criminal justice stakeholders all with the goal in mind to eliminate DWI recidivism, cases, and crashes on our Texas roadways.

Training Agenda

- Introduction
- Module I: Snapshot of the Impaired Driving Problem
- Module II: Overview of Criminal Activity Literature
- Module III: Mental Health and Substance Use Disorder Concepts
- 5-Minute Break
- Module IV: Treatment Specific Problems, Reports, and Plans
- What to Expect
- 5-Minute Break
- Module V: Applying Psychological Information to Legal Decision-Making
- Managing Crises
- Mental Health Resources in the Community
- 5-Minute Break
- Module VI: Criminal Justice Best Practices
- Module VII: Wrap-Up and Discussion

Lecturer Bios

Dr. Nora Charles

Dr. Nora Charles is a licensed psychologist and Associate Professor and Director of the Clinical Psychology PhD program at The University of Southern Mississippi. Dr. Charles received her BA in Psychology from Northwestern University and her PhD in Clinical Psychology from Texas A&M University. She completed a postdoctoral fellowship at the University of Texas School of Medicine in San Antonio. Dr. Charles primarily conducts research and teaches courses on child and adolescent emotional and behavioral problems. She is particularly interested in substance misuse and delinquency, as well as factors such as parenting practices, impulsivity, emotion regulation problems, and environmental stressors that contribute to these behaviors. She is also very interested in psychological assessment, the implementation of evidence-based psychological interventions, and determining how to best integrate psychological science into settings such as primary care and the criminal justice system.

Cinthy Roberto, Project PI

Cinthy Roberto specializes in developing projects to reduce recidivism among Driving While Intoxicated (DWI) defendants. She is the principal investigator in judicial education projects that emphasize the importance of training criminal justice professionals about treatment and referral services in DWI cases. Ms. Roberto also co-authored a study on the recidivism effectiveness of ignition interlock devices. She has provided support in projects related to Core Traffic Records integration, Driving Under the Influence Tracking Systems, and the Impaired Driving Task Force. Before TTI, she graduated with a Master's in Policy Analysis from The Bush School of Government and a Bachelor of Science in Psychology.

Courtney Hrcir

Courtney Hrcir joined the Center for Alcohol and Drug Education Studies (CADES) team in July of 2021 as a Research Specialist. Previously, Courtney worked for Texas A&M Engineering Extension Service (TEES) as a Program Specialist with the Engineering Professional Education team where she was responsible for overseeing professional development course registrations, communication, management, and more. As a graduate of Texas A&M University with a bachelor's degree in Community Health, she has experience in assessing community needs, program planning, implementation, and evaluation, and in technical and grant writing.

Presentation Events and Locations

See Attachment E for the training promotion documents. The project team members conducted six 2.5-hour live online trainings with a total of 46 district and county prosecutors and/or their administration staff. Presentation dates and locations are included below:

- Live online via WebEx on September 10, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles
- Live online via WebEx on September 30, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles, Courtney Hrcir
- Live online via WebEx on October 22, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles, Courtney Hrcir
- Live online via WebEx on October 29, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles, Courtney Hrcir
- Live online via WebEx on November 5, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles, Courtney Hrcir
- Live online via WebEx on November 15, 2021—Presenters: Cinthya Soares Roberto, Dr. Nora Charles, Courtney Hrcir

Registration and Participation Numbers

The TTI team received 73 registrations and trained 46 county and district attorneys. Table 4 shows the breakdown by training date.

Table 4. Breakdown of registration and participation numbers by training date.

Training Date	Registrations	Participation
September 10, 2021	31	22
September 30, 2021	14	5
October 22, 2021	7	5
October 29, 2021	12	10
November 5, 2021	5	3
November 15, 2021	4	1
Total	73	46

Training Evaluation Feedback

The project team members conducted six 2.5-hour live online trainings with a total of 46 district and county prosecutors and/or their administration staff. The TTI team drafted an anonymous and online evaluation to gauge training feedback. At the end of each training, the TTI training host sent the link to the training participants asking their perception in the following constructs:

- If the information in this training was applicable to their current job role.
- Whether they were likely to use the information in the training in their current job role.
- If attending the training was a good use of their time.
- If the format of the course, the pace of instruction, and schedule were appropriate for the material presented.
- Additional comments regarding the course, its content, and any additional topics that could be added to improve the training.
- Additional comments regarding the instructors.
- Additional comments and feedback on the course and/or the training topic in general.

In general, participants in all six trainings agreed that TTI presenters met the expectations in the domains measured above. The evaluation scores and comments for the presentations given by TTI team members are listed in Figure 32 through Figure 35.

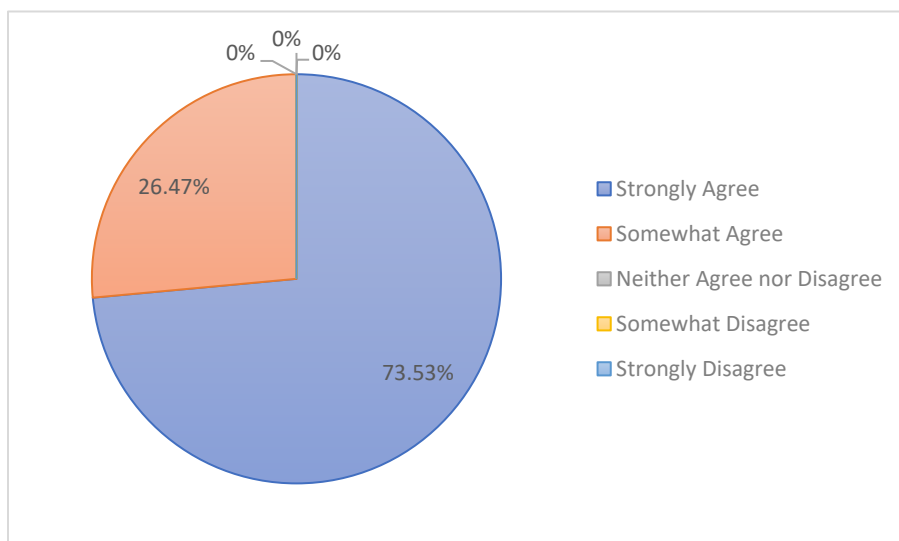


Figure 32. The information provided in this training is applicable to my current job role.

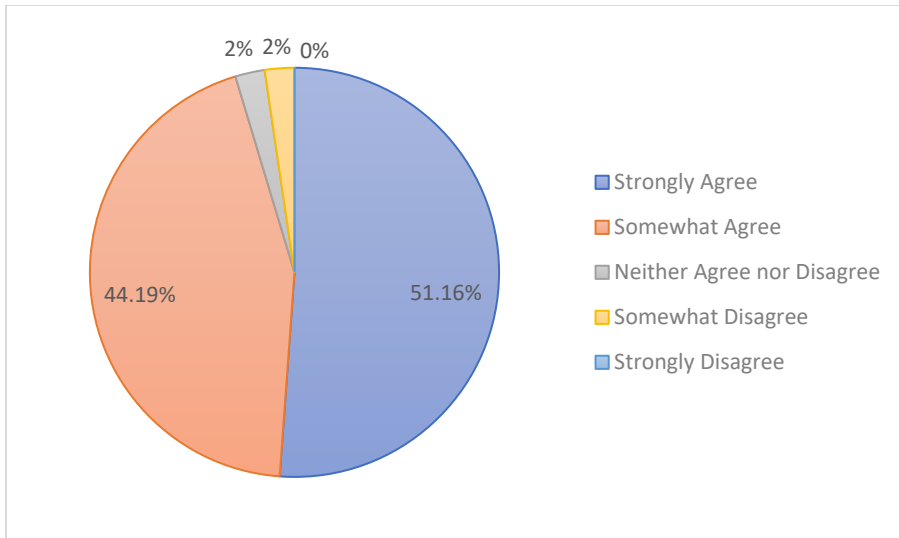


Figure 33. I am likely to use the information provided in this training in my current job role.

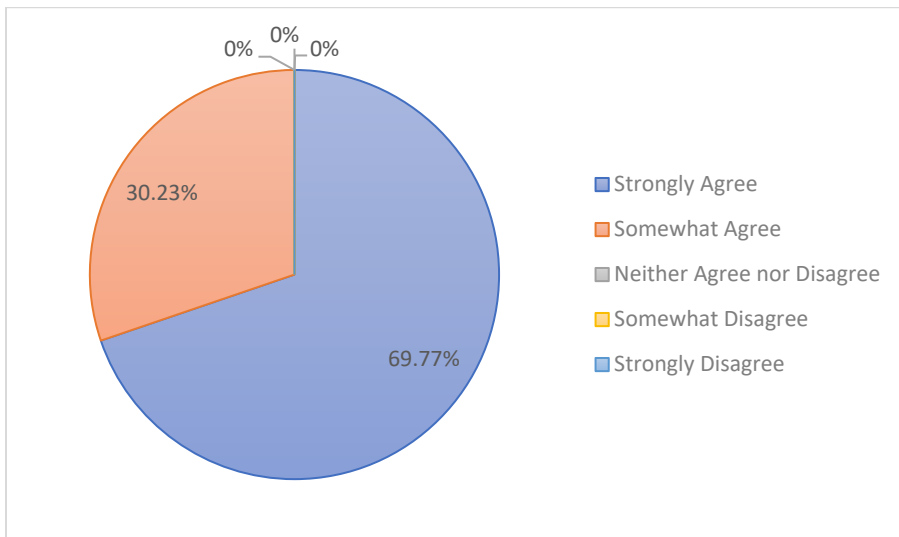


Figure 34. Attending the training today was a good use of my time.

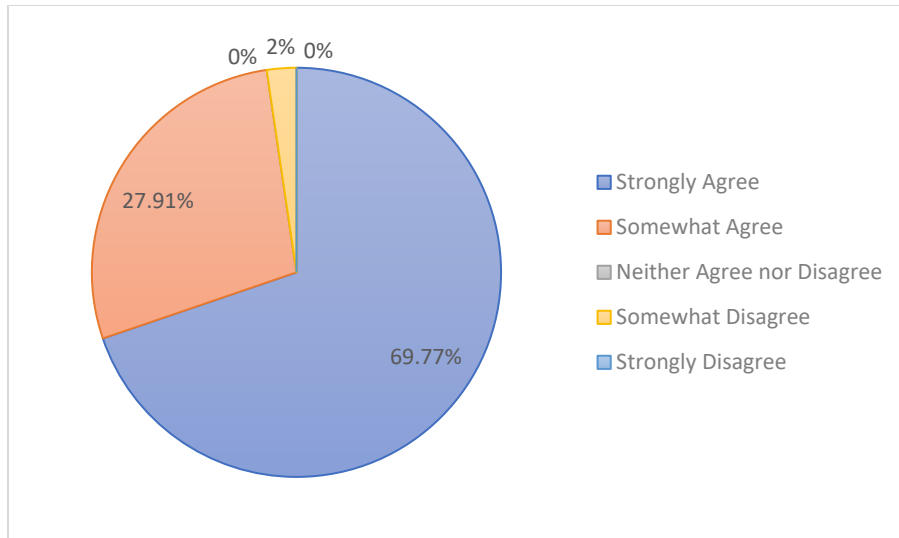


Figure 35. The format of the course, pace of instruction, and schedule were appropriate for the material presented.

Table 5. Evaluation comments.

<p>Additional Comments: please leave any comments about the course, its content, and any additional topics that could be added to improve the training.</p> <ul style="list-style-type: none"> • Great reminder for prosecutors of underlying mental health issues or substance use disorders. In particular, the portion regarding how to verbally communicate with the defense counsel in front of a defendant was informative. • Enjoyed the training—would have found a real-life example of a prosecution that requested one of the screening tools to be used and how that made a difference to the end-result to be effective. • Appropriate and informative training. • Training was good, but because my job pertains to appeals, I’m not as involved with prevention, diversion, and recidivism side of things.
<p>Additional Comments: please leave any comments about the instructors.</p> <ul style="list-style-type: none"> • Instructors were knowledgeable and the information was presented well. • Could easily understand and follow all instructors. The use of percentages allowed me to gain a better understanding of the problem in Texas. • Instructors were awesome.
<p>Overall Comments: please provide us additional comments and feedback on the course and/or about the training topic in general.</p> <ul style="list-style-type: none"> • Learned great information on identifying and referring defendants who may suffer from a mental health or substance abuse issue and how that played a role in the criminal activity. Impressed with the in-depth quality of the presentation. • Learned something new! Was surprised to learn about court-ordered treatment being as or even more effective than those who enter treatment voluntarily. • Keep up the great work! • The information that was received was helpful, but perhaps there is a way to address mental health / substance use issues before the crimes occur. What can departments do to be proactive?

Discussion

TTI's outreach efforts and evaluation for the Prosecutor Training on the Treatment and Referral Services for DWI Offenders project demonstrate the continued need for research, training, and resources to help prosecutors and their staff. The team actively made positive strides in highlighting the importance of identifying and referring DWI defendants to treatment and other intervention options throughout the training. Each prosecutor or staff member who registered for the training received a handout containing resources and tools covered throughout the presentation. Overall, the TTI team received positive feedback regarding the training sessions. Mostly, the prosecutors saw the content that was shared as being of good use of their time and that the shared information would apply to their current prosecutor roles.

Objective 5: To submit one final technical memorandum detailing project efforts: project impact.

TTI, funded by the Texas Governor's Office, developed a plan of action to measure prosecutors' understanding of the importance of considering DWI defendants' potential clinical needs to reduce recidivism. The project, titled Prosecutor Training on the Treatment & Referral Services for the Impaired Driving Offender in Texas, focuses on the importance of providing mental health literacy to DWI prosecutors and identifying treatment and referral practices for DWI defendants during the sentencing and supervision process. This technical memorandum included detailed information from activities performed as part of Objectives 1–4.

The results of the surveys, interviews, and training sessions pointed to a significant gap in understanding the nuances of DWI defendants' needs and the available services that are in place. Naturally, a jurisdiction's resources limit a criminal justice professional's ability to refer DWI defendants. The TTI team focused its activities on shedding light on the importance of prosecutors using accurate methods of identifying DWI defendants' risks and needs. The team also provided a crash course on mental health and substance use disorder topics. Then the team shifted gears and offered prosecutors practical tips on addressing DWI defendants in crises and how to identify DWI defendants' illnesses. Lastly, the TTI trainers provided recommendations on how to refer DWI defendants to resources and build jurisdictional resources if none were in place.

The surveys and interview results pointed toward the usefulness of the content that was discussed during the training sessions. The feedback received during the training session was overwhelmingly positive. Prosecutors across the state are passionate about curbing the DWI recidivism problem. Overall, the training participants seemed to want to know more about the topic. TTI published the training recording, helpful resources handout, and PowerPoint presentation slides at the [Center for Alcohol and Drug Education Studies \(CADES\)](#) website for any prosecutor who would like to access the training on-demand.

The TTI team will continue to advocate for increasing the awareness of prosecutors about interventions, treatments, and referral practices that might benefit DWI defendants to reduce recidivism and maintain safe communities. The TTI team is committed to finding solutions that will improve traffic safety, reduce recidivism, and reduce crime.

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Texas A&M Transportation Institute CADES Center for Alcohol and Drug Education Studies

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Center for Alcohol and Drug Education Studies

Of the 19,497 U.S. impaired-driving fatalities that occurred in 2016, Texas experienced 1,438 of them. Across the country, impaired driving accounts for 28 percent of all traffic deaths. In Texas, it's 34 percent.

The Center for Alcohol and Drug Education Studies (CADES) focuses on solving problems caused by the irresponsible use of alcohol and other drugs. CADES provides education, outreach and research related to alcohol and other drugs specifically as they relate to traffic safety.

"Impaired driving is a huge problem in Texas, and there are numerous reasons for that," says Research Scientist Troy Walden, director of the Center for Alcohol and Drug Education Studies (CADES) at the Texas A&M Transportation Institute (TTI). "One of the biggest hurdles we face is the cultural acceptance of drinking and driving." Walden and his team of CADES researchers are dedicated to solving problems — through various education, outreach and research projects — caused by the irresponsible use of alcohol and other drugs.

News

TTI's Center for Alcohol and Drug Education Studies Works to Eliminate Impaired Driving

When traffic safety experts think about the problem of impaired driving in Texas, words like roadblocks and frustrating come to mind. Despite dedicated efforts to make Texas roadways safer, the Lone Star State typically leads the country in the number of alcohol-related deaths, and always ranks in the top 10 states for the highest rate of impaired-driving deaths per population.

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