

# Current DUI Offenders With Pending DUI Charges—Recidivism Insight From a Unique Offender Sample

by Lisa Degiorgio\*

## Current DUI Offenders With Pending DUI Charges

The prediction of DUI/DWI recidivism has a long research history and continues to evolve. Risk factors have been examined in an effort to reduce the negative consequences associated with drunk driving. More recently, court-enforced consequences that include sanctions and treatment have been examined to identify which public safety and public health strategies are most effective at reducing recidivism. This article reviews the generally accepted factors linked to DUI recidivism; however, it is not meant to be an exhaustive overview but rather to provide a context for examining a unique set of recidivists—those who have been charged but have not completed their court-imposed requirements and have acquired a new, pending DUI/DWI charge.

Historically, little progress has been made to prevent impaired driving by DUI recidivists. In 1996, Simpson and colleagues (1996) reported that 30% of DUI offenders reoffended within 10 years; Lapham and colleagues (2000) reported that 25% of New Mexico DUI offenders reoffended within five years; Kunitz and colleagues (2002) reported that 40% of individuals who received no treatment for alcohol abuse reoffended within five years; and Cavaola (2006) reported that 38% of DUI offenders reoffended over a 12-year follow-up period.

In studies designed to evaluate treatment outcomes for recidivists, rates of reoffending range from 7% (Beck et al., 1999) to 15% (LaBrie et al., 2007; Rojek et al., 2003), providing support for treatment recommendations in DUI court sentencing. Continued research into DUI recidivism predictors may enhance risk identification and facilitate matching appropriate levels of care to treatment needs (Andrews & Bonta, 2010; Veneziano et al., 2000).

## Predicting Recidivism

Accepted demographic risk factors for offenders relate to gender, race/ethnicity, marital status, educational attainment,

current age of the offender, age of first conviction, prior criminal history, and prior arrest history (Nochajski & Stasiewicz, 2006). Males are more likely than females to receive a subsequent DUI charge (C'de Baca et al., 2001; De Michele & Lowe, 2011; Nochajski & Stasiewicz, 2006) and are mainly between 30 and 40 years old (Beck et al., 1999; C'de Baca et al., 2001; Stasiewicz et al., 2007; Veneziano et al., 1993). Moreover, DUI reoffenders are generally older than first-time offenders (Nochajski & Stasiewicz), and for male offenders, a young age at DUI conviction is identified as a recidivism predictor (Lapham et al., 2000).

Race and ethnicity are predictors of offender status; however, rates of reoffending vary by region of the country (C'de Baca et al., 2001; Schell et al., 2006). In a report produced by the National Highway and Transportation and Safety Administration (NHTSA, 2010), Native Americans were identified as more likely to reoffend than whites and non-whites. This was consistent for those Native Americans who had completed their court-imposed treatment (Kunitz et al., 2002). Whites were identified as more likely to reoffend than African Americans, Hispanics, and Asians, and Asians were found to have the lowest rates of arrest for DUI and reoffending (NHTSA, 2010).

Offenders who are married and have more than a high school education are less likely to be repeat offenders (Beck et al., 1999; C'de Baca et al., 2002; DeMichele & Lowe, 2011; Kunitz et al., 2002).

Criminal history factors have also demonstrated strong predictive capabilities, notably history of arrests and convictions. DeMichele and Lowe (2011) found that repeat DUI offenders reported more arrests, incarcerations, and probation sentences for any offenses than first-time offenders. Moreover, the type of criminal offense is related to recidivism rates. DUI offenders with a history of property crimes were 1.4 times more likely to recidivate than those with only a DUI arrest, and DUI offenders with a history of property crimes and crimes against persons were two times more likely to recidivate (La Brie et al., 2007). Rauch and colleagues (2010) examined 100 million Maryland driving records to determine the impact of an initial alcohol-related violation

(not just convictions) on recidivism. Results indicated that any alcohol-related violation, regardless of conviction, was associated with DUI recidivism (Rauch et al., 2010).

Information collected at the time of the DUI has also been examined as possibly predictive, specifically blood alcohol content (BAC). Research results that have examined BAC as a predictor are mixed (Marowitz, 1998; Nochajski & Stasiewicz, 2006). Some studies have found a positive relation between high BAC and DUI recidivism, but others have found no relation between the two factors. Refusal to provide a breath test has been associated with DUI recidivism (Nochajski & Stasiewicz).

Additional research has identified driving behavior (“bad drivers”) as a recidivism predictor (Bishop, 2011; Cavaola et al., 2007; Donovan et al., 1990). As reported by Nochajski and Stasiewicz (2006), repeat DUI offenders were more likely to have been involved in additional motor vehicle crashes and to have received more traffic violations than first time DUI offenders. It has been suggested that DUI offenders are poorer drivers than first-time DUI offenders.

Several studies have reported that DUI offenders who complete substance abuse treatment programs were less likely to reoffend than DUI offenders who did not complete treatment (Messina et al., 2006; Stasiewicz et al., 2007). Additional dynamic factors linked with recidivism include:

- Having a diagnosed mental health disorder (Holt et al., 2009);
- Stress (Degiorgio & Lindeman, 2013; Veneziano et al., 1993);
- Attitudes and beliefs about drinking (Greenberg et al., 2005); and
- Motivation for treatment (Degiorgio & Lindeman, 2013; Freeman et al., 2005).

In addition, heavy drinking patterns have been associated with DUI recidivism, as has a positive family history of alcohol or drug problems. Lapham and colleagues (2000) report that DUI recidivists are also more likely to experience alcohol dependence, and prior treatment for alcohol or other drug problems is also related to repeated DUI offenses (Messina et al., 2006; Veneziano et al., 1993).

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Studies examining the effectiveness of sanctions and treatment on recidivism vary widely. Sanctions include fines, license suspension or revocation, probation, jail sentences, and ignition interlock systems. Treatment requirements typically involve participation in education and alcohol treatment programs. Offender sentences may include a combination of sanctions and rehabilitation requirements. It is estimated that participation in treatment reduces recidivism by 7% to 9% and that the use of the ignition interlock system reduces recidivism by 60% to 90% (NHTSA, 2005). Regardless of sentencing requirements, studies have confirmed that recidivism is reduced when an offender complies with and completes his or her sentencing requirements (Beck, et al., 1999; Nochajski & Stasiewicz, 2006).

Research into predictive factors has identified several promising areas, including demographics, criminal history, and compliance with previous sanctions. Actuarial approaches that combine multiple risk factors have improved predictive capabilities and are frequently used in DUI assessment procedures (C'de Baca et al., 2001). The ability to discriminate between offenders who are likely to reoffend offers a valuable tool to clinicians and law enforcement. The purpose of this study was to explore the variation that might exist among repeat offenders using a unique sample of offenders: individuals who have initiated a DUI assessment for a previous offense and have another DUI charge pending. In other words, these are offenders who had acquired a DUI but have not initiated the court requirements before acquiring another DUI. Identifying characteristics, differences, and similarities among this group of offenders may provide insight into risk classification as well as treatment or intervention needs.

## Study Methods and Procedures

The current study used data from 236,713 Florida offenders who completed the Drivers Risk Inventory (DRI) from 2005 to 2012. The State of Florida mandates that all offenders complete the DRI regardless of being convicted or receiving reduced charges for a DUI. Florida agencies that administer the DRI submit offender data to Behavior Data Systems, Ltd., where it is stored in a database and used internally for validity and reliability studies. Data for this project were retrieved from the database for analysis.

This significant amount of data allowed researchers to examine a unique type of DUI offender, an individual in the process of addressing one DUI with another DUI

charge pending (charge pending offenders; CPOs). Data gathered related to demographics, arrests (felony and misdemeanor), and driving-related offenses. In addition, the DRI assesses stress, substance abuse, motivation for treatment, and driving-aggression factors, which may aid in identifying characteristics unique to repeat offenders.

## Study Participants

As noted, the sample was drawn from a large set of data collected on DUI offenders from the State of Florida. There were 9,570 offenders who had another pending DUI at the time of their assessment; these represented approximately 4% of the overall Florida submissions. Offenders were slightly older than the general group (38.3 years), male (76%), white (67%), single, (55%), and had at least a high school education (44.2%). These characteristics were consistent with percentages for the overall population, with the exception of education. In the CPO sample, more offenders had less than a high school education (15.2%).

Ninety percent of offenders reported one or more lifetime DUI arrests; 18% reported one or more DUI arrests reduced to reckless driving arrests; 14% reported one or more alcohol-related arrests that were not related to a DUI; 99% reported one or more arrests, and 9% reported one or more drug-related arrests that were not related to a DUI; 20% reported one or more misdemeanors; 11% reported one or more felony arrests. When asked about driving-related charges or arrests, 22% reported one or more reckless driving arrests; 36% reported one or more traffic violations resulting in points on their license; and 21% reported one or more at-fault accidents. Table 1 displays range, mean, and standard deviation for each criminal history and driving behavior item.

## Study Instruments Used

The Florida DRI is a self-report measure that uses 140 items to develop five domains that address alcohol use, drug use, driver risk, stress management, and truthfulness. In addition, the DRI uses a substance abuse classification that is derived from the fourth edition of the *Diagnostic and Statistical Manual of Mental Disorders* (DSM-IV). The DRI has demonstrated concurrent validity (Chang et al., 2002), the ability to distinguish between first-time and multiple offenders (Leshowitz & Meyers, 1996), and the ability to identify problem drinkers (Lacey et al., 1999). In previous work, the DRI scales demonstrated satisfactory reliability ( $p < 0.80$ ; Chang et al., 2002), and in the current study, reliability coefficients ranged from 0.87 to 0.93. Bishop (2011) was able to demonstrate some predictive abilities of the DRI in rapid (within one year) DUI recidivist detection. Moreover, the NHTSA stated that the DRI is the only major DUI assessment that addresses driver risk (Popkins et al., 1988).

For each DRI scale, respondents' scores are classified into four risk ranges: low risk (zero to 39th percentile), medium risk (40th to 69th percentile), problem risk (70th to 89th percentile), and severe problem (90th to 100th percentile). Risk ranges represent degree of severity. Risk ranges were established by converting raw scores to percentile scores by using cumulative percentage distributions (Behavior Data Systems, 2014). Early instrument development included the use of content experts to confirm the proposed risk ranges. Data analyses, in combination with field reports from experienced evaluators over five years, have confirmed that these percentile categories provide accurate identification of problem behavior (Behavior Data Systems, 2012). The expected percentages of offenders within each risk range are: low

**Table 1: CPO Arrests and Driving History**

	Min	Max	M	SD
DUI arrests	0	20	1.65	1.050
DUI reduced to reckless driving	0	9	0.35	0.772
Reckless driving arrests	0	10	0.23	0.561
At-fault accidents	0	6	0.28	0.612
Moving violations	0	50	0.93	1.878
Alcohol-related arrests (non-DUI)	0	20	0.23	0.722
Drug-related arrests (non-DUI)	0	10	0.13	0.490
Lifetime arrests	0	4	1.07	0.394
Misdemeanor arrests	0	50	0.39	1.350
Felony arrests	0	40	0.20	0.918

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risk, 39%; medium risk, 30%; problem risk, 20%; and severe problem, 11%.

**Study Analysis**

Percentages and frequencies were used to summarize CPO risk across all DRI scales, as well as BAC information and substance abuse and substance dependence classification using DSM-IV criteria. In addition, CPO motivation for treatment and perceived problems with alcohol and drug abuse were also analyzed. Offenders were grouped into two categories, those with two DUIs (current and pending) and those with three or more DUIs. Approximately 85% of repeat offenders had two DUIs and 15% had three or more DUIs. T-tests were conducted to determine whether there were statistically significant differences between repeat offenders using the number of DUI arrests. Previous DRI research found that the DRI effectively differentiated between first-time offenders (zero to one arrest), and offenders with multiple DRI arrests (two or more) (Bishop, 2011).

**Study Results**

As a whole, CPOs were less guarded and did not try to minimize their actions as measured by the Truthfulness Scale when compared to the larger Florida DUI population. As noted in Table 2, the percentage of CPOs in the problem risk range exceeded expected ranges by 5% to 10% on the Alcohol, Drug, and Driver Risk Scales. On the Alcohol and Driver Risk Scale, the percentages of CPOs in the severe problem range were 4% to 5% greater than expected. In contrast, approxi-

mately 50% of CPOs were in the low-risk range on the Stress Coping Abilities Scale.

Further analyses of CPOs on the Alcohol and Driver Risk Scale were undertaken. Table 3 summarizes the results of DUI arrests and risk classification for the Alcohol and Driver Risk Scale. Approximately 80% of CPOs with three or more DUI arrests were classified as problem and severe risk, whereas 39% of CPOs with two DUIs were classified as problem and severe risk. Results for the Driver Risk Scale were consistent with findings from the Alcohol Scale. Approximately 60% of CPOs with three or more DUI arrests were classified as problem and severe risk, and approximately 38% of CPOs with two DUI arrests were classified as problem and severe risk.

A series of questions from the DRI were used to assess DSM-IV criteria for substance abuse and substance dependency. Results for the CPO group were consistent with the overall Florida population:

- 95% of CPOs met the criteria for substance abuse and 5% of CPOs met the criteria for substance dependence;
- 94% of CPOs with two DUIs met the criteria for abuse, and 5% met the criteria for substance dependence;
- All CPOs with three or more DUI arrests met the substance abuse criteria, and 9% met the dependence criteria.

As noted above, research into the relation between BAC and recidivism has been mixed. For this study, the average BAC was 0.150 for all CPOs, 0.146 for male CPOs, and 0.154 for female CPOs. A t-test using gender and BAC revealed no statistically significant

difference between male and female CPOs. Using the two groups established earlier, BAC was 0.147 for CPOs with two DUIs, and BAC was 0.157 for CPOs with three or more DUIs; results were not statistically significant. The findings were consistent with the overall Florida DRI population; however, there were more CPOs who refused to provide a BAC, and CPOs had fewer BAC results over 0.20 than might be expected given previous research. There were no differences in refusals for CPOs with two DUIs as compared to those with three or more DUIs.

The DRI asks a series of questions about offender perception of problems with drinking, drugs, and driving, as well as motivation for treatment. Results for the CPOs as a group were as follows:

- 65% reported no problem with alcohol;
- 90% reported no problem with drugs;
- 75% reported they did not engage in aggressive driving; and
- 63% reported no motivation for treatment.

The results were refined by the number of DUI arrests and are presented in Table 4. Repeat offenders with three or more DUI arrests reported greater motivation for treatment and described their alcohol and drug use as a serious problem more often than offenders with two DUI arrests. There were no differences between the groups when asked about driving aggression; approximately 75% of CPOs reported that aggressive driving was not a problem.

**Study Results**

Previous DUI recidivism research has examined several factors and characteristics that may distinguish repeat offenders from first-time offenders. Although providing a useful description of a repeat impaired driver, these characteristics do not differ significantly from the characteristics of first-time offenders (Jones & Lacey 2000). The purpose of the present study was to explore the variation that might exist among repeat offenders using a unique sample of offenders, those who have recently initiated assessment for a DUI and have recently acquired another one. The results have been mixed. Demographic characteristics and self-reported criminal history in this sample were similar to those for the larger Florida DUI population. As expected, this group demonstrated greater problem severity, as measured by the Alcohol Scale and Driver Risk Scale and to a lesser extent the Drug Scale. Offenders in this group were more truthful than expected and managed stress better than expected as reported in previous findings (Degiorgio & Lindeman, in press).

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**Table 2: CPO Risk by Scale**

Scale	Low Risk		Medium Risk		Problem Risk		Severe Risk	
	N	%	N	%	N	%	N	%
Truthfulness	4,435	46.5	2,203	23.0	1,841	19.2	1,091	11.4
Alcohol	2,135	22.3	3,083	32.2	2,919	30.5	1,433	15.0
Drug	3,691	38.6	2,427	25.4	2,402	25.1	1,050	11.0
Driver	2,377	24.8	3,196	33.4	2,644	27.6	1,353	14.1
Stress coping abilities	4,441	46.4	2,713	28.3	1,616	16.9	800	8.4

**Table 3: Lifetime DUIs, Problem and Severe Alcohol and Driver Risk**

Risk Type	No. of DUIs	Problem Risk		Severe Risk	
		N	%	N	%
Alcohol risk	2 DUIs	2,210	27.4	948	11.8
	3 or more DUIs	700	47.3	480	32.4
Driver risk	2 DUIs	1,974	24.5	1,077	13.4
	3 or more DUIs	668	45.1	269	18.2

**Table 4: CPO Rating of Alcohol, Drugs, Driving, and Motivation for Treatment**

Behavior	No. of DUIs	No Problem		Moderate		High	
		N	%	N	%	N	%
My drinking	2 DUIs	5,465	68.0	559	7.0	701	8.7
	3 or more DUIs	705	47.8	199	13.5	337	22.8
My drug use	2 DUIs	7,267	90.6	168	2.1	331	4.1
	3 or more DUIs	1,248	85.0	46	3.1	112	7.6
My driving	2 DUIs	6,043	75.3	395	4.9	214	2.7
	3 or more DUIs	1,124	76.3	89	6.0	51	3.5
My motivation	2 DUIs	5,314	66.4	556	6.9	1,040	13.0
	3 or more DUIs	421	45.1	156	10.6	661	15.4

Offenders with two arrests had only recently initiated the process and had not received any intervention or treatment related to their alcohol use or other behaviors. Individuals with three or more DUI arrests had had some recent involvement with the criminal justice system and presumably treatment and/or sanction recommendations. Given this, it was notable that most offenders in the sample were not motivated for treatment and did not consider their drinking, drug use, or driving to be a problem. This finding is consistent with previous research on Florida DUI offenders (Degiorgio & Lindeman, in press) and contributes to the existing DUI recidivist research.

### Study Limitations and Future Research

Limitations of the study include the reliance on self-reported information, no knowledge of treatment engagement and completion, and limited information on family history, attitudes, and perceptions of driving while intoxicated. These limitations provide other researchers with opportunities for additional exploration of, for example, perceptions and attitudes about driving while intoxicated (Greenberg et al., 2005; Nochajski & Stasiewicz, 2006). Moreover, with additional information on treatment/sanction recommendations and completion, researchers may be able to identify treatment settings, type, and completion and may be able to identify specific and individualized approaches to reduce the number of repeat offenders (C'de Baca et al., 2001).

Examination of this unique DUI offender group has given some insight into the differences among repeat offenders. In particular, even among recidivists, those with more DUI and driving offenses present greater risk for repeat offenses. Offenders in this sample with three or more DUI offenses may not have benefited from earlier sanctions and

treatment interventions; additional information about engagement and completion of court-imposed requirements may help to reduce recidivism for repeat offenders.

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