Partnering with the Criminal Justice System to Reduce Impaired Driving

a CADCA NHTSA Community of Practice Webinar

Presenters
Paul Hofmann
Erin O’Mara
Judge Earl Penrod
Welcome CoP Participants!

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Introductions

- CADCA Team
- Coalitions
- Presenters
Today’s Presenters

**Paul Hofmann** is the American Probation and Parole Association’s National Highway Traffic Safety Administration’s (NHTSA) Probation Fellow.
Erin O’Mara was selected by the National Association of Prosecutor Coordinators (NAPC) in conjunction with NHTSA to participate in their Prosecutor Fellow Program.
Judge Earl Penrod

Judge Penrod is presently serving as the American Bar Association / NHTSA Judicial Fellow and is the Chair of the ABA/JD’s National Conference of Specialized Court Judges.
Enhancing Traffic Safety: The Prosecution Perspective

Erin O’Mara
Assistant Solicitor-General
serving: City of John's Creek, City of Dunwoody and City of Sandy Springs, Georgia
Prosecutor’s Role in the Criminal Justice System

• Prosecutor’s role is to seek justice, not merely to secure conviction
• ABA Model Rule of Professional Conduct Rule 3.8 Special Responsibilities of a Prosecutor
• Prosecutor has responsibility to the entire criminal justice system as well as a responsibility to the defendant
Burden of Proof

- Probable Cause vs. Beyond a Reasonable Doubt
- Prosecutor’s responsibility when evaluating a case
- Prosecutor’s responsibility in plea negotiations
Case Evaluation

• Strength of all evidence
• Applicable case law
• Training and experience of officer
• Credibility of witnesses
• Defendant’s criminal history
• Message to the defendant and community
To Effectively Prosecute DUI Cases:

• A prosecutor must be thoroughly familiar with the applicable statutes and case law
• Be familiar with the scientific process of gathering, testing and presenting evidence
• Be familiar with methods used by law enforcement to investigate impaired drivers
• Be familiar with resources for offenders to receive treatment
Alternatives to Trial

• Negotiated pleas
• Accountability courts
• Private treatment
Barriers to Community Involvement

• TIME
• Organizational Support
• Limitations imposed by Model Rules of Professional Conduct and ethical considerations
Opportunities for Community Involvement

• Elected officials (District Attorneys, Solicitor-Generals, State’s Attorneys) are often willing to speak to community groups

• Having prosecutors speak to youth about issues such as impaired driving can potentially create an opportunity for dialogue between youth and parents which expands educational reach

• Attorneys are very “black and white” thus having specific avenues for involvement are likely to be more successful
Enhancing Traffic Safety: The Judicial Perspective

Judge Earl G. Penrod
Gibson Superior Court (Indiana)
ABA/NHTSA Judicial Fellow
Different role... Common goal

- Separate, co-equal branch of government, administering justice.
- Independent and impartial.
- Code of Judicial Conduct.
- Promoting public safety, NOT promoting prosecution.
Judges and Adjudication of Crimes

• Judges are charged with insuring due process and constitutional protections for EVERY individual.

• Our constitutional structure requires balancing individual freedoms with important social aims and objectives.

• Our criminal justice system is structured to protect individual freedom from overbearing (even if well intentioned) government.
Presumption of Innocence

• Shame on those who trivialize our treasured constitutional rights and privileges as mere technicalities.

• Judges understand and must insist that consequences for an individual defendant are appropriate only upon a determination of responsibility under the law.
But wait...

- The judicial role in criminal justice does NOT preclude involvement in community.
- Ethical collaboration and cooperation with other system and community based stakeholders is imperative.
- To properly perform the judicial role, judges MUST understand promising practices and evidence based initiatives.
IMPORTANT ISSUES DEMANDING ATTENTION

• Evidence based practices in sentencing (What works)
• Problem Solving Courts
• Technology (Ignition Interlock, SCRAM, etc.)
• Pharmacology
• Counseling and Treatment
JUDGES handling traffic cases NEED TO...

- Study and understand the law and science of impaired driving/traffic related cases.
- Be fully informed on emerging traffic safety issues.
- Recognize and respect different roles and perspectives of traffic safety stakeholders.
- Identify and resolve barriers to effective systemic traffic safety initiatives.
Bringing the Judge to the Table

• Understand and respect judge’s role and commitment to individual due process.
• Appreciate the ethical constraints.
• Seek opportunities to be of service (starting point: what can you do for/with the courts not what do the courts need to do).
• Identify and support judicial branch initiatives regarding evidence based practices (judges respond better to peer to peer education.)
Enhancing Traffic Safety: The Probation Perspective

Paul Hofmann
APPA/NHTSA Probation Fellow
What is the sequence of events in the criminal justice system?

Entry into the system → Prosecution and pretrial services → Adjudication → Sentencing and sanctions → Corrections

Note: This chart gives a simplified view of caseloads through the criminal justice system. Procedures vary among jurisdictions. The weights of the lines are not intended to show actual size of caseloads.

Source: Adapted from The challenge of crime in a free society. President's Commission on Law Enforcement and Administration of Justice. 1967. This revision, a result of the Symposium on the 30th Anniversary of the President's Commission, was prepared by the Bureau of Justice Statistics in 1997.

U.S. Bureau of Justice Statistics
• 4.8 Million Adults were on Probation or Parole at yearend 2010

• 1 in 48 Adults are on Community Supervision

• 4 Million Adults on Probation
Crime, Crash, and Arrest Clock

**Crime**
- 1 murder every 31 minutes
- 1 violent crime every 22.4 seconds
- 1 aggravated assault every 36.8 seconds

**Crash**
- 1 traffic fatality every 14 minutes
- 1 traffic injury every 13 seconds
- 11 law enforcement reported crashes every 1 minute

**Estimated Arrests**
- 167 DUI arrests
- 51 aggravated assault arrests
- 70 violent crimes arrests
- 14 robbery arrests
- 2 murder arrests

Figures are rounded and represent the average per unit of time.

Data sources:
Probation

• Is a Court Order

• Provides Pre-Sentence Investigation Reports

• Supervises offenders in the Community
Community Supervision

- Municipal (Probation)
- County (Probation)
- District (Probation)
- State (Probation or Parole)
- Federal (Probation or Parole)
- Tribal

A Major Goal of Community Supervision is Behavior Change and Recidivism Reduction
Behavior Change

Prevention – Enforcement – Supervision

- Media Campaigns
- Check Points
- Education Efforts
- Enforcement
- Saturation Patrols
- Driver License Sanction
- Prosecution
- Interlocks
- 24/7 program
- TX –Supervision
- Target High Risk Offenders
- Sanctions and Incentives
- Specialized programs
- DWI Courts
- ISP
Impaired Driving
Prevention and Enforcement

• Probation is supportive but generally not funded

• Juvenile units may be more receptive.
Impaired Driving - After Arrest

Before Conviction

• Usually no involvement
• Pre-Trial Supervision?

After Conviction

• Pre-Sentence Investigation and Report (PSIR)
• May not be ordered in many impaired driving cases.
After Sentencing – Supervision

• Monitor the offender is complying with all the court orders
• Ignition Interlocks
• TX Services
• Monitored Sobriety
• Victim Impact Panels
Bringing Probation to the Table

Look for Areas in Common

- Public safety
- Community Service
- Treatment
- Information Sharing
- System Approach
Contact Information

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The NHTSA Probation Fellow is funded by an award to The Council of State Governments from the National Highway Traffic Safety Administration. Funding is not an endorsement of any products, opinions, or services. All National Highway Traffic Safety Administration funded programs are extended to the public on a non-discriminatory basis.
Questions?
Resources

Help & Technical Assistance Contacts:
Sharon O’Hara
Allison Jacobs

http://nhtsacommunity.cadca.org

CADCA – Community Anti-Drug Coalitions of America
www.cadca.org