

**2024**



# **BROKEN LAWS, BROKEN LIVES**

**MADD South Carolina  
Court Monitoring Report**

[www.madd.org/sc](http://www.madd.org/sc)

## Dedication: Mia and Mallory Stokes



In Charlotte, North Carolina on February 25, 2001, Holly and Eric Stokes welcomed identical twins Mia and Mallory into their family. The girls were separated by six minutes during birth. That was their only separation. They shared a bond as twins that only a fraction of humans can understand. The girls were inseparable. They chose to attend the University of South Carolina Union and both made the softball team. This was a shared childhood dream come true for them.

The girl's freshman year was proving to be all they had hoped. Although being an hour-and-a-half apart was difficult for the close-knit family, the girls were spreading their wings and learning how to fly. They shared a small apartment, made new friends, had a few scrimmages together, and made the President's and the Dean's List their first semester.

Holly and Eric could not have been prouder of the accomplishments of their three amazing children. After spending a peaceful Christmas with their family, the girls returned to school and softball. Opening weekend for their USC Union Softball team was in Clearwater, Florida. Their brother Matt opened his UMO Baseball season nearby in Tampa, Florida. Holly and Eric had the time of their lives dividing their time between their daughters and son. As parents, they were living their own dream, watching their children find their way in this world while playing sports that fed their souls.

The family had no idea that the dream they were all living in would turn into a nightmare just two-and-a-half weeks before the girls' 19th birthday.

On the evening of February 7, 2020, the girls and two teammates went to Academy Sports to buy long-sleeved shirts to wear under their jerseys for the game the next day. The girls left the store and seven minutes later, Mia and their friend Grace were gone. They were hit head-on by a drunk driver with a BAC (blood alcohol concentration) of .15 driving 30 miles over the speed limit.

The grief that enveloped the Stokes family was all-consuming. Mallory's identity is forever entwined with her identical twin sister Mia. It was that bond and her family's need for the world to know Mia that the Mia Stokes Foundation was founded. Mia always kept a notebook with her Bible. In that notebook, she wrote her thoughts from her pastor's sermons, lessons gleaned from her studies, and her own reminders to

“Shine On” and “Never, Never Quit.” Mallory has taken Mia’s handwriting and made t-shirts, sweatshirts, hats, stickers, and keychains. Items also contain her softball number 22 and reminders not to drink and drive. The proceeds from the items have allowed Mallory to adopt a family with children each Christmas who are victims of drunk driving, burial assistance, medical bills, foster/adoption needs, scholarships, and for the past two years Uber gift cards for New Year's Eve, just to name a few. In just three years, the Mia Stokes Foundation has given back \$155,000.

The Stokes Family shares Mia’s story in hopes of raising awareness so that no other family has to suffer the pain that they are being forced to endure. Mia’s bright light continues to shine through her family, those who wear her shirts, and those who benefit from the gracious assistance from her foundation.



## **Executive Summary**

The current trajectory of drunk driving fatalities in South Carolina is both alarming and unacceptable. In 2022, South Carolina had 474 drunk driving fatalities—5<sup>th</sup> highest total in the nation, and 72% higher than 2019. It is the second highest year on record for the state, and no state had a higher rate of drunk driving deaths based on population. The designation of worst state in the nation for drunk driving is clear. Perhaps it should come as no surprise as our state's DUI laws have long been known as among the nation's weakest and are riddled with loopholes that affect felony and misdemeanor cases. The numbers in this report of how rarely people are being convicted after a first arrest are not just disappointing, they threaten the lives of every driver on our roads. They contribute to a culture of viewing DUI as unimportant or just a "mistake" rather than a crime that can affect any of us tragically in an instant. This system, operating under these problematic laws, is broken, and the consequences are clear.

This report is a product of MADD South Carolina's Court Monitoring program. MADD SC monitors the outcomes of first offense misdemeanor DUI cases in seven large South Carolina counties: Berkeley, Charleston, Greenville, Horry, Lexington, Richland, and Spartanburg. The program's goals are to compile relevant statistics regarding the dispositions of DUI cases in the courtrooms, to raise awareness of the level of public concern regarding the dispositions of DUI cases, and to report information on the dispositions of DUI cases in order to make improvements to the DUI enforcement, prosecution and/or adjudication systems.

Court Monitoring staff collected specific information on cases from attending court hearings or through case research online. We also have held multiple meetings with informed individuals within the enforcement and prosecution communities to assist with interpretation and context. This is our fifth report and shares findings based on cases we have followed since the beginning of 2019 that have come to a final disposition.

Our data for Berkeley County showed 33% of 608 cases ended with a guilty conviction for DUI or the equivalent charge of Driving with an Unlawful Alcohol Concentration. Charleston County was 42% of 1,339 cases. Greenville County was 58% of 2,182 cases. Horry County was 31% of 1,331 cases. Lexington County was 40% of 1,213 cases. Richland County was 18% of 1,111 cases. Spartanburg County was 65% of 1,127 cases. Of the cases that did not end up as guilty of DUI, it varied by county whether the final outcome was most often a plea to a lesser charge like reckless driving (even more common than a DUI conviction in some counties) or whether we classified the case as "dropped, dismissed, or not guilty."

MADD's 2021 Court Monitoring national report shows a combined conviction rate of 58% across 15 states with Court Monitoring data for that year. Clearly, South Carolina falls behind most of the nation.

The reasons for our state's unacceptably low conviction rate are many and include an unfairly strict videotaping statute, a system that practically rewards those who violate their agreement to provide a breath or blood sample if asked, too many areas where

DUI prosecution is not prioritized and supported, too few judges taking the full ownership necessary to treat DUI seriously, and too little DUI training for officers and judges.

We call for change in the following areas:

- Overhaul the state's DUI statutes with an eye toward simplification and eliminating loopholes that are more about helping offenders escape justice than protecting the rights of the accused. Every statute should be viewed from the perspective of whether it is aiding public safety or contributing to our state's terrible impaired driving statistics. Areas to focus should include the statutes around the dash cam recording, blood draws, and breath test refusal penalties.
- Expand the newly passed ignition interlock law to include a requirement for IID installation to get a Temporary Alcohol License after a refusal suspension.
- Improve resources for prosecution in areas that currently offer little support in that area. Improved conviction rates are likely possible when there is commitment and resources put toward impaired driving cases as evidenced by our data. This could look like ensuring no officers are prosecuting their own cases, policies exist to prevent overly frequent plea deals, trying cases in front of a jury, and coordinating with the courts for focused DUI weeks.
- Intentionally foster healthy relationships between prosecution and law enforcement. This can significantly boost DUI conviction rates by facilitating seamless coordination and communication during investigations and court proceedings. When prosecutors and law enforcement collaborate effectively, they can present compelling cases, navigate legal complexities, and ensure that all relevant evidence is effectively utilized to secure convictions.
- Support law enforcement officers and prosecutors in attending administrative hearings for individuals who refuse to take a breath test. When officers are present and ready to justify the six-month license suspension for the arrestee and have prosecution support, they uphold accountability. Additionally, this presence can lead to other advantages, such as individuals opting to plead guilty to DUI charges in exchange for avoiding the suspension.
- Encourage judges to take responsibility for the procedural norms in their courtrooms regarding DUI cases and acknowledge how delays caused by the defense can affect the chances of a conviction. It is also important for judges to balance protecting the rights of defendants representing themselves (pro se) without overstepping by rejecting guilty pleas or offering legal advice.
- Enhance training for officers in the meticulous handling of DUI arrests, as errors by officers in these complex cases can jeopardize potential convictions. Additionally, measures should be implemented to boost motivation among officers to conduct thorough investigations.

## **Introduction**

*Deadly Results* was the title of MADD South Carolina's 2022 Court Monitoring Report. The title of that report was to reflect the seriousness of the situation and the connections that cannot be ignored between how South Carolina handles all DUI arrests and our tragic fatality numbers. When we do not care about holding people accountable after each and every DUI arrest, they often become repeat offenders causing devastation and grief that could have been prevented. Year after year passes with our state operating under the same problematic and out-of-date DUI statutes while other states demonstrate the life-saving impact of DUI reform. This is in spite of some outstanding efforts among many law enforcement and prosecution agencies.

This year our report is titled *Broken Laws, Broken Lives*. Because South Carolina's DUI laws are so alarmingly lenient, it is causing an unacceptable amount of lives lost or destroyed. The current legal framework fails to act as a strong deterrent with insufficient penalties enabling repeat offenders to get back on the roads swiftly. This leniency undermines public safety, allowing dangerous drivers to continue to endanger lives. To curb this crisis, South Carolina must rework its DUI laws to be simpler and smarter and tilt the situation toward benefitting public safety rather than bending over backwards for offenders. "Worst in the nation" must become a distant memory, and we need to begin now.

In 2024, after five years of determined advocacy by many including MADD, South Carolina became the 35th state to require ignition interlock systems for all drivers convicted of driving under the influence, expanding what is known in South Carolina as Emma's Law. The new law requires installing an ignition interlock device — a car breathalyzer that measures the amount of alcohol in your breath — updates the older version of the law where installation was only required for repeat offenders or first-time offenders with a .15 BAC or higher. The bill was championed by Senator Brad Hutto, House Judiciary Chairman Weston Newton, House Criminal Law Subcommittee Chair Jeff Johnson, and Speaker of the House Murrell Smith. We thank them for their leadership.

Drunk driving is a grave offense. At MADD, we witness firsthand the devastating impact on countless families, and our hearts ache alongside theirs. While we can offer support, advocacy, and empowerment, we cannot erase their profound pain. These crashes are sudden, violent, and irreparable, yet entirely preventable.

The seriousness of drunk and drugged driving must be underscored with strict and consistent outcomes in our court system. With all the passion generated from working with impaired driving victims and survivors every day, we ask: If the compelling stories and alarming statistics we confront today, including the concerning conviction rates in this report, fail to spur us to action, what will motivate us to save lives needlessly lost year after year? South Carolina, let's get MADD and take decisive action.

## **The Case for Court Monitoring**

Court Monitoring is a proven tool to affect the adjudication process and is recognized by NHTSA as an effective countermeasure to reduce alcohol impaired driving (Countermeasures That Work, NHTSA, 6th edition, March 2011). A NHTSA commission study found that in cases where Court Monitors were present, conviction rates for DWI/DUI offenders were 10% higher and case dismissal rates were 70% lower (Impact of Court Monitoring on DWI Adjudication, December 1990, DOT HS 807 678). Court Monitoring has also proven to be a highly effective method of creating ongoing productive discussions between citizens and the judiciary. This makes the courts more accountable to the community they serve. Research shows that a first-time DUI offender has driven drunk an average of 80 times prior to their first arrest. Nationally, about one-third of drivers arrested for DUI have had a previous DUI conviction. Inconsistency in the handling of DUI cases, DUI charges being amended to lesser charges and dismissals of cases may contribute to repeated DUI offenses. MADD supports swift and equitable treatment for all DUI cases.

MADD's Court Monitoring Program was created to ensure that DUI offenders are prosecuted, dismissals of DUI cases are decreased and justice is achieved. Our Court Monitoring program's goals are:

- To compile relevant statistics regarding the dispositions of DUI cases in the courtrooms
- To raise awareness of the level of public concern regarding the dispositions of DUI cases
- To report information on the dispositions of DUI cases in order to make improvements to the DUI enforcement, prosecution and/or adjudication systems

## **Court Monitoring in South Carolina**

Our Court Monitoring program is funded by a grant from the Office of Highway Safety and Justice Programs (OHSJP) within the South Carolina Department of Public Safety. Our initial grant was for three years and began on October 1, 2015, addressing Greenville, Pickens, Richland, and Kershaw Counties, the 13<sup>th</sup> and 5<sup>th</sup> judicial circuits. Our second grant began on October 1, 2017 and added Horry, Berkeley, and Charleston Counties. When the original grant ended in September 2018, OHSJP funded a new grant where we proposed monitoring in Greenville, Spartanburg, Richland, and Lexington Counties, meaning we are now monitoring in seven of the state's largest counties. Since that time, OHSJP removed the three-year length on the grants. If funding is approved for our annual applications, we currently plan to expand our Court Monitoring program into two additional counties. However, if the expansion is not approved we plan to remain in our current seven counties in an attempt to measure long-term impact of these efforts.

The counties we select are supported by data provided by OHSJP. We determined our counties of focus based on the number of fatal and serious injury alcohol-related

crashes. None of our counties were selected based on known “problems” with those counties in terms of adjudication or prosecution. In fact, we knew very little about what the status of those counties were in terms of DUI case outcomes or prosecution approaches until we began monitoring there.

To achieve the above listed goals, MADD South Carolina Court Monitoring staff and, to a lesser extent, volunteers collected specific information on DUI cases from court hearings and through case research online. Data collected for each case included jurisdiction, offender demographics, date of arrest and court appearances, original charges, disposition of the case (plea, reduction in charges, guilty/not guilty verdict, etc.), and extent of the penalties issued. While detailed information was collected, not all of the data has been shared in this report. Our protocol is to not share data on specific judges or prosecutors with data being shared at the county levels only.

### **MADD Court Monitoring Program Volunteers**

Court Monitoring volunteers are recruited through speaking engagements, social media postings, volunteer board postings, career/internship fairs, referrals from existing volunteers, and volunteer inquiries made to MADD South Carolina. All Court Monitoring Program volunteers complete an application and agree to a background check performed by MADD’s national office. Once the background check has been approved, the volunteers complete a three-hour online training program and in-court training with one of MADD South Carolina’s Court Monitoring Specialists. Volunteers monitor DUI cases by attending DUI hearings or by researching DUI cases online through the South Carolina Judicial Department’s Public Index database, completing Court Monitoring forms, and returning them to the Court Monitoring Specialist for review and data entry. Currently, MADD South Carolina only has two full-time and one part-time staff person for our Court Monitoring Program, across all seven counties. Volunteers can be a crucial part of MADD’s success, however the majority of the data collected in this report was monitored by the Court Monitoring Specialists. Volunteer recruitment to supplement the staff’s work is ongoing.

### **Quantitative Data Collection**

The Court Monitoring Program data was obtained from three sources: 1) MADD Court Monitoring forms completed in court by MADD South Carolina staff and volunteers, 2) the South Carolina Judicial Department’s Public Index database, and 3) municipal cases records located on their individual websites. Data from the MADD Court Monitoring forms was collected from four categories: 1) case information, 2) charges, 3) sanctions/sentence, and 4) comments. Case information included, but was not limited to, defendant’s name, date of birth and the name of the court where proceeding was held. Charges included the original charge, the amended charge (if applicable), final charge and the arresting agency. Sanctions/sentences imposed included, but were not limited to, jail time, fines, ignition interlock, license revocation/suspension and probation. Comments provided additional case information.



Information collected by MADD South Carolina staff and volunteers was verified through records accessed through the South Carolina Judicial Department's Public Index database. The database provided DUI case information, charges and sanctions. The data obtained from the Public Index was compared to the data recorded by MADD South Carolina staff and volunteers to assure accuracy of the data collected. The data in this report are from DUI cases (initiated by a DUI arrest) scheduled to be heard in chosen magistrate and municipal courts in Berkeley, Charleston, Greenville, Horry, Lexington, Richland, and Spartanburg Counties from January 2019 to March 2024. As noted earlier, we began in each county at different times with Greenville and Richland being among our original counties and Lexington and Spartanburg being the most recently added (early 2019). This report is the fifth that MADD has generated from this project with the first report being released in 2017, the second in 2018, the third in 2020, and the fourth in 2022.

The courts we monitored were chosen based on availability of access to court rosters, frequency of court hearings and the number of DUI cases heard in court. The courts most frequently monitored were the magistrate courts in our focus counties. The difficulty with the municipal courts was a lack of access to court rosters and wide variation in the number of DUI cases heard from hearing to hearing – meaning that some days you may have 15 DUI cases and the next hearing zero DUI cases. The magistrate courts seemed to always have a large number of DUI cases for each scheduled hearing. It made the most sense to maximize our resources to attend court where there are more cases being heard than travel to a court, sometimes at a considerable distance, to monitor one or two DUI cases. *It is not the expectation of our Court Monitoring program to monitor every single DUI case, but to do a thorough and complete data collection of those cases that are monitored.*

In Greenville County, the courts we focused on primarily heard cases written by the Greenville County Sheriff's Office and the Highway Patrol. In Richland County, the courts we focused on primarily heard cases written by the Richland County Sheriff's Office, Columbia Police Department, University of South Carolina Police Department, and the Highway Patrol. In Spartanburg, the courts we focused on primarily heard cases written by Spartanburg County Sheriff's Office and the Highway Patrol. In Lexington, the courts we focused on primarily heard cases written by the Lexington County Sheriff's Office, Lexington Police Department, and the Highway Patrol. In Horry County, the courts we focused on primarily heard cases written by the Highway Patrol, Myrtle Beach Police Department, Conway Police Department, North Myrtle Beach Police Department, Surfside Police Department, and Horry County Sheriff's Office. In Charleston, the courts we focused on primarily heard cases written by the Highway Patrol, Charleston County Sheriff's Office, Mount Pleasant Police Department, North Charleston Police Department, and City of Charleston Police Department. In Berkeley County, the courts we focused on primarily heard cases from the Highway Patrol, Berkeley County Sheriff's Office, and the Goose Creek Police Department.

## **Key Expert Input**

The data collected directly from monitored cases that we share in this report is compelling in many ways, but our data alone is not sufficient to fully grasp the landscape of DUI prosecution and adjudication in these areas. In May 2024, MADD South Carolina held three online “stakeholder roundtable” discussions that included stakeholders from all seven focus counties. Invitees included solicitor’s office staff, law enforcement, and key community partners. MADD staff presented key data to the attendees and then engaged in very valuable discussions about their impressions and additional information needed to understand the situations that led to what we saw in the data. These collective perspectives are shared in multiple places below, especially in our Focus Areas section.

## **Total Number of Cases Monitored**

This report covers cases monitored between January 2019 and March 2024. Though our efforts in some counties pre-date 2019, we chose to keep the data current and not go all the way back to our earliest efforts. Since 2019, we have monitored 10,694 total cases in these counties, of which 8,911 cases have had a final determination and 1,783 cases remain open. These open cases will continue to be monitored, and the outcome of those cases will be included in the next annual report if they have a final disposition by that time. The primary reasons for a case still being open are either 1) the case is recent and has not been addressed by the courts yet or 2) the defendant requested a jury trial set for a future date.

The table below shows how many closed cases we have for each county. The data shown later in the report is based off these closed cases only.

<b>COUNTY</b>	<b># OF CASES CLOSED</b>	<b># OF CASES OPEN</b>	<b>% OF CASES CLOSED</b>
Berkeley	608	29	95%
Charleston	1,339	310	81%
Greenville	2,182	119	95%
Horry	1,331	360	79%
Lexington	1,213	169	87%
Richland	1,111	654	63%
Spartanburg	1,127	143	88%

## Data Analysis

Data from misdemeanor DUI cases are entered into MADD's Court Monitoring database, which is utilized by Court Monitoring programs in nearly 15 MADD state offices. Important variables of interest for our reports include case disposition: guilty, not guilty, amended (pled down to a lesser charge) and dropped/dismissed. Additional variables consist of case age, sanctions and prosecutor type. To simplify the data yet remain accurate, we determined the various outcomes of cases could be reduced to three categories. (1) "Guilty" includes those cases where the accused pled guilty to DUI or Driving with an Unlawful Alcohol Concentration (DUAC) or they were found guilty in a bench or jury trial. This category also includes plea deals where the offender pled down to a lower BAC (blood alcohol content) than they were originally charged with. We explain DUAC and our decision to count that as a guilty outcome below. (2) "Dropped/Dismissed/Not Guilty" refers to cases that are either clearly marked as one of those three outcomes OR when we can no longer find the case in the public index. "Not Guilty" was added to this "catch all" category because once a person is found not guilty, their case information is erased immediately from the public index causing us to lose the trail of the case. It is not ideal to have a category that includes such a variety of outcomes, but they all essentially share the same situation of our not being able to determine what happened to the case. (3) "Pled Down to a Lesser Charge" means that the accused was not found guilty of DUI or DUAC but was ultimately found guilty to a lesser charge, predominantly reckless driving, stemming from the same incident. As a technical point, whereas this would be referred to as amending the original charge in other states, it is common practice in South Carolina for the original DUI charge to be dismissed (or not pressed) with a new charge then written for the lesser offense.

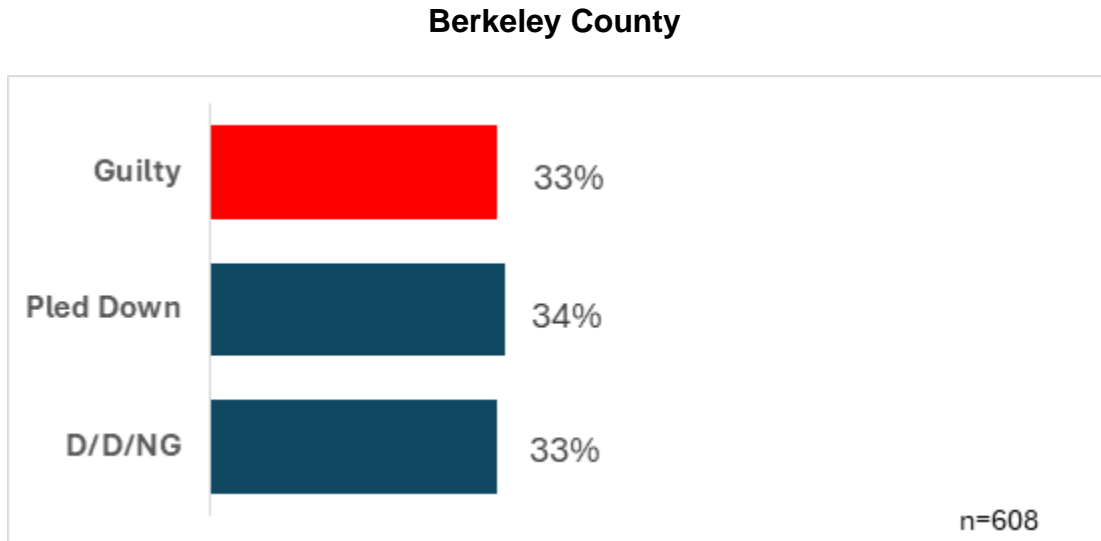
DUAC is a separate statute (56-5-2933) from the state's DUI law (56-5-2930) but carries essentially equivalent penalties. If a subsequent DUI charge is made after a previous DUAC conviction, that DUI is a second offense. In our discussion with our system experts, it was unanimous that a DUAC conviction should be counted the same as a DUI conviction for our data analysis. They explained that some people will accept a plea deal to a guilty for DUAC charge because 1) the offender can say they have never had a DUI (technically) if asked and 2) the offender can get the original DUI charge expunged so it will only show up on a driving history but not a criminal history. Given the challenges of getting a DUI conviction in South Carolina, MADD SC sees that getting an agreement from the offender to plea to DUAC makes sense given the penalties are essentially equivalent.

An additional challenge with analyzing the data is due to the difficult nature of navigating the online public index records. When a case is pled down to a lesser charge in South Carolina, which happens often, the original ticket number ceases being used, and a new one is opened. However, the old ticket number doesn't reference what the new ticket number is, so we must undergo a search for the offender in the records. For an unusual name, that may be easy, but for "Mark Smith," for example, that could mean a long review of lots of offenders with that name to find where the trail of that original DUI ticket continues. Sometimes we are unable to locate those records. We often use the public index to help determine when DUI cases will be heard in certain courts, but that

searching is incredibly time consuming. If there are missing cases or incorrect information, it affects the accuracy and thoroughness of our work. However, it is a limitation we must work within.

### **Case Dispositions by County**

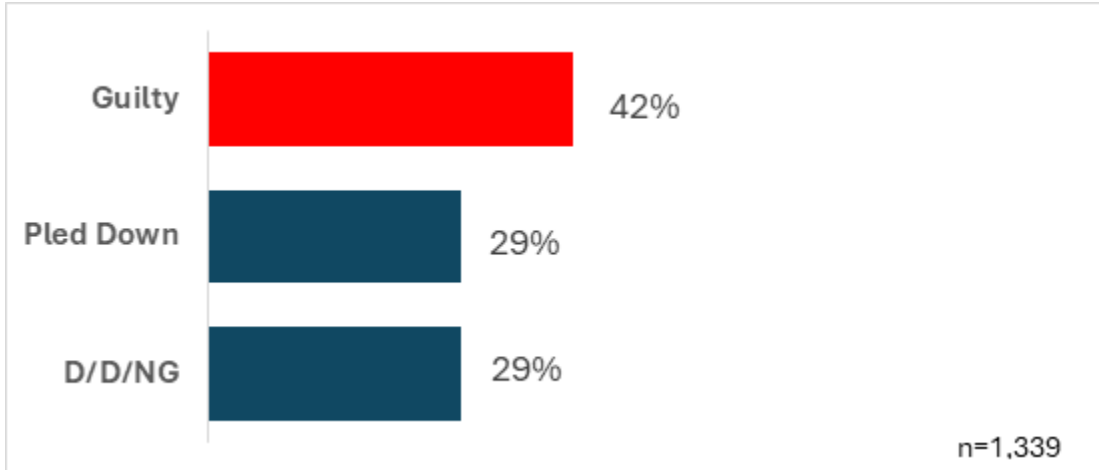
Below, we share county specific data concerning the cases where an outcome was determined.



For the 608 cases with final outcomes we monitored in Berkeley County, 199 were found guilty, 211 were pled down to a lesser charge, and 198 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

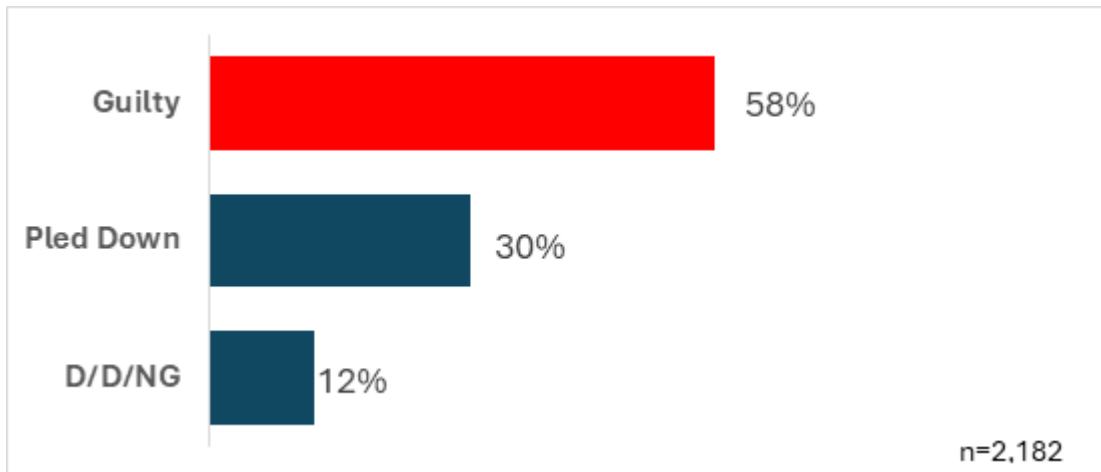
One significant data issue has arisen in Berkeley County since our last report. Several courthouses have switched away from the public index to their own systems to follow cases, which of course makes it a challenge for our Court Monitors to update the cases accordingly. Our hope is to establish arrangements with some of the courthouses where they would share their data with us directly so we can continue to maintain as much accurate information as we can for the county.

### Charleston County



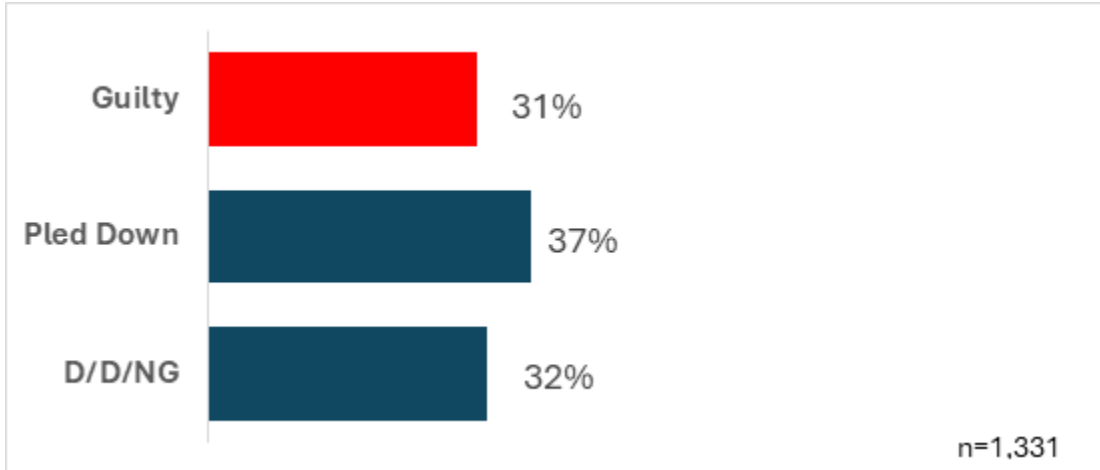
For the 1,339 cases with final outcomes we monitored in Charleston County, 563 were found guilty, 393 were pled down to a lesser charge, and 383 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

### Greenville County



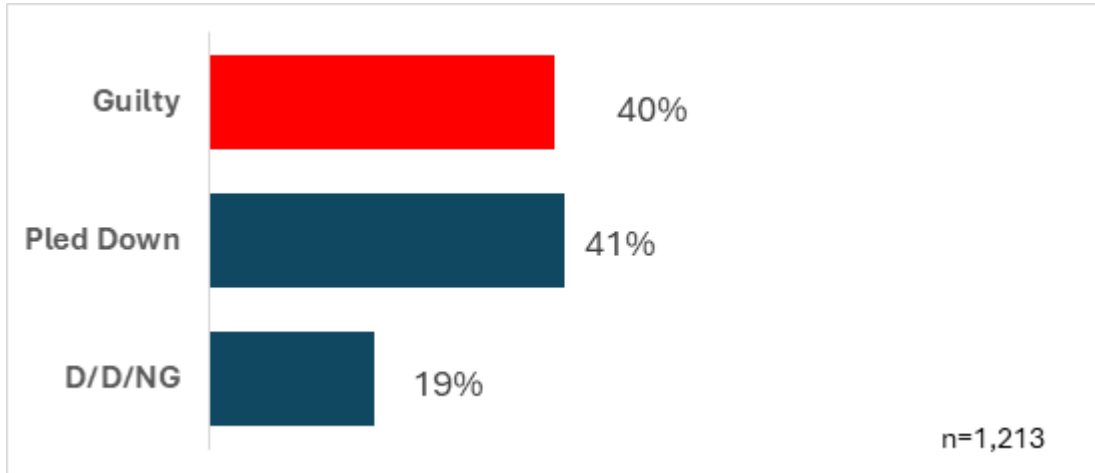
For the 2,182 cases with final outcomes we monitored in Greenville County, 1,262 were found guilty, 657 were pled down to a lesser charge, 263 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

### Horry County



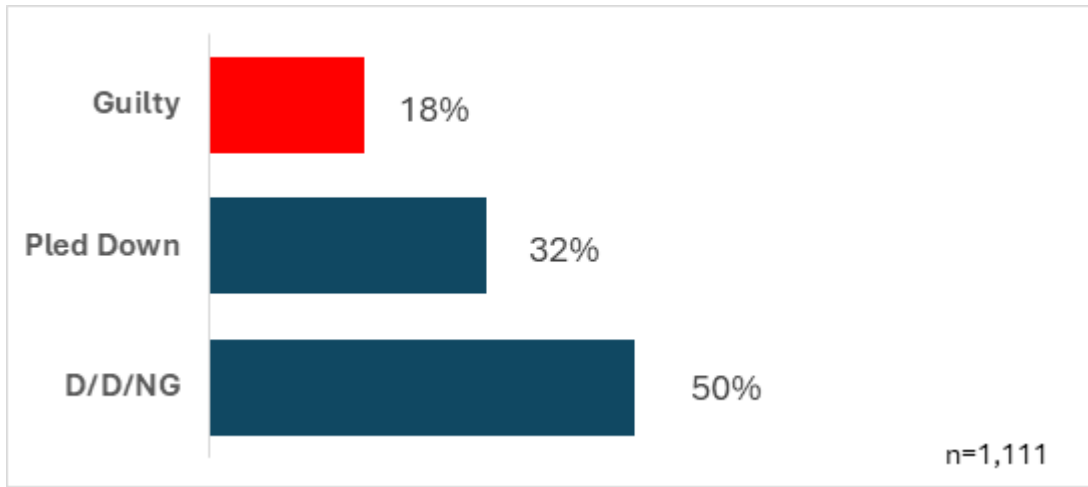
For the 1,331 cases with final outcomes we monitored in Horry County, 408 were found guilty, 493 were pled down to a lesser charge, and 430 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

### Lexington County



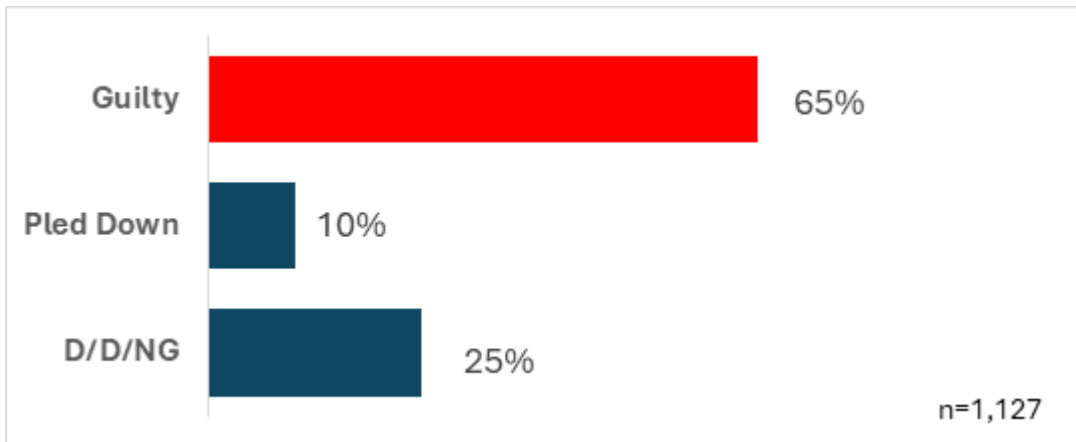
For the 1,213 cases with final outcomes we monitored in Lexington County, 483 were found guilty, 495 were pled down to a lesser charge, and 235 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

### Richland County



For the 1,111 cases with final outcomes we monitored in Richland County, 202 were found guilty, 358 were pled down to a lesser charge, and 551 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

### Spartanburg County



For the 1,127 cases with final outcomes we monitored in Spartanburg County, 730 were found guilty, 115 were pled down to a lesser charge, and 282 were dismissed, dropped, found not guilty or disappeared from the public index for unknown reasons.

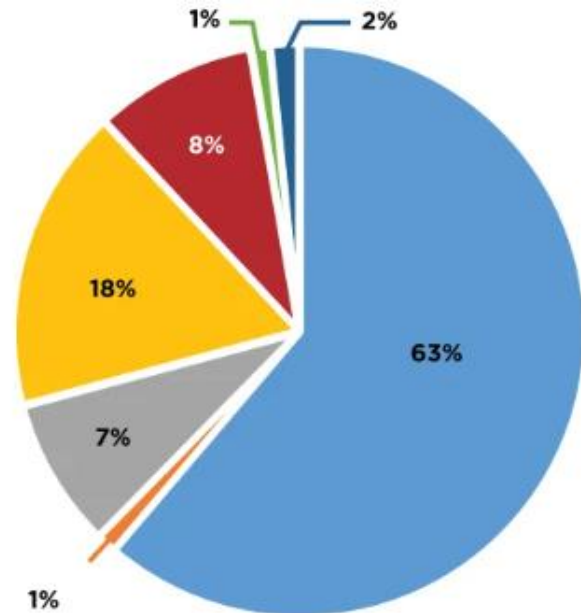
### National Data

It is difficult to make any strong comparisons to national data as each state has varying DUI sentencing options. For example, many states have protocols in place where a first-time DUI offender can have their charge expunged after some combination of

education, treatment, community service, and fines with the understanding that there will be a traditional sentence if the terms are violated by the offender. In the table below, MADD describes this as “deferred prosecution.” South Carolina does not have an option like this.

## Impaired Driving Average Case Disposition

- Disposition Sealed / Unable To Determine Disposition
- Guilty / No Contest
- Not Guilty
- Deferred Prosecution
- Dismissed / Nolle Prosequi / Failure To Prosecute
- Amended / Plea Deal
- Bound Over To Circuit Court



With that limitation acknowledged, the table above shows the various dispositions of DUI cases in 2021 from 15 states, including South Carolina, that have MADD Court Monitoring. It shows 63% of those arrested are found guilty of DUI. Considering five out of seven South Carolina counties in our report show a less than 50% conviction rate, we believe it is safe to say that South Carolina has a conviction rate far worse than the national average.

# WHERE WE ARE

Currently, MADD's Court Monitoring Program is active in some jurisdictions within 14 states. As of January 2021, those states include:

- Arizona
- Colorado
- Connecticut
- Idaho
- Illinois
- Louisiana
- Missouri
- Nebraska
- New Mexico
- Nevada
- North Carolina
- South Carolina
- Tennessee
- Virginia

In 2021, a team comprised of more than 120 staff and volunteer court monitors observed roughly 33,000 impaired driving cases. These 33,000 cases represented more than 12 states and roughly 130 U.S. counties, for an average 275 cases per MADD court monitor. The charts represented in this report reflect general observations from the 2021 MADD Court Monitoring Program data as of February 2022 in 12 states (Nebraska & Colorado have active court monitoring programs, but due to reporting cycles, are not included within the 2021 data set featured within this report).



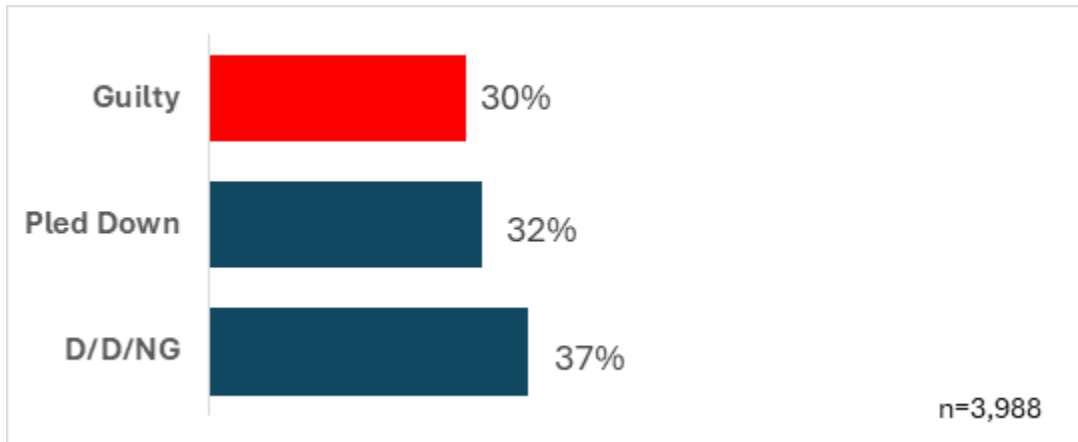
## **Case Dispositions by Level of Prosecution Support**

Some cases we monitored were prosecuted by an attorney from a Solicitor's office or a municipality; some were prosecuted by the arresting officer. The latter is an unusual practice from a national perspective. The South Carolina Department of Transportation commissioned Clemson University to write a report that was titled "Applying Successfully Proven Measures in Roadway Safety to Reduce Harmful Collisions in SC." It says that South Carolina is one of two states in the nation where police officers prosecute their own DUI cases, and this is often referenced as one of the main problematic issues with how our DUI cases are handled. It would be logical to assume that a trained attorney would have an advantage in a legal match-up against a road officer. A defense attorney may be able to make motions or use strategies that someone without formal legal training would be challenged to counter. Many officers we have spoken with do not want to prosecute their own cases and are frustrated at the "unfair" match-up.

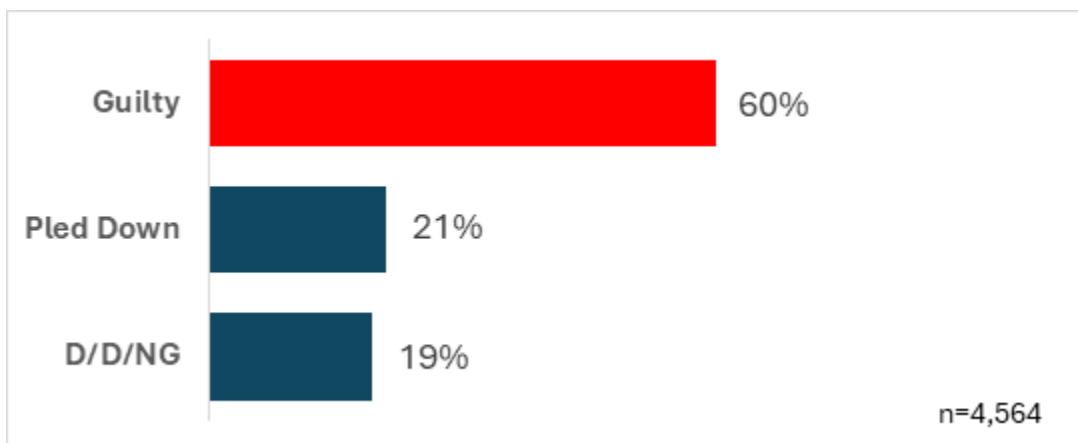
When organizing our data, we have developed what we call "high prosecution support" and "low prosecution support" categories. The easiest way to differentiate those two categories is that high prosecution support areas have lawyer prosecutors handling bench and jury trials and also play some role in cases where plea discussions are being had. A prosecutor may not be involved if the individual pleads guilty. Low prosecution support areas are where officers handle the prosecution of virtually every case on their own regardless of whether the accused wants to negotiate a plea or go to trial. In some areas we have deemed low prosecution support, a prosecutor may be available when assistance is specifically requested by the law enforcement agency due to some special circumstance of the case.

The following charts show conviction rate data based on these two prosecution support categories. When there is adequate prosecution support, the likelihood of getting a guilty conviction is twice as high. This distinction is important. It suggests that a county with low conviction rates, which we believe greatly endangers highway safety and leads to preventable deaths and injuries, does not have to accept these low rates. With leadership and resources, the amount of prosecution support dedicated to DUI cases can be reshaped.

### Low Prosecution Support Areas



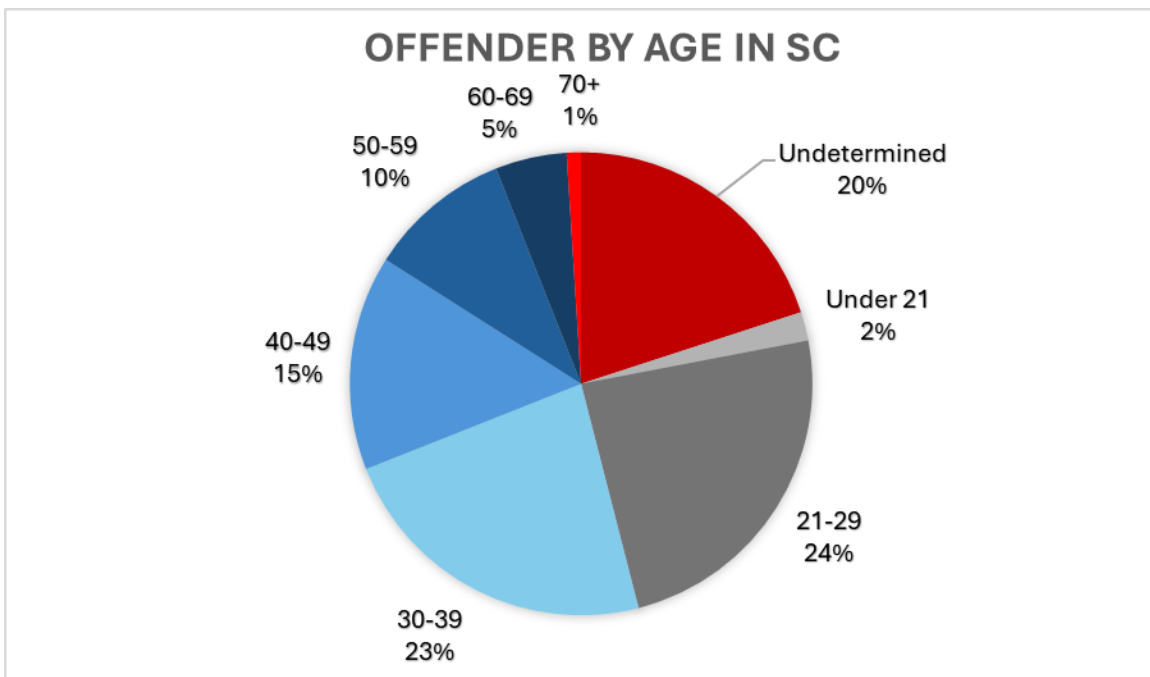
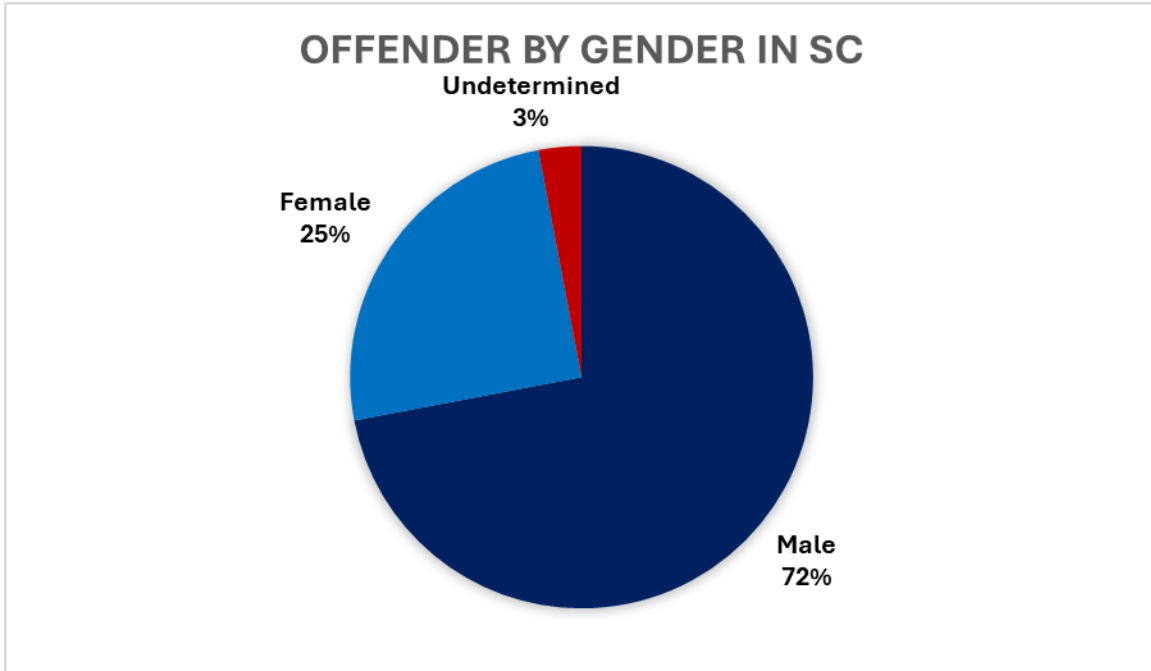
### High Prosecution Support Areas



### Defendant Demographics

Of the cases we monitored, 72% of impaired driving cases involved male defendants. 47% of all defendants were between the ages of 21 and 39. State impaired driving crash data aligns with this. 20- to 29-year-old drivers were greatly overrepresented in the crash data, and 79% of crashes were caused by males.

Also, within the MADD Court Monitoring data, 214 of the cases involved individuals under 21. As part of our lifesaving mission, MADD knows that by preventing underage drinking today, we can end drunk driving tomorrow. Research shows that kids who start drinking young are seven times more likely to be in an alcohol-related crash. In addition, studies have shown that teens who do NOT drink alcohol until they are 21 are 85% less likely to become a drunk driver later in life than those who drink before age 14.



**Why Cases Get Pled Down**

Because we monitor thousands of cases and most case outcomes are worked out in advance of court and not discussed in detail, we rarely know the specifics of why a DUI arrest is pled down to a lesser charge. We do know that it happens very frequently as

seen in our data above. Our discussions with our informed experts are our best source of information as to why cases get plead down, and they've helped us identify this list of primary factors.

1. South Carolina's Dash Cam Video Recording Statute. By all accounts, South Carolina has the nation's strictest law (56-5-2953) regarding the significance of in-car video (dash cam) footage to the prosecution of a DUI case. While dash cam footage of the arrest process is used in many states, South Carolina places unique emphasis on its presence and completeness to the extent that generally there cannot be a conviction without a video and even minor imperfections in the video can preclude getting a conviction, despite the presence of other strong evidence. In other words, an officer can witness and record erratic driving behavior, smell alcohol on the person, hear an admission to drinking and driving, and have their shoes vomited on, but if their dash cam video is lacking, the case likely will be thrown out or pled down to reckless driving. Video problems could include faulty video or audio, parts of the arrest process being unclear or obscured, or even just portions of the person's body being assessed for impairment being out of frame for short moments. Many cases are lost when Miranda rights are heard being clearly read to the offender on the audio recording but that does not appear within the video frame. No other crime requires on-camera reading of Miranda.

It should be noted that many DUI arrests take place late at night on the side of active roadways. It is very likely that many cases will have unclear video due to lights, glare, shadows, imperfect angles, and inevitable mechanical malfunctions. An officer conducting an investigation out of the car cannot be expected to have perfect knowledge of what is being recorded. While recent higher court rulings have moved toward a more reasonable standard, more needs to be done legislatively to correct this issue.

2. Officer Error and Inexperience. As described above, South Carolina puts an especially high burden on an officer arresting someone for DUI because of the exacting procedures required by law. However, it is the current law of the land, and many officers excel at making strong cases despite the obstacles. Officers that do not put all of their training to use in an investigation can often hurt the prosecution and necessitate a plea to a lesser charge. Even experienced, diligent officers sometimes neglect to fulfill every requirement of the DUI investigation, but we are constantly hearing about high law enforcement turnover and more inexperienced officers being on the road. By investing in comprehensive and ongoing training for police officers, including legal knowledge, detection techniques, practical exercises, and collaborative initiatives, law enforcement agencies can significantly improve their effectiveness in detecting and apprehending DUI offenders. Enhanced training not only equips officers with the skills and knowledge needed to uphold road safety but also reinforces public trust in law enforcement's commitment to combating impaired driving. As DUI enforcement evolves with advancements in technology and legal standards, continuous training and

education remain essential to achieving lasting reductions in DUI incidents and ensuring safer roadways for all.

3. Arresting Officers Leaving Their Agency. Officers leaving their agency or the profession will likely impact the disposition of the cases from their arrests. While some agencies put in effort to try to still get convictions on those cases, the most common practice by far is for those cases to get dropped or pled down to less serious charges. For areas with higher rates of turnover, which is currently very high in the profession, this can definitely impact the overall conviction rate. Because DUI arrests are often concentrated among a relatively small group of officers, like Highway Patrol Troopers or members of a local agency traffic team, a departure of even one high arrest officer can affect many cases.

4. Delays in Cases. It is often discussed that the longer a case drags out, the less likely a conviction will be reached. If the arresting officer moves, leaves law enforcement, or for any other reason becomes unavailable for the hearing, then the case is often dismissed. Many of our experts related stories of defense attorneys requesting continuances with one possible benefit being that the officer becomes unavailable. There are other factors that can delay a case, however, including the fact that misdemeanor DUI cases are heard in the lowest courts. If someone involved in the prosecution or defense of the case is needed in a higher court, then that will likely prompt a continuance.

It should also be noted that some case delays occur when there is a more problematic case from a prosecution perspective, and they may be less likely to push for swift hearing of the case. However, the majority of comments reflect that most continuances are requested by the defense.

5. Judges/Magistrates Not Favorable to DUI Convictions. Based on past experiences, those prosecuting DUI cases may come to believe that some judges/magistrates do not like convicting people of DUI and, consequently, they work out a plea to a lesser charge. This was commonly repeated during our 2024 stakeholder roundtable conversations. In addition, an issue brought up in more than one of our Roundtable discussions was regarding how judges handle pro se (defendant representing themselves) cases. While it is essential that the legal system, including judges, protect the rights of pro se defendants, there were descriptions of practices that seemed to us and others to reach beyond the line of what is appropriate. Specifically, we heard of some judges that simply refuse to accept guilty pleas, even when the pro se defendant has repeatedly indicated they understand their actions and are declining representation. In some other instances, there were reports of judges acting as the defendant's attorney, telling them what they should do in terms of a defense strategy. We believe the system works best when each component works within its role. This issue could suggest a need for additional training for judges on handling pro se defendants.

6. Implied Consent/Datamaster Process and Video Recording Issues. South Carolina has one approved type of instrument for the purpose of getting a Blood Alcohol Content reading on someone arrested for drunk driving. Unlike many other states, South Carolina does not allow officers to use a portable breath testing device on the side of the road to assist their investigation.

There is a very specific process to running a Datamaster test on someone arrested for DUI, including exact words the officer must read. That process also must be video recorded. If there is almost anything done outside of this exact protocol or any issue with the video tape recording, the case often is pled down.

There are similar challenges if the case is one that requires a blood draw from a hospital. Again, any deviation from the precise protocol often dooms the chances for a conviction, despite other evidence.

7. Inability to Have the Nurse/Toxicologist in Court. When a blood draw is part of the investigation, the defense can request that any medical personnel who are listed in the chain of evidence be present. If that person has moved or is unavailable for any reason, there will be no DUI conviction. As drugged driving increases, this issue could become even more prevalent.

This is likely not an exhaustive list of why DUI arrests eventually are pled down to lesser charges, but they reflect a majority of the discussion with our key experts.

### **Areas for Improvement for South Carolina**

Based on everything we have learned, we offer the following as areas most in need of attention by the state.

#### **Focus Area #1: Rewrite the DUI Laws to be Simpler and Smarter**

We must acknowledge a connection between our status as the worst state in the nation for drunk driving and the fact that our DUI laws are highly overcomplicated and riddled with loopholes that only serve to help offenders escape accountability. Only when we have DUI laws that fairly balance public safety with the rights of the accused can we expect to see different outcomes and reduced deaths and injuries. We have a long way to go. We can't examine here every aspect of where our laws fall short, but we will key in on several areas greatly in need of reform.

Most of the ideas below were included in a comprehensive DUI reform bill (S.852) from Senator Tom Davis for the 2024 legislative year. Unfortunately, the bill did not receive a hearing.

*Change the Dash Cam Statute.* In a previous section we already outlined the concerns with our state's dash cam statute that has been interpreted so strictly that it endangers

public safety by too often leading to cases to be pled down over minor issues that do not get to the heart of whether the person accused was actually too impaired to drive.

It is MADD's stance, along with many partners we work with, that our dash cam video needs to be changed. The preference is not to remove dash cams from the arrest process but to amend the law so that a shortcoming in the video could result in the video, or a portion of it, being thrown out with the other evidence staying. Other needed changes include requiring that the reading of Miranda rights only needs to be reasonably documented as opposed to the current strict recording standards of having the officer and accused on camera simultaneously. No other crime requires the video recording of Miranda.

*End the Incentivizing of Breath Test Refusals.* When any of us obtains a driver's license, we agree to provide a breath sample to law enforcement if suspected of impaired driving. People do have the option of refusing in the moment, but that comes with a penalty—an automatic six-month license suspension. In South Carolina, we allow those who have had their license suspended for refusing, or for blowing over a .15 BAC, to keep driving if they contest the suspension and apply for a Temporary Alcohol License (TAL). Eventually, ranging from a few weeks to a few months, they will have a hearing before an administrative hearing officer to determine if the officer had proper justification for the traffic stop, followed all proper procedures, and the license suspension was correctly issued.

The implied consent hearing is a separate process from the criminal case to determine whether the person broke the law by driving impaired, and they are common. SLED data tell us that 40% of the people who were asked to give a breath sample upon arrest for DUI in 2023 refused. While perhaps it should not be the case, lack of BAC data does harm the prosecution's chances for a conviction. Other evidence should be sufficient for a judge or jury, but the reality is that BAC data is often the most convincing piece of evidence.

If there is not already enough incentive to refuse, those who refuse and then are found guilty are given the penalties equivalent to having a BAC between .08 and .10—the *lowest* of all possible penalty categories. If someone were designing a system to *encourage* people to refuse providing the evidence they pledged they would, it would look much like South Carolina's system. We should alter the law by allowing the judge or jury to select from the more severe penalties if they choose.

*Modernize Our Laws Around Blood Draws.* As drugged driving increases, the law needs to adapt to more effective and efficient means of collecting appropriate evidence, which is not "breath." Time is of the essence in evidence collection. More effective and efficient procedures for obtaining blood draws will help in Felony DUI cases where the blood test findings are often crucial evidence (the offender is often injured and cannot be given the normal breath tests) that must be obtained quickly.

Changes could include allowing an officer who does not believe the impairment is from alcohol to skip the breath test before obtaining blood. We should also create more

flexibility in the process such as eliminating the requirements that the blood draw must be done in a licensed medical facility and by medical facility staff.

*Require Ignition Interlock Devices to Get a Temporary Alcohol License After a Refusal Suspension.* The South Carolina Senate passed this change in 2019, 2021, and 2023, but it was removed in the House before the all-offender ignition interlock device law passed in 2023. Having an IID to obtain driving privileges while the administrative suspension hearing is pending is an appropriate penalty for refusing and would protect the public from high-risk drivers. As one legislator described the idea, “it’s an ankle monitor for the car.”

*Establish in Law that Past Reckless Driving Convictions Can Be Considered for Advanced Penalties.* Far too often, people convicted of DUI in South Carolina have a prior arrest for DUI that was pled down, typically to reckless driving. The data in this report make that very clear. A judge should definitely have this knowledge of prior DUI arrests that were pled down available during sentencing to factor in that this is likely a behavior that has occurred before and not a “first time” mistake. Again, this is not an exhaustive list of ideas, but they would be an excellent start toward having DUI laws that would protect the public and reduce repeat offenses.

## **Focus Area #2: Prosecute DUIs in a Manner that Reflects the Seriousness of the Crime**

In the data above, one of the important analyses we conducted was comparing the conviction rates for areas that we observe to provide substantial prosecution resources to DUIs to those areas that don’t. The contrast in the rates, high prosecution areas having double the conviction rates of low prosecution areas, is clear—the culture of prosecution for DUIs is connected to the case outcomes, which ultimately connects to our safety on the roads. We highlight this with an optimistic intent—prosecution agencies can increase their conviction rates if they’re willing to provide the leadership and resources.

What does a higher level of prosecution support look like? It looks like:

- A genuine willingness to take a case to trial rather than give in to the demands of a defense attorney for a lesser charge (when the facts of the case support that)
- Officers rarely bearing the burden of acting in a prosecution role by providing prosecutors to oversee all but the most straightforward cases
- Internal processes where supervisors must sign off on plea deals to avoid a culture of this become too commonplace
- Being careful not to overload one prosecutor with all the DUIs, one of the most complex prosecutions to handle, so their backlog does not end up being a factor in their willingness to plea down cases
- “DUI Courts” or “DUI Week” where DUI cases are concentrated into one location or time frame for efficiency and hopefully utilizing a judge with experience in DUI cases



- Internal policies that make it harder to drop a DUI in exchange for guilty pleas on other charges
- Clerical or paralegal support to make the prosecutor more efficient, including someone to review the sometimes hours of video footage for each arrest

We understand that prosecuting a DUI is quite difficult in South Carolina, even with considerable effort and resources. Everything about DUIs here is harder than it needs to be. Certainly, in each case, the prosecutor typically has the best overall perspective on what is the best way to handle that case given the quality of the investigation and their experience with the local judges and juries. However, we cannot look at the overall rate of pleas to lesser charges and feel satisfied. It may even be a better overall result to lose more cases if it means getting more DUI convictions over reckless driving pleas.

One of the many benefits to a consistently strong prosecution culture is hopefully a decrease in repeat offenders. We are told that offenders who “get a break,” often a plea deal to a lesser charge, on their first DUI arrest rarely agree to “take their medicine” on a second arrest. Instead, they come into the process feeling even more entitled to another lenient result, and prosecutors say they are extra hard to get to plea. Given the average drunk driver has done it 80 times before their first arrest, we need to be more discerning about assuming everyone deserves only a slap on the wrist on first offense.

### **Focus Area #3: Strengthening Collaboration Between Prosecutors and Law Enforcement to Combat DUIs**

To enhance the fight against DUIs, it is essential to foster a collaborative and cohesive relationship between prosecutors and law enforcement officers. Prosecutors and law enforcement officers play distinct yet interconnected roles in the DUI enforcement process. Law enforcement officers are typically the first responders, responsible for detecting and apprehending suspected impaired drivers through field sobriety tests and breathalyzer assessments. Their detailed and accurate documentation of evidence is pivotal in building a strong case for prosecution. Prosecutors, on the other hand, are tasked with reviewing the evidence presented by law enforcement, determining the viability of charges, and presenting the case in court. They must ensure that all legal standards and procedures are followed, and they bear the responsibility of seeking justice for victims while respecting the rights of the accused.

Effective communication and coordination between prosecutors and law enforcement are foundational to successful DUI enforcement. Regular meetings, joint training sessions, and clear lines of communication ensure that both parties understand each other's challenges, priorities, and legal requirements. By fostering mutual respect and understanding, prosecutors and officers can streamline the process of gathering evidence, preparing cases, and presenting compelling arguments in court. Some feedback we received from our 2024 Court Monitoring Roundtable discussions were:

- Agencies should require prosecutors to host trainings teaching the legal aspects of DUI cases to all officers. This helps officers see why they need a prosecutor and lends credibility to prosecutors when they must instruct officers on what they need to improve.
- Agencies should require prosecutors to do ride-alongs with officers, so that prosecutors can see first-hand, not just on video, what officers encounter on traffic stops every day.
- Agencies should require prosecutors to attend and assist officers on implied consent hearings. This also builds relationships when officers see the prosecutor cares about all aspects of a case, not just a win or loss at trial.

#### **Focus Area #4: Increase Focus on Implied Consent Hearings**

An implied consent hearing is a separate administrative hearing to determine if the defendant was correctly arrested and refused to give a breath sample. For several reasons, some law enforcement agencies do not attend these hearings, meaning the person who refused will never serve the six-month suspension. However, some agencies that have committed to consistent attendance and preparation of these hearings have found favorable impacts. Knowing the accused is likely to have their suspension upheld, some defense attorneys will offer to plead guilty on the DUI criminal case if the prosecution will not seek the license suspension, thus increasing the conviction rate and saving future time preparing the criminal case. Officers also get valuable experience giving courtroom testimony with slightly less pressure than in a criminal case. Importantly, it also means the person arrested will experience some sort of penalty, regardless of the outcome of the criminal case, which should help with deterring future impaired driving.

If more agencies put this attention on administrative cases, it could help with overall conviction rates and prevention of future DUIs. There may be more training and resources needed for this to happen in some areas.

#### **Focus Area #5: Judges Need to Own the Culture of DUI Cases in their Court**

A limited experience in the courtroom could lead one to the conclusion that the summary court judges hearing misdemeanor DUI cases do not have a substantial impact on the percentages of cases that lead to DUI convictions or are pled down to lesser charges. Often, the majority of DUI cases heard on a given day have already been worked out between the prosecutor and the defense, whether that agreement is a guilty plea for DUI or DUAC or a plea to a lesser charge. In these cases, the judge is typically just signing off on this agreement.

However, a deeper look reveals that the summary court judge has an incredible amount of influence over the overall likelihood that arrests end up as DUI convictions in their

court. Specifically, how a judge has ruled in the past over issues like whether a dash cam video is sufficient can have everything to do with how prosecutors will handle cases in that courtroom going forward. While undoubtedly judges are dealing with the hand they are dealt with a long and complex set of statutes, they can still play a role in ensuring that DUIs will be dealt with seriously. This can be through the statements they make and penalties they issue reflecting the danger of drunk and drugged driving. It also can be through how they deal with pre-trial motions by the defense. It was relayed to us that General Sessions judges typically show much less patience in dealing with a barrage of pre-trial motions over technicalities. In addition, officers in some parts of the state have relayed to MADD that their judges do not throw out dash cam videos over meaningless flaws in the video.

In addition, judges can also decide how much they allow continuances by the defense. In every expert panel we hold, some version of the comment is made that “delay is the first tactic in DUI defense.” As discussed in our section on case delays above, there are many reasons why continuances may be requested and some are very legitimate. Regardless, the judge can influence the speed with which DUI cases are heard. While we most often heard stories of repeated delays always granted by the judge, we also heard stories of judges taking control of the situation and demanding a defense attorney make themselves present at the next available opportunity.

It is also very important that judges seek out additional training on overseeing DUI cases. New judges go through three hours of training on DUI cases—half presented from a prosecutor and half from a defense attorney. Additional training is available but not always utilized. Given the complexity of the cases, especially drugged driving cases, it seems that this level of training is insufficient. It should also be noted that South Carolina magistrates are not required to have any legal background to be appointed to that role.

As noted earlier, training may also be needed on ensuring that judges are not protecting pro se defendants to such an extent that they blur their role into nearly serving as a defense attorney.

### **Focus Area #6: Improve Training for Officers**

While we believe strongly that our DUI statute and other factors make it far too difficult to make a DUI arrest that can get a conviction, it is a reality that we must for now work under the statute we have. Therefore, we urge additional resources be put toward sufficient training for officers in how to properly arrest an individual for DUI and how to document the arrest in a manner that makes it most likely to get a conviction. If prosecutors receive an arrest where required steps are left out, they will have little choice but to try to get a lesser plea in order to get any sort of conviction. Strong initial training and repeated, available advanced training is needed to keep those skills strong while also encouraging law enforcement agencies to address how they can incentivize officers doing their best in all aspects of the arrest.

For those officers who do have to prosecute their own cases, we hope even more can be done to develop their skills as a prosecutor, though we wish that rarely needed to happen.

Motivation also needs to be addressed and could be built by ensuring that officers have opportunities to interact with victims of DUI crashes and special recognition for high achievers. MADD understands we could play a role in these types of initiatives and new efforts have been implemented such as holding an annual MADD South Carolina Law Enforcement Recognition Dinner where we present “MADDY” awards for excellence. We held our third annual MADDY Awards on May 17, 2024 and had more than 200 attendees.

By investing in comprehensive and ongoing training for police officers, including legal knowledge, detection techniques, practical exercises, and collaborative initiatives, law enforcement agencies can significantly improve their effectiveness in detecting and apprehending DUI offenders. Enhanced training not only equips officers with the skills and knowledge needed to uphold road safety but also reinforces public trust in law enforcement's commitment to combating impaired driving. As DUI enforcement evolves with advancements in technology and legal standards, continuous training and education remain essential to achieving lasting reductions in DUI incidents and ensuring safer roadways for all.

### **Sanctions**

To this point, we have discussed primarily the outcome of the DUI cases monitored rather than the penalties issued to those convicted. The question of what is the penalty for a DUI in South Carolina is not a simple one to answer as the sanctions are tiered based on the BAC of the offender and the number of prior offenses.

The table below, used with permission from the Office of Highway Safety and Justice Programs' FFY 2025 Impaired Driving Countermeasures Plan, summarizes DUI penalties in the most efficient manner possible.

<b>DUI 1st</b>	<b>Refusal up to BAC of .09</b>	<b>BAC .10-.15</b>	<b>BAC .16 and above</b>
	\$400 Fine	\$500 Fine	\$1000 Fine
	Or 48 hrs. to 30 Days in Jail	72 hrs. to 30 Days in Jail	30-90 Days in Jail
	6 Mo. DL Suspension	6 Mo. DL Suspension	6 Mo. DL Suspension
<b>DUI 2<sup>nd</sup></b>	<b>Refusal up to BAC of .09</b>	<b>BAC .10-.15</b>	<b>BAC .16 and above</b>
	\$2100-\$4100 Fine	\$2500-\$5500 Fine	\$3500-\$6500 Fine
	5 Days up to 1 Year in Jail	30 Days up to 2 Years in Jail	90 Days up to 3 Years in jail

	1 year DL Suspension	1 year DL Suspension	1 year DL Suspension
<b>DUI 3rd</b>	<b>Refusal up to BAC of .09</b>	<b>BAC .10-.15</b>	<b>BAC .16 and above</b>
	\$3800-\$6300 Fine	\$5000-\$7500 Fine	\$7500-\$10,000 Fine
	60 Days up to 3 Years in Jail	90 Days up to 4 Years in Jail	120 Days up to 5 Years
	2-4 year DL Suspension	2-4 year DL Suspension	2-4 year DL Suspension
<b>DUI 4th</b>	<b>Refusal up to BAC of .09</b>	<b>BAC .10-.15</b>	<b>BAC .16 and above</b>
	1-5 Years in Jail	2-6 Years in Jail	3-7 Years in Jail
	2-4 year DL Suspension	2-4 year DL Suspension	2-4 year DL Suspension
<b>Great Bodily Injury</b>	\$5,100-\$10,100	<b>Causing Death</b>	\$10,100-\$25,100
	30 days – 15 years		1 year – 25 years
	Suspension for term plus 3 years		Suspension for term plus 5 years

An important additional sanction is a requirement to install an Ignition Interlock Device (IID). South Carolina's IID law is often referred to as "Emma's Law" after Emma Longstreet, a six-year-old girl who tragically lost her life in a DUI-related crash in 2012. During the entire time period that covers the case data in this report, IIDs were required for those convicted of repeat offenses, which we don't track, or first-time convicted offenders with a BAC of .15 or higher. Our Court Monitors reported few references to IIDs in court when they were attending. Part of this may be due to the fact that those convicted who blew a reading of more than .15 were sometimes offered to plead guilty to DUI at a lower BAC, allowing them to avoid the IID but getting the prosecution a DUI conviction.

In 2023, the state passed a strengthened version of Emma's Law, making South Carolina the 35<sup>th</sup> state to require all convicted DUI offenders, except those who have no detectable alcohol when they give a breath test, to have an IID installed for some period of time (six months on first offense). It went into effect on May 19<sup>th</sup>, 2024. This could have an impact on DUI prosecution and conviction rates as some may be less likely to plead guilty and might fight harder to avoid the IID. Most importantly, research from other states suggests we should see fewer drunk driving fatalities as IIDs are highly effective at reducing repeat offenses.

The cases we focus on are first offense misdemeanors. After reviewing the sanctions data, most of the fines we saw fell somewhere between \$400 and \$1,300. We saw an increase in requests for installment payments during the years of 2020-2022. This is most likely due to COVID-19 and the financial repercussions of the pandemic. Requests

for installment payments give a defendant the opportunity to pay off their fine rather than having to pay all of the money the day of court. Many offenders, although not all, are also ordered to the Alcohol and Drug Safety Action Program (ADSAP), a requirement for license reinstatement. Jail time was ordered in only a very small number of cases. Sometimes offenders are ordered to attend a MADD Victim Impact Panel and hear firsthand accounts of those impacted by drunk or drugged driving.

## **Conclusions and Recommendations**

In summary of the above data, we put forth the following as the most compelling aspects:

- Many factors result in the disappointing reality that less than half of the cases we monitored ended up as a DUI conviction. It is unthinkable that more than half of those arrested for DUI were not actually driving impaired.
- Our state's DUI laws need an overhaul with an eye toward simplification and eliminating loopholes that are more about helping offenders escape justice than protecting the rights of the accused. Every statute should be viewed from the perspective of whether it is aiding public safety or contributing to our state's terrible impaired driving statistics. Areas to focus should include the statutes around the dash cam recording, blood draws, and breath test refusal penalties.
- We should build on the newly strengthened Emma's Law regarding the use of Ignition Interlock Devices and also require their installation for those who refused the breath test when arrested up until their suspension hearing.
- Areas that give little prosecution support to misdemeanor DUIs should change their practices as our data supports that prioritization of resources and conviction rates are correlated. We are optimistic this means that areas with low conviction rates can greatly improve, though it may not be easy.
- The fight against DUIs requires a concerted effort and strong collaboration between prosecutors and law enforcement officers. By fostering effective, ongoing communication, these stakeholders can enhance the efficiency and impact of DUI enforcement efforts.
- Judges can contribute to an improvement in our state's DUI problem by better owning the culture of how DUI cases are treated in their courtroom. This includes recognizing the defense's impact of case delays on the likelihood of a conviction and seeking advance DUI training as cases, especially drugged driving cases, grow even more complicated. In some areas, we call for an end to judges being so protective of pro se defendants that they refuse all guilty pleas or even counsel defendants on how they should defend themselves.

- Finally, we need even more training for officers on proper handling of DUI arrests as officer error on these very complicated cases can ensure there will not be a conviction. Steps to improve motivation to do excellent work in this area are also needed.

Addressing the DUI problem in South Carolina requires a multifaceted approach that combines legislative action, collaboration between prosecutors and law enforcement, more available trainings for law enforcement, prevention initiatives, and judges who own their responsibility. By addressing the underlying factors contributing to impaired driving and implementing evidence-based strategies, South Carolina can reduce the incidence of DUI incidents, improve road safety, and protect the well-being of its residents. Continued efforts and collaboration across sectors are essential to achieving lasting reductions in DUI-related incidents and creating safer communities for all. At MADD SC, we strive for *no more broken lives and a future of no more victims*.

*MADD South Carolina's Court Monitoring Program and the printing of this report is funded by the Office of Highway Safety and Justice Programs (OHSJP) of the South Carolina Department of Public Safety (SCDPS).*