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**National Highway
Traffic Safety
Administration**

The Drunk Driver and Jail

The Drunk Driver
and the Jail Problem

Volume 1

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Doris Aiken
President
Remove Intoxicated Drivers

Gary Blake
Director
Department of Correction and Rehabilitation
Montgomery County, MD

Norman R. Cox, Jr.
President
American Jail Association

Francis R. Ford
Director, Jail Operations
National Sheriff's Association

Ray Nelson
Director
NIC Jail Center

Stephen Powers
Division of Probation
New York State

Samuel Saxton
Director
Department of Corrections
Prince George's County, MD

Gene A. Scroggy
Warden
Kentucky State Penitentiary

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Stephen A. Carter
Carter-Goble Associates, Inc.
Columbia, SC

James Kirk
Chief Deputy
Sheriff's Department
Mecklenburg County, NC

John J. Memory
Office of the Governor
Columbia, SC

Bruce Orenstein
Department of Corrections
Prince George's County, MD

Michael O'Toole
National Institute of Corrections
Jail Center
Boulder, CO

Executive Summary

Despite growing public and legislative support for jailing drunk drivers, not all agree that this sanction is appropriate for the drunk driving offense (DWI). Some people see other solutions to the traffic safety problem—better educated drivers, better roads, better cars; some believe drunk driving is primarily a health problem and should be the province of health, not correctional, agencies; and some believe that our most restrictive correctional facilities—prisons and jails—are a scarce and expensive commodity that should be used only for offenders who cannot be safely confined or safely supervised in less restrictive (and less costly) programs.

Nevertheless, in July 1984 the U.S. Congress passed a law—Public Law 98-363—that encourages the States to pass their own laws mandating specific sentences for drunk driving: 48 hours in jail or 100 hours of community service for first offenders, and 10 days in jail for the second drunk driving offense. The 1983 Presidential Commission on Drunk Driving and the Department of Transportation also recommend mandatory sentences of 48 hours in jail or 100 hours of community service for the drunk driving offense. (The Presidential Commission recommends this sentence for the *first* DWI offense; Section 408 of the Highway Traffic Safety Act recommends it for the *second* DWI offense.) Sixteen States now have legislation requiring jail or alternative sanctions for the first-offense drunk driver, and 41 States have laws requiring jail sentences (from two days to six months) or other sanctions for those found guilty of DWI a second time.

This series of publications was developed by the American Correctional Association under contract with the National Highway Traffic Safety Administration in an attempt to help communities manage the influx of drunk drivers into the correctional system in a safe, equitable, and cost-effective manner. The subject of these manuals is twofold: (1) the specialized needs of DWI offenders, and (2) the special opportunities for maximizing the effectiveness and minimizing the costs of their correctional programs.

THE JAIL PROBLEM

Putting criminals in jail is only one of many correctional options. Moreover, increasing the size of local jails or building new ones is likely to be one of the most expensive and difficult of the options available for managing drunk drivers. The Department of Justice estimates that it costs $43,000 per bed to build a new jail. But building costs are only the tip of the iceberg. Operating expenses and salaries account for 90% of the total cost of a typical jail. In 1983 it cost an average of $9,500 a year to maintain an inmate in jail (although regional costs ran as high as $17,000 per year). Add to these costs the problems already faced by many jails—overcrowding, lack of personnel, lack of needed programs and services such as suicide screening—and it is easy to understand why jailing the 1.9 million DWIs arrested each year will impose enormous new demands on correctional programs and services and the limited funds available to them.

In addition, most professionals in the criminal justice field, including the American Correctional Association, advocate for *all* offenders "the development and use of the least restrictive sanctions, punishments, programs, and facilities consistent with public safety and social order" (ACA National Correctional Policy on Use of Appropriate Sanctions and Controls, January 1984).

The spectrum of correctional options ranges from fines and unsupervised probation, on the one end, to incarceration in secure facilities (jails and prisons) on the other. In comparison with other criminals, most drunk drivers are classified as low-risk, non-violent offenders who have no prior criminal history. For these types of offenders, correctional options other than secure incarceration can often be used to restrict their freedom of movement and monitor their activities. As these manuals point out, however, the public at large is often unaware of these options.

CHOICE OF SANCTIONS

Ideally, the choice of sanctions for drunk drivers should take into account the sanction's effectiveness for reducing alcohol-related traffic accidents and preventing repetition of the offense (recidivism) by those who have already been punished. Based on evidence to date, it would seem that a combination of sanctions is usually more effective for combatting the drunk driving problem in a way that has positive long-term effects. The following overview highlights some of the sanctions discussed in these manuals.

Little is known about the effectiveness of jail sentences as a deterrent to drunk driving. For one thing, the jail sanction rarely has been applied swiftly or consistently to drunk drivers. As a result, researchers have not been able to carry out comprehensive or long-term studies of this sanction's effectiveness for controlling the DWI offense. The most positive study available was conducted in Hennepin County, Minnesota, and released in 1984 (Falkowski). The study showed a 20% decline in the number of nighttime crashes after imposition of a mandatory two-day sen-

tence for first-offense DWIs. The extent to which this decline was due to changed behavior on the part of the drunk drivers or to more careful driving by the public in general is not known.

We do know that from one-third to one-half of first-offense drunk drivers and almost all of those arrested two or more times for drunk driving have a health problem—problem drinking. Short-term alcohol education programs for social drinkers and long-term (one year) treatment programs for problem drinkers have proved effective in reducing recidivism. National standards for good correctional practice recognize that offenders with drug and alcohol abuse problems require specialized treatment. In addition, experience shows that, along with driver's license actions, the treatment sanction is the one most feared and disliked by drunk drivers.

There is general agreement that drunk driving offenders should pay fines and fees to cover as much of the costs of their correctional and alcohol treatment programs as possible. Many feel that DWIs should also make restitution to the community, either directly to victims or through payments to general victim compensation funds. (Interestingly, most drunk drivers are not arrested as a result of a traffic accident and therefore have no victim.)

Interest in community service, both as an adjunct and as an alternative to incarcerating certain offenders, is rapidly increasing. Use of this non-residential sanctioning option is supported by Federal recommendations on drunk driving, and more than 20 States have established unpaid work on behalf of the community as an alternative to short-term jail sentences for drunk drivers. Properly administered, community service programs offer the benefits of reducing correctional costs and jail overcrowding while providing useful services to communities and a more constructive penalty for non-violent offenders.

Unlike many other criminals, most convicted drunk drivers are employed. Many corrections professionals believe that the most appropriate correctional placement for low-risk, non-violent drunk drivers is in work release centers or non-residential correctional programs (for example, intensive probation supervision) because these programs provide supervision but also allow offenders to continue earning incomes and therefore help reduce the tax burden of their correctional programs.

One sanction that has proved highly effective in reducing alcohol-related traffic accidents is license suspension or revocation. Studies show that even though some drivers continue to drive after their license has been suspended or revoked, they drive fewer miles and more carefully than they did before. While license actions are and should remain the responsibility of the State's motor vehicle department, it is important that communities include this sanction in their programs to combat drunk driving and that they allocate sufficient resources to law enforcement to raise the likelihood that the driver who drives with a suspended or revoked license is detected.

ACTION STEPS FOR COMMUNITIES

The variety of correctional options available—and their theoretical and tested effectiveness—point to the need for communities to take a comprehensive approach to controlling drunk driving. The correctional system cannot do it alone. Dealing successfully with the drunk driver problem requires a community-wide commitment of concern and resources before, during, and after the imposition of correctional sanctions:

Adequate law enforcement measures to improve the likelihood of apprehending drunk drivers and those driving with suspended or revoked driver's licenses. (Without special law enforcement efforts, arrests are made for only 1 out of every 1,000 to 2,000 drunk drivers on the highways.)

Adequate procedures and resources for the courts *and* corrections to ensure that all sanctions are imposed swiftly and consistently.

More precise traffic safety data collection to accurately determine increases and declines in alcohol-related traffic accidents.

Adequate monies and talent to monitor and evaluate the effectiveness of any measures imposed to control drunk driving, including their effect on recidivism.

Finally, experience has shown that sustained public information campaigns to keep public consciousness about safe driving practices at a high level and to publicize new sanctioning policies is crucial to the success of any program to combat drunk driving.

SERIES OVERVIEW

Volume I of this series (*The Drunk Driver and the Jail Problem*) focuses on developing a coherent policy for drunk drivers. It reviews the drunk driving problem and the problems faced by many of the Nation's 3,000 jails and local lockups in dealing with the influx of DWI offenders. After describing various approaches to controlling drunk driving and reviewing the evidence for the effectiveness of jail sentences, the volume concludes with a list of specific considerations that should guide the

development and operation of all correctional programs for DWIs.

Volume II (*Alternatives to Jail*) discusses the use of objective classification systems to identify a drunk driver's drinking status, risk to the community, and correctional program needs. It then examines what is known about five non-residential sanctions that can be used as alternatives or adjuncts to a jail sentence: community service; intensive probation supervision; alcohol education and treatment; restitution; and driver's license actions.

Volume III (*Options for Expanding Residential Facilities*) examines four ways to increase available bed space (number of beds)—conventional construction, modular construction, renovation, and contracting out correctional programs—and compares the advantages and disadvantages of each approach.

Volume IV (*Step by Step to a Comprehensive DWI Program*) describes how to go about determining a community's correctional needs (who should be involved, what information must be gathered) and discusses how to put the findings into effect (building community support, how to obtain funding).

Volume V (*Resource Materials*) contains copies of documents and forms in use in correctional programs around the country. They are not official models but, rather, examples of "working documents" that might prove useful to communities as they develop their own procedures and forms. Included are examples of forms for classification and suicide risk screening; work release agreements and contracts; community service forms and waivers of liability; and overviews of alcohol education and treatment programs. Also included are examples of State laws on offender fees and information on jail accreditation. The volume also contains a list of the State Offices of Highway Safety and the current criteria for receiving funding under Section 402 of the Highway Safety Act.

It is important for readers to keep in mind that, while the focus of these manuals is the drunk driver, it is not intended that DWIs be placed in facilities or programs separate from other groups of offenders with similar needs and characteristics. Judges and correctional administrators need flexibility in making appropriate assignments. Many existing facilities and programs and appropriate for drunk drivers. Similarly, facilities and programs developed principally in response to the increased arrest rates and tougher sanctions for drunk drivers can and should be used for other types of low-risk, non-violent offenders, especially those with alcohol problems.

Readers seeking additional information are encouraged to contact the following:

1. Stephen Hatos, National Highway Traffic Safety Administration, 400 Seventh Street, SW, Washington, DC 20590. Telephone (202) 426-9581
2. W. Hardy Rauch, American Correctional Association, 4321 Hartwick Road, Suite L-208, College Park, MD 20740. Telephone (301) 699-7660
3. Ray Nelson, National Institute of Corrections Jail Center, 1790 30th Street, Suite 140, Boulder, CO 80302. Telephone (303) 497-6700
4. Francis R. Ford, National Sheriff's Association, 1450 Duke Street, Alexandria, VA 22314. Telephone (703) 836-7287

Glossary of Terms

ACA The American Correctional Association. A national organization of corrections professionals.

ACCIDENT Any event involving a moving vehicle on a public highway that causes injury or property damage. Some experts prefer the word "crash" because it does not imply that the event was accidental or "uncaused"—"A crash is no accident."

BAC Blood alcohol concentration. Driving with 0.10% BAC is an offense in all States. Actual driving impairment occurs at lower (0.05%) BAC levels.

COMMUNITY-BASED FACILITIES Correctional facilities operated publicly or privately (under contract) to hold persons to permit the offender limited opportunities for work, schooling, or other community contacts. Such facilities are used for a variety of purposes, including specialized intervention or assistance (for example, drug or alcohol treatment), graduated release from prison—usually prior to parole—or as a sanction in lieu of prison or jail confinement.

CRIME The commission of an act that is forbidden by public law and that makes the offender punishable by that law. Crimes are classified into two categories: misdemeanors and felonies. A misdemeanor is commonly defined as an offense that is punishable by less than one year in confinement. A felony is a "major offense" that is punishable by one or more years in confinement. Although there is general agreement on the severity of offenses (murder, for example, is always considered a "major offense" and thus a felony), each State retains the authority to decide which crimes it consideres misdemeanors and which it considers felonies.

DRUNK DRIVER Any driver operating a vehicle at an illegal blood alcohol concentration. The term does not imply that the driver obviously appears to be "intoxicated." Drivers who appear quite sober can still be over the legal BAC limit.

DWI As used in this manual, DWI is a generic term for all alcohol driving offenses. The terms "driving while intoxicated," "driving while under the influence," and "operating a motor vehicle under the influence" are among those used by the States to describe the major alcohol-related driving offense—usually defined as operating a vehicle with a blood alcohol concentration of 0.10%. Some States have lesser offenses, usually described as "driving while impaired," which defined blood alcohol concentration levels as low as 0.05%.

INCARCERATION The confinement of a convicted criminal in a Federal or State prison or a local jail to serve a court-imposed sentence. In many States, offenders sentenced to less than one year are held in a jail; those sentenced to longer terms are committed to the State prison.

JAIL A secure local detention facility for holding individuals awaiting trial or sentencing. Increasingly, jails are also used as places of confinement for offenders sentenced to short terms (generally less than one year).

LOCKUP A holding facility for individuals who have been arrested and who are awaiting arraignment or transfer. Generally limited by law to holding an individual for only a few hours.

NHTSA National Highway Traffic Safety Administration. An agency of the U.S. Department of Transportation.

NIC National Institute of Corrections. An agency of the U.S. Department of Justice that provides assistance primarily to the States and local communities.

NON-VIOLENT OFFENDER An individual who has no record of violent behavior or aggression toward others; a person whose criminal record and conduct is such that he or she is not considered to be prone to violent acts. "Violent crime" refers to crime such as homicide, rape, assault, and robbery.

PONI "Planning of New Institutions." A program sponsored by the National Institute of Corrections to assist local jurisdictions planning new detention facilities.

PRISON A State or Federally operated detention facility, generally for offenders sentenced to one or more years of confinement.

Maximum security prisons are typically surrounded by a double fence or wall (usually 18-25 feet high) with corrections officers in observation towers. Such facilities usually have large interior cell blocks for inmate housing areas. About 41% of the maximum security prisons were built before 1925.

Medium security prisons typically have double fences topped with barbed wire surrounding the facility. Housing architecture is quite varied, consisting of outside cell blocks in units of 150 cells or less, dormitories, and cubicles. More than 87% of the medium security prisons were built after 1925.

Minimum security prisons typically do not have armed posts and may or may not have fences to enclose the institution. To a large degree, housing consists of open dormitories. More than 60% of the minimum security prisons were built after 1950.

Section 1
Getting Tough with Drunk Drivers

On November 9, 1984, the editorial pages of the *Washington Post* contained the following observations on the effects of the new, tough drunk driving legislation sweeping the country:

> "Five years ago, a conviction for drunk driving might have resulted in a fine, a warning or, in rare cases, a suspension or revocation of a driver's license. Those days are gone. Appalled at the havoc caused by those who drink and drive, the public has demanded tougher treatment of offenders, and across the country legislatures and courts have responded. Since 1981, more than 30 States have enacted legislation aimed at this problem; most often these statutes increase penalties for drunk driving and many impose mandatory jail sentences. In some jurisdictions—Minneapolis is one—judges have, by consensus, adopted these policies even in the absence of legislation.
>
> "Putting the new rules into practice, however, creates difficulties for courts and for corrections institutions. The National Institute of Justice has just released a study on the impact of laws requiring mandatory sentences for drunk driving. Arrests increase when the new sanctions are publicized and so does public concern. These changes produce exactly the right result: traffic fatalities decline. But courts have trouble keeping up with the increased caseload.
>
> "A new legal specialty has arisen in this field where, in the past, an attorney was often not necessary. These experts command large fees to defend drivers facing mandatory jail sentences. As a result, cases are more often contested, and are therefore more lengthy and expensive. In Seattle, for example, the law was amended in 1980 to require that all those convicted of drunk driving serve at least one day in jail. Before that, only 9 percent had been incarcerated. Now, three judges have been added to the six who had previously handled these cases. Jury trials have doubled, and the county has had to open a new corrections facility to handle first offenders. Drunk drivers now represent about 70 percent of the probation-department caseload.
>
> "The public is willing to absorb these costs because in the long run, it is expected that increased penalties will have a deterrent effect. The NIJ study is a useful document for lesiglators and judges who, by careful planning, might be able to avoid some of the problems that arose in pioneer jurisdictions. Weekend sentences, for example, were thought to be a useful procedure for dealing with offenders who could continue to work and support families. In large numbers, though, they are tremendously disruptive on the prison system. Special provisions must be made for those with no prior criminal record, and treatment programs must be coordinated with penalties. Planning is important if these new laws, enacted with such widespread public support, are to be effective." (Editorial, The *Washington Post,* November 9, 1984)

The *Washington Post* sums it up well. . . .

Until the last few years, Americans held very ambivalent views about drinking and driving. On the one hand, it was clear that drunk drivers were both dangerous and expensive to the nation—causing 25,000 fatalities and half a million injuries at a cost of more than $24 billion a year (estimate from Allstate Insurance Company available from NHTSA). Pools indicated the public was generally aware of the dangers of drinking and driving. Most agreed that drunk driving laws should be toughened.

On the other hand, most drivers are also drinkers—and most have driven at least once or twice, some many times, after using alcohol. Moreover, most drivers who drive after drinking do so successfully. Serious accidents are rare events. There are less than three fatalities in the United States for every 100 million miles driven (National Safety Council, 1982). Arrests for drinking and driving are also infrequent—only one arrest for every 5,000 miles of drunk driving (Voas, 1982b).

Drinking and driving are thus part of the normal social life of most Americans. The personal experience of drivers leads them to believe that alcohol and driving can be combined without significant risk to themselves or others. As a result, it is not surprising that many people still feel that drinking and driving is not a serious crime. When Americans are asked to participate in the justice systems as jurors in a drunk driving case, many share the feeling that "there, but for the grace of God, go I."

This attitude of nonchalance carries over into public attitudes toward traffic laws in general:

> The violation rate is high because motorists persistently teach each other that law obedience is both unnecessary and undesirable. Like white collar criminals, motorists believe they are not criminals and, also like white collar criminals, they insist on specialized criminal justice procedures which will help ensure that

the criminal label is not attached to them. Such behavior and attitudes, which make law violation into a harmless little game, certainly must contribute to a so-called "decline in law and order." (Donald Cressey, "Law, Order, and the Motorist," 1974, p. 233)

Beginning about 1980, this public attitude began to change—at least with respect to drunk driving. Citizen activist groups—Mothers Against Drunk Driving (MADD) and Remove Intoxicated Drivers (RID)—dramatized for the public the personal meaning of the traffic accident statistics. Typical of the stories brought to the public attention was that of Tommie Sexton:

On a summer day in 1980, Tom Sexton sat in a Southern Maryland courtroom and watched as defendants in criminal cases were called before the judge. The first man was accused of car theft. Two years in jail, the judge said.

Then came the case of David William Watkins, Jr., the man accused of killing Sexton's 15-year old son, Tommie.

A month earlier, Tommie Sexton and two friends were returning from a fishing trip when Watkins' car swerved across the center line and smashed into theirs. Young Sexton was killed and his friends injured. Watkins was unhurt and on this day he pleaded guilty to homicide by motor vehicle while intoxicated. The judge placed him on two years' probation and fined him $200.

Tom Sexton and his wife were stunned. A car thief gets two years in jail; the man who killed their son pays a $200 fine and goes free.

Today, they still grope for words to express their anger. It is "totally incomprehensible," Dot Sexton said that "our son died as the result of a senseless crime and the criminal is not punished." (Gaylord Shaw, *Los Angeles Times,* November 3, 1981)

Organizations such as MADD and RID have pushed for toughening the penalties for drunk driving in two major ways. First, through the organization of State task forces and the educating of State legislators, they have succeeded in promoting the passage of more severe penalties for drunk driving. Second, through a court-watch program, they have been effective in bringing about changes in the judicial system, which in turn has resulted in increased penalties for drunk driving offenders.

This movement has resulted in wider use of the jail sentence as a penalty for drunk driving. In the last few years, many States have not only increased the length of jail sentences for second and multiple DWI offenders, they have also made these sentences mandatory. In addition, there has been a movement to pass legislation making a short (two- or three-day) jail sentence mandatory for first-offense drunk drivers. States that already have mandated jail sentences for DWI offenders are shown in Figure 1-1. In addition, several other State legislatures are considering the passage of such laws.

This legislative trend promises to continue for the next several years. At the same time, there is a general increase in the public's demand for tough law enforcement and increasing the penalties for all types of crime. A result is the potential for a major crisis in local correctional systems. Many of the systems are already strained by overcrowded detention facilities, on the one hand, and, on the other, by the increasing interest of the courts in protecting the rights of the inmates held in these institutions.

The potential impact of DWI legislation on local correctional systems can be gauged from the fact that while there are currently about 200 thousand offenders in the nation's jails (DOJ, 1983a), an estimated 1.9 million people are arrested for drunk driving each year. As a result, the wave of new laws requiring detention of drunk drivers could make the current overcrowding considerably worse. This is true even though the average detention period for the drunk driving offender is considerably shorter than the jail sentences given to other criminals. In Seattle, Washington, DWI jail commitments rose from 26 a month in 1979 to 433 per month in 1982 (NIJ, 1983) following the passage of a mandatory one-day jail sentence for first offenders. Significantly, while more first offenders were being jailed, the jail sentences for multiple offenders were also lengthened.

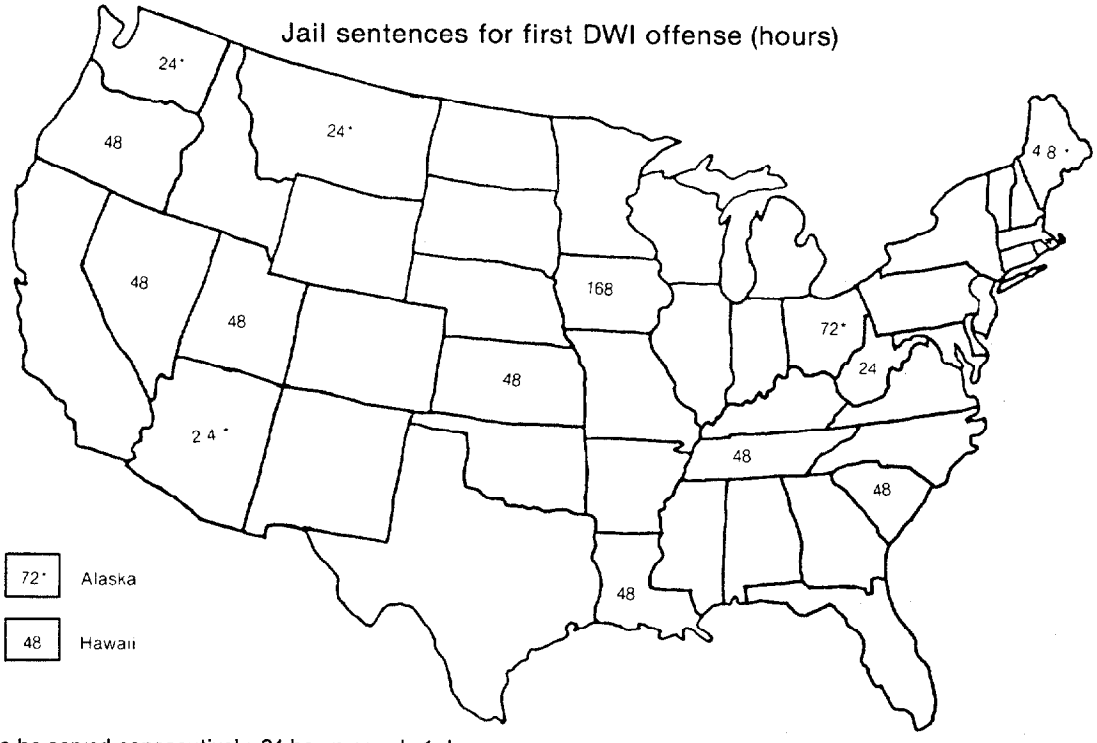
PURPOSE OF THIS MANUAL

This manual—along with the other four volumes in this series—is intended to assist local communities in handling the increasing numbers of driving-while-intoxicated (DWI) offenders who will be convicted under tougher drunk driving laws.

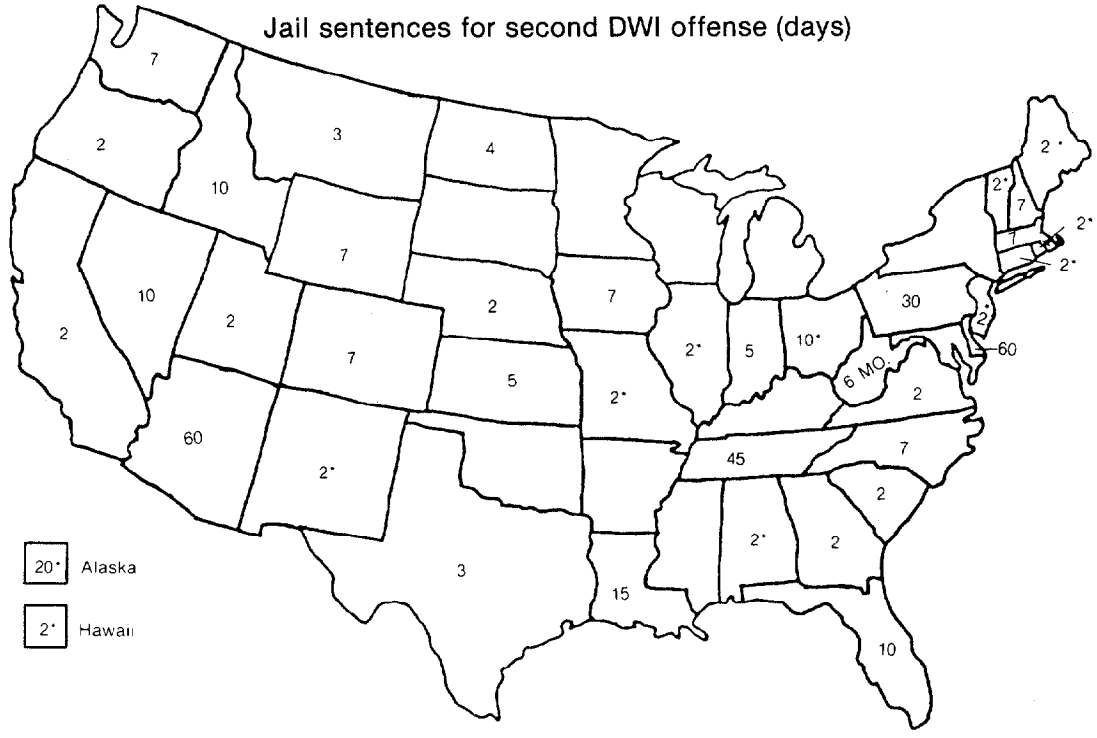
This series of manuals should be useful to the more then 3,000 sheriff's departments that manage local jails and other corrections officials who are responsible for handling convicted drunk drivers. It is these officials who need to take the lead in bringing before the public the problems created by the large influx of drunk drivers into an already overcrowded correctional system.

These manuals should also be useful to judges and officers of the court who are responsible for sentencing and for

Figure 1-1 States with Mandatory Jail Sentences for DWIs (As of January 1, 1985)



*Indicates hours to be served consecutively; 24 hours equals 1 day.



*Indicates days to be served consecutively; 1 day equals 24 hours

Source: National Highway Traffic Safety Administration

assigning offenders to the programs and facilities available for handling them.

The manuals also contain information that should be of interest to treatment staff and educational program specialists who provide services to offenders, particularly those with alcohol-abuse problems.

Finally, these manuals are intended for use by community task forces, citizen's groups, and local and State legislators concerned with the drunk driver and/or the local correctional system.

This series of manuals is intended to provided assistance in the following ways:

- To help communities better recognize the implications of legislation mandating jail sentences for drunk drivers.
- To help communities assess their current correctional programs and facilities in order to determine whether they can adequately handle increased numbers of DWIs.
- To assist communities in the development of new programs and facilities, if they are required, by providing information on planning procedures, program alternatives, and sources of assistance.
- To help highway safety, legislative, and criminal justice officials avoid problems that have arisen in other communities by sharing information.
- To suggest how other elements of a comprehensive drunk driving deterrence effort (such as treatment) can be integrated with other sanctions into a comprehensive local program for drunk drivers so that the total DWI control system becomes more effective.

Section 2
The Drunk Driver Problem

At the turn of the century, the principal cause of death for young people was infectious disease. Progress in public health in the early part of this century has all but wiped out communicable diseases within the United States as a source of death for young people. This has left accidental death and injury as the major public health problem for children and young adults.

Although considerable success has been achieved in reducing accidents in the work place, the rapid growth in the use of the automobile has frustrated efforts to significantly reduce per-capita motor vehicle deaths. The per-capita death rate from motor vehicle crashes was 25 per 100,000 residents at the beginning of the Depression (1929-39) and was still 22 per 100,000 in 1981. During that time, however, highway safety efforts were successful in reducing the death rate per vehicle mile. From 1930 to 1983, the death rate per 100 million vehicle miles dropped from 18.2 to 2.7. But, while vehicles and roadways are safer, the tremendous growth in travel has kept the per-person risk of injury unchanged since the 1930s (National Safety Council, 1984).

The failure to reduce the population death rate, despite a rapidly declining mileage death rate, illustrates the difficulty of managing the highway safety problem in this country. Our nation is one of rapidly growing wealth in which larger and larger segments of the population are driving. Despite safer vehicles and safer roadways, highway accidents have remained a major source of death and injury because of the increasing number of vehicles and their greater use for travel and recreation. This is particularly true for the younger members of our society who have more money to spend on automobiles. Figure 2-1 summarizes the disturbing statistics.

Figure 2-1— **Summary of Statistics Related to the National Drunk Driving Problem**

- A quarter of a million people have died in alcohol-related auto crashes in the past decade.
- More than 25,000 people are killed each year in alcohol-related crashes.
- About 500 people are killed each week in alcohol-related crashes.
- Nearly 70 people are killed every day in alcohol-related crashes.
- One person dies every 21 minutes in an alcohol-related auto crash.
- 650,000 persons are injured in alcohol-related auto crashes each year.
- 125,000 persons are permanently injured in alcohol-related crashes each year.
- One million drunk driving collisions occur each year.
- More than 50% of all fatal highway crashes involving two or more cars are alcohol related.
- More than 65% of all fatal single car crashes are alcohol-related.
- An estimated one out of every two Americans will be involved in an alcohol-related crash in their lifetime.
- Alcohol-related crashes are the leading cause of death for Americans between 16 and 24 years of age.
- Young people between the ages of 16 and 24 are involved in 44% of all nighttime fatal alcohol-related crashes, but make up only 22% of the total licensed population and account for only 24% of the total vehicle miles traveled by licensed drivers.
- 36% of all adult pedestrian accidents involve an intoxicated pedestrian.
- The motor vehicle crash is the number one cause of death for all Americans up to the age of 35 (and more than 50% of these fatal crashes involve drunk drivers).
- 80% of all fatal alcohol-related crashes occur between 8 p.m. and 8 a.m.
- On an average, by 12 midnight on a typical weekend night, one out of every ten drivers is legally impaired or drunk.
- Of every 2,000 drunk drivers, only one is arrested (and the chance of receiving a serious penalty is statistically insignificant).

Source: National Highway Traffic Safety Administration (n.d.,b)

ACCIDENT CAUSES

Alcohol has been recognized as a significant factor in motor vehicle deaths and injuries since the beginning of the century. Initially, it was the behavior of drivers involved in accidents that called attention to the role of alcohol. This evidence was sufficiently strong to persuade most States to adopt drunk-driving laws during the second decade of the century. New York had such a law in 1910, and by 1924 the drinking problem was regarded as sufficiently serious to lead Connecticut to jail 254 drunk drivers. Research on the drunk driving problem began before World War II, principally in Europe. The development of blood and breath tests for determining alcohol consumption not only stimulated related research; it improved the methods by which drunk driving laws could be enforced (Voas, 1982b).

Most accidents have multiple causes. The drunk driver who fails to negotiate a turn, skids out, and hits a tree on the shoulder of the road has been involved in an accident that has several contributing factors: the driver's drunkenness, the curve in the road, the wet pavement, and the tree.

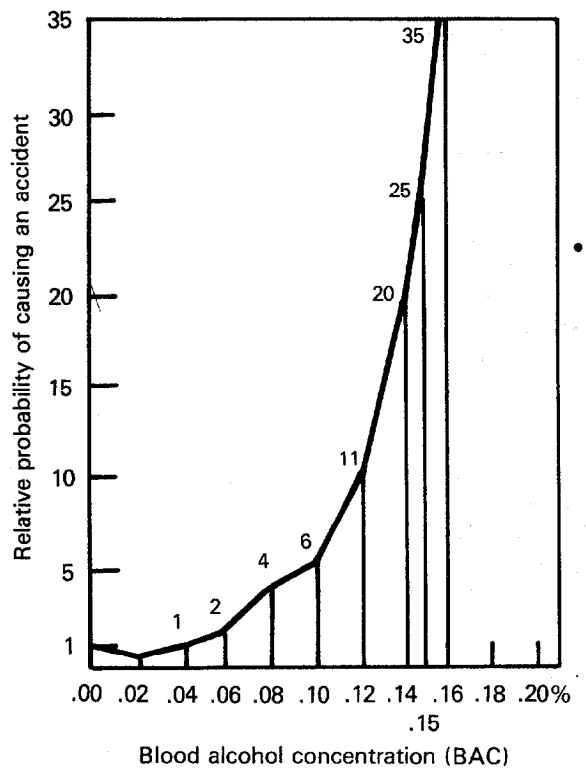
The fact that more than one factor produces accidents is significant for at least two reasons. First, it suggests that accidents can be reduced in a number of ways—by straightening the road or removing trees from the shoulder as well as by deterring the drunk driver. Second, the presence of more than one factor frequently leads to controversies about the extent to which any single factor (such as alcohol) "causes" accidents.

Evidence for the causal role of alcohol in accidents comes from three basic sources. First, laboratory studies of individuals who have consumed alcohol demonstrate that even very small amounts of this drug significantly affect performance. One of the critical driving skills affected by alcohol is the ability to divide attention, to keep a vehicle lined up on the road while watching out for traffic.

A second source of evidence for the role of alcohol comes from studies of drivers operating driving simulators or automobiles on closed (safe) courses. These studies have demonstrated that alcohol significantly impairs a person's ability to respond to emergencies.

The third, and probably the most convincing source of evidence for researchers, are the epidemiologic studies in which the amount of drinking is measured by blood alcohol content (BAC). By comparing the BAC of drivers in accidents with the BAC of drivers who were using the roadway at the same time and place but were not accident-involved, these studies have demonstrated that a driver with an illegal BAC (.10%) is approximately six times more likely than a sober driver to be responsible for an accident. Moreover, the risk increases as the amount of alcohol increases, as shown in Figure 2-2.

Figure 2-2 Relation Between Blood Alcohol Concentration and Accident Involvement



- Drivers with a BAC of .15% are 25 times more likely to be involved in traffic accidents than drivers who have not been drinking

Source: National Highway Traffic Safety Administration (n.d.,b)

WHO IS MOST INVOLVED IN DRUNK DRIVING ACCIDENTS?

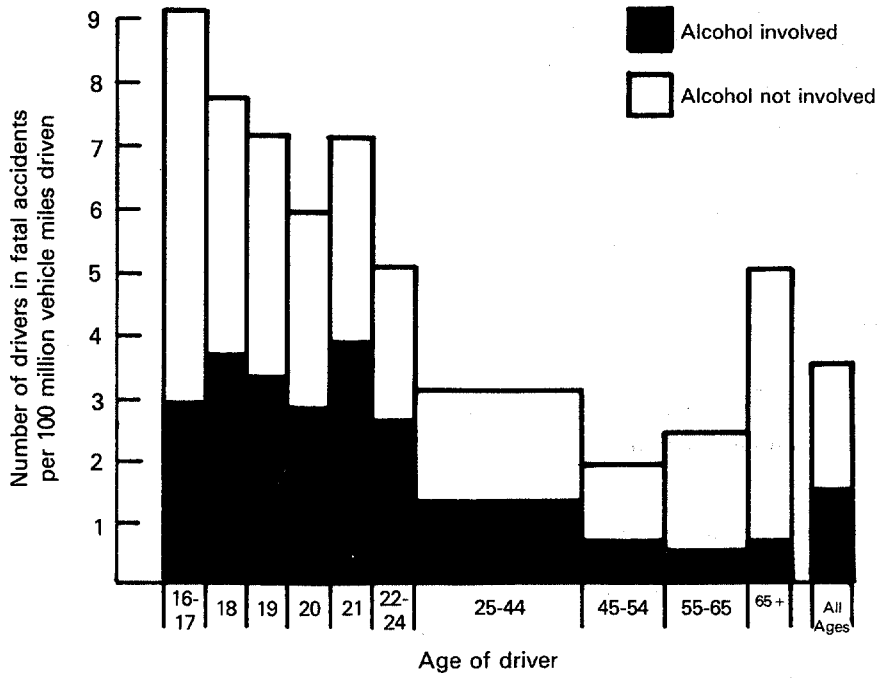
Men do approximately 60% of the driving in the United States. Men also drink more alcohol than women. It is not surprising, therefore, that they are more likely than females to be involved in drunk driving crashes. Studies indicate that approximately 90% of the drinking drivers in fatal accidents are male and more than 90% of the individuals arrested for drunken driving in most communities are male (NHTSA, 1984). As shown in Figure 2-3, younger men are more likely to be involved in fatal alcohol-related accidents than are middle-aged and older drivers (Fell, 1983).

Studies of the backgrounds of drivers in alcohol-related accidents and drivers arrested for drunk driving indicate that a large portion are very heavy drinkers and have a history of alcohol problems. As part of the Alcohol Safety Action Project programs sponsored by the Federal Government in the '70s, well over 100,000 arrested drunk drivers were interviewed to determine their drinking background. This large sample confirmed that approximately one-third of the drivers were social drinkers, one-third problem drinkers, and another third somewhere in between (Nichols et al., 1978).

The Federal Government maintains a census of all fatal accidents—the Fatal Accident Reporting System (FARS). It also maintains a sampling system, the National Accident Sampling System (NASS), which can project the numbers of injury and property-damage-only accidents. However, the precise number of these crashes that involve a drunk driver is not known because not all drivers in accidents are tested for alcohol. Drivers who die in fatal accidents are routinely tested in approximately 15 States and tested less frequently in the remaining 35 States. Drivers who are involved in injury or property-damage-only accidents are rarely tested for alcohol unless the police makes a drunk driving arrest in connection with the accident.

Despite these limitations in the data, extensive studies have given a reasonably firm basis for estimating the role of alcohol in highway crashes. A recent estimate by the National Highway Traffic Safety Administration, National Center for Statistics and Analysis, shown in Figure 2-4, indicates that alcohol plays a greater role in the more serious and fatal crashes than in less severe accidents. The losses to society produced by these accidents in which alcohol is a factor are extensive. In addition to direct medical costs and property losses, automobile accidents produce extensive costs due to loss of earning power, time away from the job, rehabilitation, and so on. When all of these are considered, the loss due to drunk driving accidents appears to be approximately $21 to $24 billion per year (estimate from Allstate Insurance Company; available from NHTSA).

Figure 2-3 Age and Alcohol Involvement of Drivers in Fatal Accidents



Source: Fell (1983)

Figure 2-4— **Alcohol Involvement in Accidents 1979-1982 (Annual Average)**

	Totals	No. & Percent Alcohol-Related
Fatal Accidents (from FARS)	43,340	19,936 (46%)
Serious Injury Accidents	145,000	55,000 (38%)
All Injury Accidents	2,283,000	457,000 (20%)
All Accidents	5,825,000	757,000 (13%)

Source: NHTSA National Accident Sampling System, 1982.

SIX METHODS FOR REDUCING THE DRUNK DRIVING PROBLEM

While this manual is concerned with the role of the criminal justice system in reducing drunk driving—and particularly the role of corrections—there are at least six basic approaches to controlling this problem. Some highway safety research specialists (Ross, 1984, for example) believe that some of these alternatives offer better opportunities for reducing the drunk driving problem than do criminal justice programs. All six alternatives are discussed below.

1. Criminal Justice Programs

By far the most popular method for dealing with the drunk driver is through the criminal justice system. Increasing awareness of the drunk driving problem has led most States to enact new, tougher DWI laws. Most of this legislation is based on the concept of producing "general deterrence" to drinking and driving. The extent to which drunk drivers will be deterred is believed to depend upon three factors—the perceived sureness, the swiftness, and the severity of the penalty for those who drive while intoxicated. The sureness is primarily dependent on the effectiveness of the enforcement effort. Unfortunately, the probability that a drunk driver will be apprehended is low. Most studies of enforcement indicate that an arrest occurs in only one out of every 250 to 2,000 drunk driving trips. It appears to be necessary to drive 5,000 miles drunk in the United States in order to be arrested for drunk driving! (Voas, 1982b) As to the swiftness and severity of the penalty, the courts have, in the past, experienced delays in adjudicating DWI cases and have encountered considerable difficulty in applying tough sanctions (Section 5).

2. Vehicle and Roadway Engineering Programs

Making roads and cars safer reduces the risk of accidents for both passengers and drivers, whether drunk or sober. Therefore, many safety experts argue that this should be the principal approach to reducing the drunk driving problem. Some engineering efforts may be especially significant for drunk drivers. For example, it has been shown that wider markings along the edges of roads are particularly helpful in keeping drunk drivers from running off the road. Similarly, passive restraint systems, which automatically cushion a vehicle's occupants, may be particularly helpful to drunk drivers since studies indicate that they buckle their safety belts less frequently than those who have not been drinking.

3. Reducing Exposure to Drunk Driving Accidents

Teenage drivers are particularly susceptible to drunk driving accidents because they drive on weekend nights when such accidents are most frequent and, at a given blood alcohol concentration, they are at greater risk of being involved in an accident. One method of reducing this risk is to limit sales of alcohol to those aged 21 or older. This approach is receiving considerable interest. A number of States have raised their drinking age, and the U.S. Congress recently passed legislation providing an incentive to States to pass age-21 drinking laws.

4. Health Care Programs

One-third to two-thirds of the drivers involved in fatal accidents or arrested for drunk driving are problem drinkers. As a result, considerable interest has been shown in alcoholism treatment as a drunk driving sanction. As described in Section 7, efforts to reduce drunk driving through alcohol treatment have shown some limited effectiveness.

5. Public Information and Education Programs

A good public information program is an important support to drunk driving enforcement programs. Simply informing the public about the dangers of mixing alcohol and driving without increasing law enforcement effort is rarely effective, however. While these programs can significantly improve the public's knowledge regarding alcohol, driving and the drunk driving laws, they have rarely been shown in and of themselves to reduce drunk driving

behavior. Their relative ineffectiveness in the past may be due in part to the fact that a large portion of drunk drivers have a drinking problem and are not likely to be changed by a public information program.

6. Systems Approach

A final approach taken to the problem of reducing drunk driving stresses the need to develop a comprehensive program at the community level for dealing with the drunk driver. Because of the relatively low arrest rate and the difficulty in applying tough sanctions, this approach emphasizes the need to develop an infrastructure at the community level that will ensure a strong and coordinated criminal justice system and provide a base for continuing public education on alcohol safety.

NO EASY ANSWERS

The lack of past success in controlling the drunk driving problem has made clear to safety experts, and particularly to government agencies, that significant reduction of this problem will take considerable time and effort. There are no quick fixes, no silver bullets. But the problem is not intractable. Even though the underlying causes are complex and difficult to overcome, considerable progress can be made if public opinion is mobilized and the best use is made of current research on the problem.

The Federal Government, through the National Highway Traffic Safety Administration, is currently emphasizing a community-level, systematic approach to the problem. This approach is summarized in Figure 2-5.

Figure 2-5— **Primary Elements of a Comprehensive Community-Based Program to Control Drunk Driving—National Highway Traffic Safety Administration**

1. *General Deterrence Approach (Short-term)*—Creating a public perception of increased risk of arrest for drunk driving. This approach is designed to deter the majority of drunk drivers who are never arrested, in addition to "treating" the few who are.
2. *Community Focus*—Placing program emphasis and responsibility at the local level.
3. *Systems Approach*—Integrating and coordinating law enforcement, prosecution, sentencing, correctional services and facilities, education/treatment, public information/education, and driver licensing functions at the local and State level.
4. *Programs Funded by the Offenders*—Assessing fines, court costs, treatment, tuition fees, etc., to convicted drunk drivers to defray the costs of local/community programs.
5. *Citizen Support*—Generating community/citizen support for comprehensive community programs.
6. *Prevention* (Long-term)—Changing societal attitudes toward drinking and driving through long-term prevention/education programs.
7. *Occupant Protection*—Programs to increase usage of seat belts, child safety seats, and similar protective systems; increasing awareness of safety belts as our best personal protection against the drunk driver.

Source: National Highway Traffic Safety Administration, 1985

Section 3
The Jail Problem

BACKGROUND

Correctional facilities are generally classified in two ways: (1) by the level of government that operates them (Federal, State, or local), and (2) by the degree of security provided (maximum, medium, minimum, non-secure). But buildings are only a part of the total corrections system. The total system usually includes non-residential as well as residential programs. Thus a comprehensive correctional program includes such non-residential services as probation, parole, community service, and specialized program facilities.

The term *prison* is generally applied to facilities constructed and operated at the Federal and State level. Most inmates in prisons are serving sentences of more than one year.

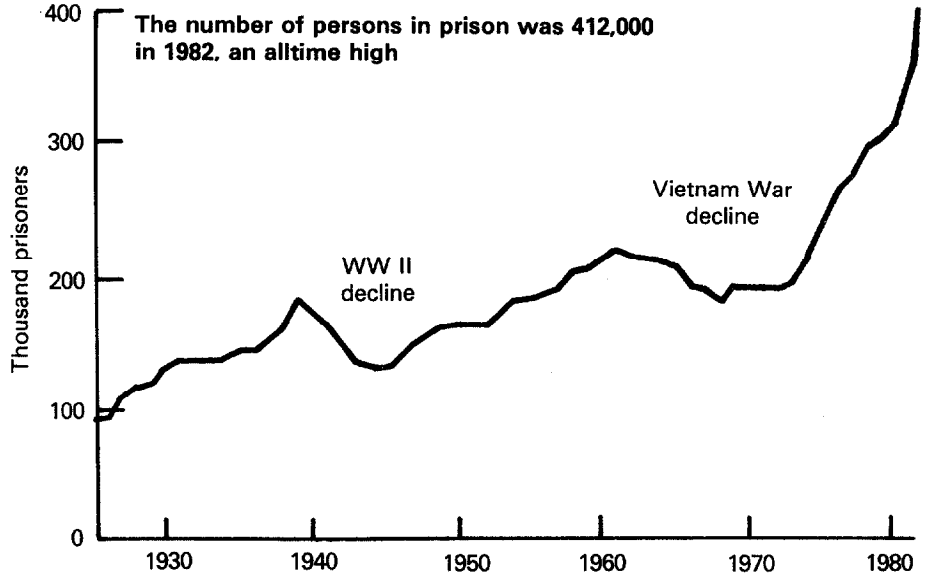
The term *jail* is generally applied to county or local facilities. Jails typically hold individuals awaiting trial (accused offenders) as well as adjudicated offenders who are awaiting sentencing or who have been sentenced to short terms (less than one year). They may also hold Federal and State prisoners who are waiting to be transferred to another facility or who are being housed locally for one of several administrative reasons. In contrast to prisons, local jails are relatively small. According to the Department of Justice (1984), 18% of U.S. jail capacity is in facilities with less than 50 beds, while another 37% is in jails with less than 250 beds. Many local police departments also operate lockups or holding facilities to hold individuals who have been arrested pending their arraignment or transfer to another facility. The holding periods are short (generally less than 48 hours), and some States limit the time an individual can be held in these facilities to as little as 24 hours.

Community-based facilities include residential work release centers and halfway houses in which offenders reside under supervision but are released for a portion of each day to work or participate in other programs. These facilities generally have few of the security features that typify prisons and jails. They are frequently operated by private concerns under contract to a governmental agency. Offenders are sometimes sentenced to *non-residential* community service and treatment centers. The offender's attendance at these work or treatment programs is supervised by facility staff to ensure compliance with program goals. These facilities are also frequently operated by private groups under contract.

The growth of the American prison population for the last half-century is shown in Figure 3-1. The average number of adult prisoners incarcerated in Federal and State prisons has grown steadily, reaching 180 per 100,000 population in 1983 (DOJ, 1983a). On the average, the incarceration rate in local jails was considerably lower, as shown in Figure 3-2.

By the end of the 1970s, the Department of Justice estimated that approximately 2½ million persons were

Figure 3-1 Growth of U.S. Prison Population 1930-1982

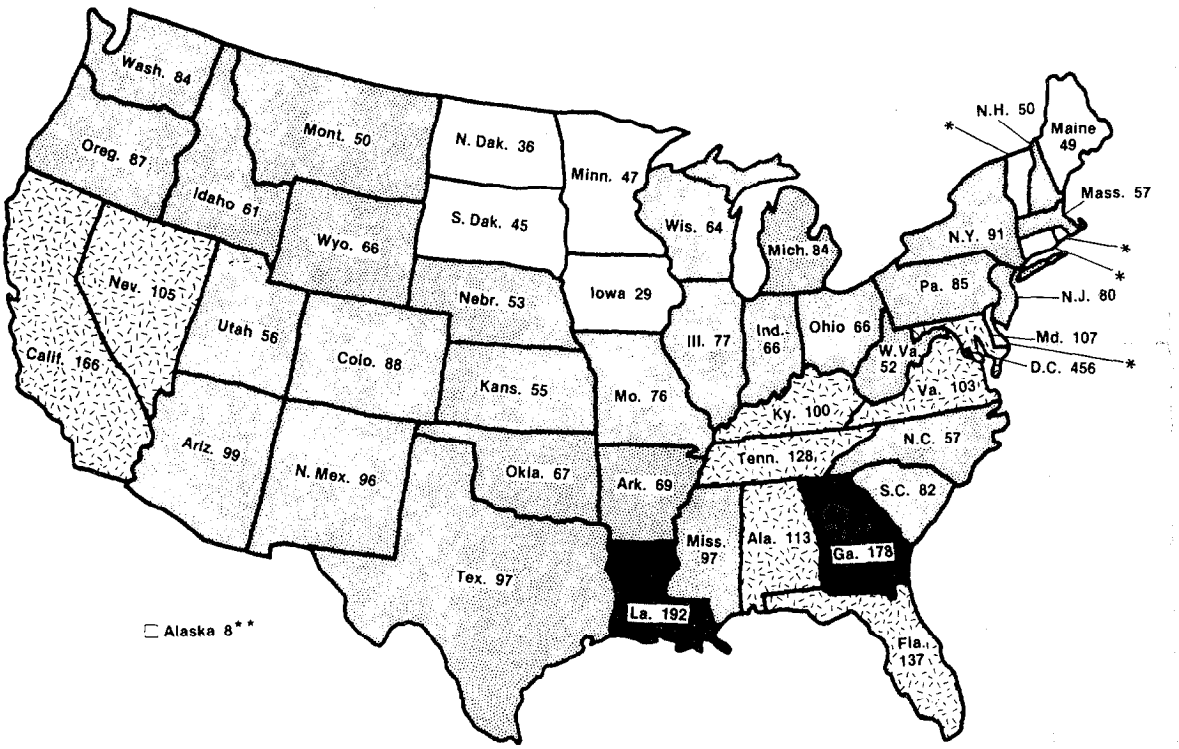


Source: *Prisoners in State and Federal Institutions on December 31, 1982.*

Source: U.S. Department of Justice (1983a)

under some form of correctional custody. Half a million of these were juveniles. The two million adults represented 1.2% of all adults over the age of 18 and included 350,000 adults in State and Federal prisons, 150,000 in local jails, and 1½ million under probation or parole supervision. As shown in Figure 3-3, by the end of 1982, there were

Figure 3-2 Incarceration Rate in Local Jails by Jurisdiction (June 30, 1983)
(Rate per 100,000 resident population)

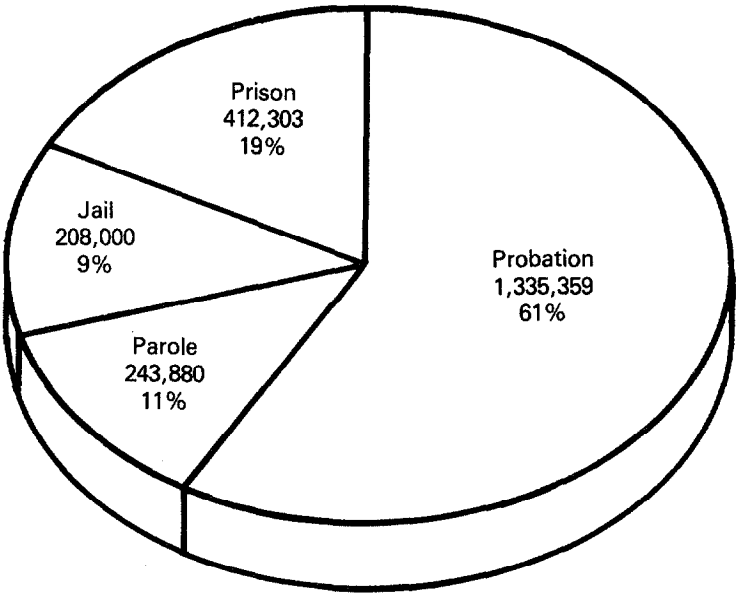


*Five states—Connecticut, Delaware, Hawaii, Rhode Island, and Vermont—had integrated jail-prison systems and were excluded from the report.

**Alaska had five locally operated jails in addition to an integrated jail-prison system. This figure is for local jails only.

Source: U.S. Department of Justice (1984)

Figure 3-3 Adults Under Correctional Supervision at Year-End 1982



Source: Gavin (1983)

208,000 persons in local jails and 412,303 persons in State and Federal prisons. Of particular interest is that the majority of offenders still are under supervision in the community, serving terms of parole or probation.

In 1979, there were 223 community-based facilities (halfway houses or work release centers). These facilities housed approximately 4% (11,000) of the offenders sentenced to State prison systems (DOJ, 1983a). The number of community facilities is undoubtedly greater today because of the increased use of contract facilities by the States and the Federal Government. Localities are also establishing "satellite jails" and work release centers that operate very similarly to halfway houses. The exact number of people currently housed in such facilities is not known.

THE OVERCROWDING PROBLEM

The status of State and Federal prison populations is generally not of immediate interest to those concerned with the drunk driving problem because few DWIs are sentenced to prison. This is because the populations in those facilities are usually limited to offenders who receive sentences of more than one year. But the status of U.S. prisons is not without significance, for as prisons become overcrowded, their overflow tends to back up into local jails.

A recent survey (Sapp, 1984) of 48 of the 50 States found 83% of the States reporting inmate populations exceeding the design capacity of their prison facilities. The remaining States reported inmate populations ranging from 95% to 100% of capacity; however, several of these reported significant backlogs of sentenced prisoners awaiting transfer from county jails. For those States whose inmate populations exceeded design capacity, the average excess was 31.6%.

One indication of the impact of this overcrowding at the local level is the number of State prisoners held in local jails (DOJ, 1983a). This is shown in Figure 3-4. Another symptom of the prison crowding problem is the numbers of State systems that have come under court order to reduce their populations or improve their conditions of confinement.

State correctional systems are attempting to deal with overcrowding in a number of ways. Plans for new construction are extensive. According to Vonier (1984), States are planning 60,000 additional prison beds by 1986, with 65% of these planned for maximum security facilities at an average cost of $80,000 per bed.

According to the Sapp survey (1984), 83% of the 48 State prison systems had plans for new construction, 69% were using more community-based facilities, and 58% were adding bed space by converting or renovating existing prison buildings. Of the States responding, 46% also indicated that they were using temporary housing, and 42% that they were converting non-prison properties to detention use. In addition to these

Figure 3-5— **Local Jails with Space Specifically Designated for Programs and Services**

Total Number of Jails Reporting: 2,664

Functional Area	# of Jails	Percent
Drunk Tank	338	12.7
Library	682	25.6
Contact Visiting	742	27.9
Outdoor Recreation	762	28.6
Dining Room	475	17.8
Counseling/ Education	778	29.2
Indoor Recreation	676	25.4
Day Room	1,198	45.0
Vocational	190	7.1
Medical Service	936	35.1
Conjugal Visitation	157	5.9

Source: Kerle and Ford (1982)

Jail overcrowding, a major factor in litigation, is most evident in the largest jails. The American Correctional Association recommends that jail populations not exceed 90% of available capacity in order that there be reserve space for special needs such as special police crackdowns, alternate space when jail repairs are required, additional space to house sick or violent inmates, etc. Figure 3-6 shows that, on an average, large jails with capacities above 250 have occupancy rates above 90%.

The principal source of inmates for local jails is, of course, the local community itself. However, half of the local jails report that they house inmates from other counties; this is usually described as a temporary measure (Kerle and Ford, 1982). The 1983 jail census (DOJ, 1984) indicated that approximately 3% of all jail inmates were being held because of crowding elsewhere. Three out of 4 of these were offenders held for State authorities.

The extent to which local jails are in trouble is indicated in part by the extent to which they are the targets of litigation. The 1982 NSA survey indicated that 16% of local jails had been under a court order in the past and that 4% currently were under such orders. Figure 3-7 lists the reasons for the existing court orders. In addition, 20% of the jails responding to the survey reported they were facing a pending law suit.

Many small jails cannot meet even the minimum security requirements of 24-hour supervision. Important services, such as screening newly arrived offenders and observation of those who need special attention because of their propensity for victimization or suicide, cannot be adequately provided. Jail admin-

Figure 3-6— **Percent of Occupied Capacity, U.S. Jails 1983**

	Number of Inmates	Percent of Available Capacity Occupied			
		<50	50-249	>250	All
U.S. Total	221,815	52%	76%	96%	81%
Northeast	36,270	77%	89%	97%	94%
North Central	39,176	51%	70%	96%	74%
South	88,571	52%	72%	90%	75%
West	57,627	50%	87%	102%	92%

Source: U.S. Department of Justice, *The 1983 Jail Census* . (1984)

Figure 3-7— **Basis for Court Orders Against Local Jails**

Total Number of Jails Reporting: 2,664

BASIS FOR COURT ORDER	NUMBER	PERCENT
Medical	164	6.2
Crowded Conditions	209	7.8
Recreation	206	7.7
Food	102	3.8
Personal Hygiene	93	3.5
Classification	133	5.0
Structure	181	6.8
Visitation	158	5.9
Health Area	94	3.5
Suicides	26	1.0
Mentally Ill	47	1.8
Staffing	102	3.8
Fire Hazards	111	4.2
Other	104	3.9

Source: Kerle and Ford (1982)

istrators also face the problem of dealing with antiquated facilities that lack some of the minimum services required by the courts and compound the difficulties of handling offenders.

Jails, unlike prisons, are also faced with holding individuals who, while arrested, have not been tried or sentenced. Approximately 50% of the individuals being held in local jails are in pre-trial status. The courts have decreed that detainees retain all rights not inconsistent with the need for supervision to assure their court appearance. They have a basis for special consideration with regard to their safety. They also have the right to maintain maximum contact with their families, friends, and legal counsel, as well as access to normal recreation opportunities and medical treatment. It is an anomaly of the system that people who are arrested for alcohol and drug impairment are generally held in the facilities (small jails and lockups) least able to meet their special needs for health services and supervision.

tional pressure on local jails to accurately classify and carefully separate violent from non-violent offenders. This is particularly critical in overcrowded local jails and lockups already stressed by large increases in the number of drunk drivers arrested. The drunk driver, unsophisticated in jail mores and weakened by intoxication, may be a particularly vulnerable target for the violent offender.

THE PROBLEM OF SUICIDE

> "Tougher enforcement of drunk driving laws in New York apparently has created a grim spinoff— a rising tide of jail suicides. Over the last 12 months, five defendants charged with driving while intoxicated have committed suicide in county jails and police lockups, according to Correction Commission preliminary figures. By comparison, no DWI-related suicides were reported during the previous 12 months.
>
> "Among the five casualties: An honors student, 21, at the State University College of Technology in Utica; a Wayne County man, 30, whose wedding was scheduled a month after his death; and a Nassau County man, 22, who was planning to open a landscaping business.
>
> "Criminal justic experts say people accused of drunk driving do not fit the profile of traditional pretrial detainees. The DWI arrestee is in a high-risk category for suicide, said Dr. Ronald Greene, acting director of forensic services at the State Office of Mental Health. Drunken driving suspects in custody often come out of intoxication with feelings of depression, guilt, fear of public embarrassment and worry about the legal, employment and financial ramifications of their arrests.
>
> "'Sometimes that's enough to push somebody over the edge who otherwise wouldn't think of doing it," Greene said.'"
>
> —Eric Freedman, *Knickerbocker News,* Capital Bureau

The problem of suicide highlighted in the article above is one that has concerned the corrections community for some time. Although the problem is not limited to drunk drivers, there is some evidence that DWIs may be a highly susceptible group. Suicide in jails is not limited to sentenced offenders. The examples cited in the article include individuals who commited suicide, not after sentencing, but following their arrest when they were being detained during the booking process. Many communities hold drunk drivers for four to eight hours following their arrest to ensure that they will be sober when they leave police custody.

Each year in the United States approximately 30,000 people commit suicide. Nationally, total jail inmate deaths declined from 611 in 1978 to 554 in 1983. But suicides increased as a proportion of all deaths, from 49% in 1978 to 53% (294 deaths) in 1983. Suicide is the largest single source of death in the nation's jails, accounting for 55% of all male deaths, 79% of all female deaths, and 100% of juvenile deaths (DOJ, 1984).

More than 95% of suicides in the nation's jails are by hanging (NCIA, 1981). A 1982 study of suicides in Michigan jails (Hill and Sanok, 1984) showed that 17 out of the 18 suicides reported were by hanging. In South Carolina, a 1984 study by Memory indicated that 47 out of the 49 suicides that occurred between August 1978 and April 1984 were by hanging. Hanging deaths are difficult to prevent. Even when the belts, ties, and even shoelaces of inmates are confiscated, it is normally possible for individuals in detention to find a means for hanging. Any covering on the bed may be used, and inmates have been known to tear up mattresses to obtain material for hanging themselves. A case in point occurred in Austin, Texas:

> Long-time Austin, Texas, police jailer Freddie Maxwell has seen it before, but says he still can't figure out why people arrested for minor offenses kill themselves after the cell doors slam shut. The latest case to puzzle him involves Gary Bice, who was jailed April 18 on charges of being disorderly and drunk in a motel bar. Two hours later, Bice was dead, one end of his shirt knotted to the bars and the other wrapped around his neck. He was 31. "It appeared he could have picked up the pieces of his life," Maxwell said. "You never know."
>
> Homicide Sgt. Howard Hall, who investigated Bice's death, said the body was discovered in the early morning hours of April 19 during a routine check. As have others before him, Bice discovered that suicide in jail can be easy to carry out and difficult to prevent. "With the noose tying Bice to the bars," Hall said, "he just simply sat down." (*Corrections Digest,* May 23, 1984)

The suicide prevention program instruction issued by the Justice Department (DOJ, 1982) stresses the ease with which suicide can be accomplished:

> A hanging victim can be dead in seconds. He dies from brain death due to asphyxiation. It is not neces-

sary to have the feet off the ground; two kilograms of pressure will stop the flow of blood to the brain. Thus, a serious attempt takes very little time and very few trappings—a bed sheet, towel, bandage gauze, pants or shirt—may be used; the victim can tie one end to a sink, an upright bed, or some cell fixture.

Another feature typical of jail suicides is that they occur early in the period of incarceration. According to the 1981 NCIA National Survey, one in four suicides had been housed less than 3 hours, half less than 24 hours. In the 1982 Michigan study (Hill and Sanok, 1984), 61% of the suicides had been housed in the jail for less than 12 hours and 50% for less than 5 hours. In South Carolina, at least one-half of the suicides occurred during the first 24 hours. It should be noted that a high percentage of the local jail admittees in South Carolina, as well as other States, spend less than 24 hours in jail (Memory, 1984).

In South Carolina, 39 of the 49 people who committed suicide had not been tried for the offense for which they had been arrested. The large proportion of suicides that occur among individuals arrested, but not yet tried, together with the evidence that most suicides occur during the first few hours of incarceration, suggests that the most dangerous period for jail suicide may be during the period between arrest and arraignment when the accused is first placed in jail. Hill and Sanok (1984) note that persons who have never been in jail before are at higher risk for committing suicide than persons who have previously been jailed.

It is possible that intoxication or impairment by other drugs at the time of admission also contributes to the probability of suicide. In the NICA national survey (1981), 60% of suicide victims were under the influence of alcohol or drugs at the time of incarceration. The South Carolina survey suggested that at least 55% of the suicides were intoxicated on alcohol or other drugs at the time of their admission. Moreover, the suicide rate among alcoholics is known to be higher than that of the population in general, perhaps as much as 40 times higher. Whether a higher suicide rate among intoxicated individuals admitted to jail reflects the conditions of confinement or simply a predisposition is therefore unknown. The South Carolina survey noted that 18% of the suicides were in jail due to DWI charges.

The suicide problem is particularly difficult for the corrections community to handle because it seems to be most prevalent in the facilities with the least resources for dealing with it. Memory (1984) found, in his South Carolina suicide survey, that the overall suicide rate for all prison and jail facilities in the State was 110 per 100,000 inmates. However, the suicide rate for overnight lockups was almost 25 times higher—2,797 per 100,000 average daily population. The corresponding figures for prisons in the State was 47 per 100,000 average daily population; for local jails, the rate was 150 per 100,000 average daily population.

Thus, by far the highest frequency of suicide occurs in local jails or lockups. Yet, in general, local lockups are the least well-staffed correctional facilities and the ones with the fewest provisions for handling drinking drivers. As noted previously, only about 12% of the nation's jails have drunk tanks and a full 10% of jails do not have 24-hour-a-day supervision (Kerle and Ford, 1982). This is particularly important because the majority of suicides occur at night, as was true in both the Michigan survey and the South Carolina survey.

Four principal methods have been suggested for the control of suicide in jails: removal of clothing and possessions that could be used in a suicide attempt; provision of holding areas or cells designed to minimize the possibility of self-inflicted injury; screening of individuals entering the jail for their potential to commit suicide; and keeping the potential suicide under close supervision.

No facility can be made suicide-proof. Standard jail admissions procedures call for a complete search of the offender to ensure that no weapons are carried into the jail and that razors and other personal articles are confiscated. Despite this, it is difficult to confiscate all materials that might be used in a suicide attempt.

Special attention should be given to the presence of glass, such as mirrors or windows, in inmate housing areas, as well as to any toxic substances that may be used for cleaning or other purposes. Cups, plates, and eating utensils can also become instruments of self-destruction, as can clothing and furnishings: In a detailed study of the 17 hanging deaths in Michigan, 6 occurred by means of a sheet, 6 with shirts, 2 with trousers, 1 with a pillow case and towel, 1 with a blanket, and 1 with a shoestring and belt. Several inmates have even attempted suicide by sticking their heads into the commode and flushing the toilet.

Short of stripping individuals and placing them in rooms without bedding or other facilities, there is no way to completely prevent such suicides. A suicide attempt typically takes no more than 10 minutes. The best assurance against suicide is screening individuals on admission to determine the suicide

risk they present and then continuously monitoring individuals at risk throughout the critical first hours of incarceration.

Procedures for this screening are in a rudimentary state. The validity of most screening procedures is unknown. Moreover, although such procedures may be helpful to the officers responsible for local jail facilities, the limited personnel available in local jails may make even relatively simple procedures too time-consuming to be used.

In any case, the value of any screening system will be limited by the capability of staff to follow up on the results of the screening and to take action if there is any indication an offender may be likely to attempt or may be attempting suicide. If staffing does not permit close observation of the individual, then some of the value of such screening will be lost.

Section 5
Deterring the Drunk Driver

USE OF JAIL IS CONTROVERSIAL

A recent report in the *Orlando Sentinel* questioned the effectiveness of jail sanctions for drunk drivers:

> Mandatory jail terms will not keep drunken drivers off the road as State legislators had hoped, a subcommittee of the National Safety Council reported Monday in Orlando. The report, presented before the Committee on Alcohol and Drugs, said harsh penalties for drunken driving will only increase the amount of plea bargaining, findings of not guilty, police leniency, and possible police corruption. . . . It said mandatory jail terms would do nothing to solve the nation's drunken driving problem. "The scientific evidence indicates that this does not happen," said O'Neill (Vice President for Research of the Insurance Institute for Highway Safety). "In fact, it suggests the contrary. Increasing the severity of punishment is more likely to reduce the likelihood of conviction, and as a consequence, could diminish rather than increase the deterrence effect of DWI laws."
>
> Although it is widely believed that tough laws in Scandinavia have solved the drunken driving problem there, this belief is "folklore", the report concluded. (Peter Larson, *Orlando Sentinel,* February 9, 1982)

While, as the *Sentinel* reports, some research specialists believe that jailing DWIs is not an effective method of reducing drunk driving, many others, including citizen activists, government officials, and police, believe that jail may be the most effective and appropriate penalty for drunk drivers. The effectiveness of jail sentences for DWIs has not been determined because:

1. Jail has not, until recently, been widely used in the United States.
2. Where mandatory jail sentences have been established they have frequently not been implemented as intended; rather, they have disrupted court processing of DWIs.
3. Foreign experience with jailing of DWIs is not directly applicable to the United States because jail is combined with many other drunk driving penalties, sometimes under circumstances quite different from the United States.

Beliefs and claims aside, the important issue is how effective are jail sentences and other tough penalties on drunk driving? In the past, efforts to change attitudes with respect to drunk driving through the threat of jail sentences were found on evaluation to be ineffective. One well-known study described an effort by a Chicago judge to impose a seven-day jail sentence on all drunk drivers. The program was demonstrated to be ineffective, at least in part, because only a small portion of the drivers actually received the seven-day sanction (Robertson et al., 1973).

In another study, passage by the Arizona legislature of a mandatory one-day jail sentence disrupted the prosecution of drunk driving cases in Phoenix and required the development of a pretrial diversion system to ensure that DWI offenders received some sanction in a reasonably timely manner (Voas, 1982b). From these and other studies (Ross, 1974), many researchers have come to the conclusion that tough penalties for drunk drivers are ineffective because (1) they are rarely imposed, and (2) they disrupt the court system by producing greater pressure for plea bargaining, with the result that the severity of sanctions is actually reduced rather than increased.

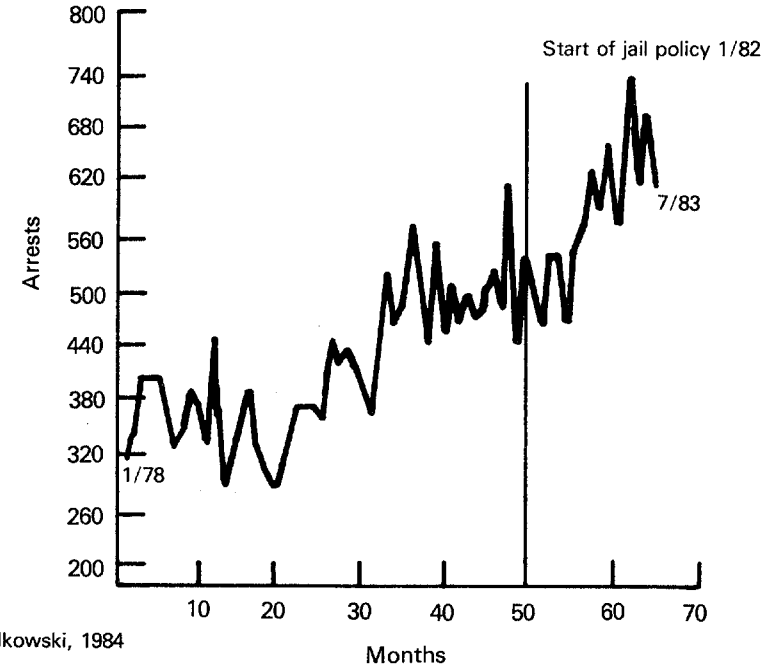
EVIDENCE FOR THE EFFECTIVENESS OF JAIL SENTENCES

The use of mandatory jail sanctions in the past was found to be ineffective because it disrupted the courts and could not be uniformly applied. With the recent shift in public attitude regarding the seriousness of the DWI offense, increasing numbers of States and localities not only are implementing mandatory jail sentences, they are applying sentences more uniformly.

Evidence for this trend emerged from a recent study of the implementation by the courts in Hennepin County, Minnesota, of a two-day jail sentence for DWI offenders. This study provided evidence that such jail sentences may be effective in reducing alcohol-related accidents. In Hennepin County, a judicial policy established early in 1982 provided for two-day jail sentences for convicted drunk drivers. Unlike most other communities that have adopted a mandatory sentencing policy, the Hennepin County courts were successful in maintaining a high level of application of the jail sanction. The proportion of convicted first offense DWIs sentenced to jail was over 90% at the outset of the program and declined only slightly to 80% over the next year and a half.

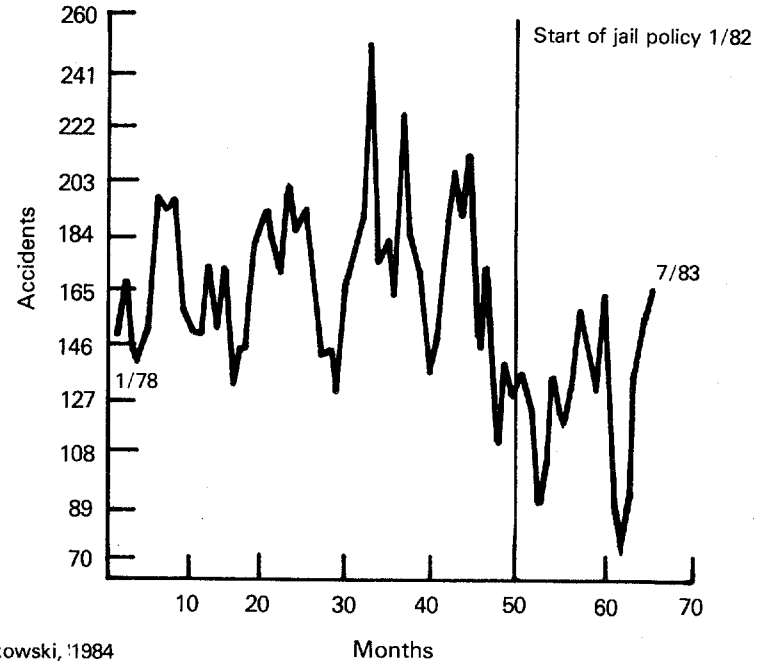
During the period in which this policy was being implemented, DWI arrests increased as shown in Figure 5-1. At the same tme, nighttime injury accidents (believed to be a good measure of alcohol related accidents because more

Figure 5-1 Number of DWI Arrests by Month Before and After Jail Policy, Hennepin Cuinty



Source: Falkowski, 1984

Figure 5-2 Number of Nighttime Injury Accidents by Month Before and After Jail Policy, Hennepin County



Source: Falkowski, 1984

drinking drivers are involved in nighttime crashes) went down as shown in Figure 5-2. Statistical analysis of these data indicated that the reduction in nighttime accidents in Hennepin County was related to both the increase in arrests and the change in sentencing policy. A similar analysis on another Minnesota county (Ramsey) that did not have the two-day jail policy did not show a similar decrease in nighttime accidents. Falkowski, author of this report (1984), concludes that adoption of the two-day jail policy resulted in a 20% reduction in nighttime crashes in Hennepin County. The Executive Summary of this report is reprinted in Appendix A.

SURVEYS OF THE USE OF THE JAIL SANCTION FOR DWI

Two recent survey reports bear directly on the use of jail sentences for drunk drivers. A study supported by the National Highway Traffic Safety Administration (Williams et al., 1983) was relatively pessimistic regarding the law and the practice of imposing jail sentences. Among its conclusions were the following:

- Both first and multiple offenders actually serve less severe penalties than those stipulated by State law, although technically the sentences are mandatory.
- The use of mandatory confinement has reportedly caused considerable overcrowding in many local jails.
- Offenders generally are given the option of serving weekend confinement as long as space is available.
- Mandatory confinement is often a factor in increased requests for jury trials and plea bargains to lesser offenses to avoid jail.

A more positive view emerged from a study supported by the National Institute

of Justice (1983). Entitled *Mandatory Confinement for Drunk Driving,* the study found that:

- Police arrests of drunk drivers tend to increase with the well-publicized introduction of mandatory confinement and other strict sanctions for drunk driving.
- With the consistent use of mandatory confinement, there is a dramatic increase in the incarceration rate of convicted drunk drivers.
- Implementation of mandatory confinement and other strict sanctions for drunk driving is frequently associated with a decline in alcohol-related traffic fatalities.

The study also noted, however, the effect of mandatory jail sentences on the judicial process:

- The introduction of mandatory confinement and other strict sanctions for drunk driving tend to affect court operations.
- With the introduction of more severe sanctions for drunk driving, some defendants may be more likely to challenge, delay, or avoid compliance with court procedures and decisions.

The study also made the following observations about mandatory sentences and the correctional process:

- The use of mandatory confinement for drunk driving generally has a significant impact on incarceration facilities and probation services.
- Incarcerated drunk drivers are generally separated from regular jail inmates and are often placed in special programs.

The survey uncovered several specific examples of problems created for corrections programs by mandatory jail sentences for DWIs:

- In Memphis, Tennessee, handling DWIs sentenced to jail severely overcrowded the penal farm. Moreover, because the law required that DWIs be placed on probation, unrealistic case loads were created for probation officers.
- In Seattle, Washington, mandatory confinement of DWIs contributed to jail overcrowding and required the construction of a new jail primarily for DWIs.
- In Hamilton County, Ohio (Cincinnati), even though a hospital was converted for weekend confinement of DWIs, a backlog of up to seven months developed between sentencing and actually serving the mandatory sentence.

Whatever the validity of the various arguments pro and con, it is clear that the States have decided to include jail among the options available to the court in DWI cases, and many have made jail a mandatory sanction for the drunk driving offense. Given this situation, it is important for traffic safety specialists, corrections professionals, and local government officials to deal with the problem in a realistic and effective manner. To do this, a common understanding of the purposes of the jail sanction for drunk driving is needed. Based on such a common understanding, we can review the total correctional needs of the community and develop the most cost-effective solution to the problems presented by sentencing drunk drivers to jail.

FUNCTIONS OF SANCTIONS FOR DWI

The complexity of the sanctioning options available to the court is not generally understood by the public and by many officials. At least six classes of sanctions are currently used in various combinations by the court: fines, license actions, jail, probation, community service, and treatment. One of the reasons for controversy over which combinations of sanctions should be applied to drunk drivers is that different advocates have different purposes in mind. To clarify some of these controversies, it is useful to review some of the major purposes or reasons for applying sanctions to offenders, along wth the limited scientific evidence available on the extent to which various sanctions actually achieve these objectives.

General Deterrence

In theory, the major purpose of a DWI sanction is to produce general deterrence; that is, to deter the public at large from driving after drinking by the threat of imposition of a painful penalty. The extent to which any one of the six sanctioning options currently available produces general deterrence is unknown. Laurence Ross (1982), in his review of general deterrence programs, notes that there have been very few scientific studies of the general deterrent value of penalties. He concludes that what evidence there is does not support the effectiveness of raising penalties, in part, because stricter penalties frequently are not applied uniformly.

Specific Deterrence

The second major purpose of sanctions is to prevent repetition of the offense, or recidivism, by convicted offenders. This is known as "specific deterrence." It is presumed to operate in essentially the same way as general deterrence: that is, the painfulness of the penalty experienced by the offender is supposed to prevent a recurrence of the offense. Scientific support for such an effect is generally lacking. There is little evidence, for example, that the length of a jail sentence or the amount of a fine is correlated with the amount of recividism

(NHTSA, 1984). Studies of the effect of jail sentences on recividism in the Netherlands were generally negative. To date, the only positive correlation that has been demonstrated between recidivism and DWI penalties such as fines and jail is one obtained in a limited context in a study conducted in Australia (NHTSA, 1984).

Treatment is also a sanction alternative directed at reducing recidivism. The use of rehabilitation programs as part of, or as alternatives to, other sanctions for handling offenders is controversial. With respect to the drinking driver, however, there is evidence that alcohol education for those classified as social drinkers does result in a small reduction in recidivism (approximately 10%) in comparison to the use of a fine alone. Offenders classified as problem drinkers require a much more intensive and longer treatment program. There is evidence that if drunk drivers who are problem drinkers are required to participate in an intensive treatment program for at least a year, their recidivism is reduced (NHTSA, 1984).

Incapacitation

A third purpose of sanctions is to protect the public through incapacitation of the offender; that is, removing the offender from society to eliminate the possibility that he or she can repeat the offense. While jail sentences accomplish this objective, jail sentences for DWIs, even for multiple offenders, are relatively short. The offender is prevented from driving for only a few days or months. Therefore, jail "incapacitates" the drunk driver for a shorter period of time than the typical license suspensions imposed for DWI offenses.

Studies of license suspensions and revocations have demonstrated that they are effective in reducing recidivism and the probability of accident involvement of drunk drivers (Sadler and Perrine, 1984). It is true that some individuals who lose their licenses continue to drive. This leads to the frequently expressed opinion that license suspensions do not work because people drive anyway. But the evidence shows that individuals who are suspended have fewer accidents and moving violations than offenders who do no receive a license sanction. Moreover, license suspensions can run for one or more years whereas jail sentences run from a few days to one or two months. This may be the reason why the liense suspension is far more effective than a jail sentence in reducing drunk driving recividism (NHTSA, 1984b).

Restitution

DWI sanctions can be used to provide restitution to either the individual victim or the community as a whole. Victim support groups such as MADD and RID are actively campaigning for both victims rights and victims restitution bills. Courts have frequently reduced fines and other sanctions when, as a condition of probation, restitution to the victim is provided.

Community Service is a popular alternative to jail authorized by a number of States (Harris, 1979). It is believed to be a punitive sanction with deterrence value that also has the value of making a useful contribution to the community. To date, the extent to which this sanction actually deters drunk drivers has not been adequately assessed.

Funding

Fines and fees are always a part of the sentencing options available for the DWI offense. In addition to providing restitution to specific victims, these sanctions provide a method for supporting the the community's drunk driving control system. A recent study (NHTSA, 1983b) has shown that it should be possible to collect sufficient funds from drunk drivers to support the system that attempts to control the drunk driving problem. Drunk drivers differ from most other offenders in that they are usually employed and have considerable resources. They own and operate a car, and they have sufficient funds to pay for a large amount of alcohol. Thus, fines and fees can be an important source of revenue to offset law enforcement, adjudication, and corrections costs associated with drunk driving offenses.

IMPACT ON COURT SYSTEM

The significance of sanctioning options to effective functioning of the court system is an important consideration. As noted earlier, the imposition of mandatory jail sentences has frequently upset the operation of the courts by causing offenders to contest more strongly than in the past. The readiness of offenders to hire defense attorneys and take other actions, that add to the expense of the judicial system, such as requesting jury trials, is related in part to the severity of the sanctions they face. In some cases, certain sanctions place new constitutional requirements on the court. Thus, where incarceration is a possibility, the defendant may have a right to a jury trial, whereas the use of other sanctions such as fines would require the defendant to accept a trial by judge.

The experience of the Washington, D.C., area, as reported in the *Washington Post*, illustrates this problem:

"The much-vaunted get-tough policy on drunk drivers in the Washington area

has been blunted in the courts by defense attorneys armed with aggressive new courtroom tactics and legal maneuvers. As a result, harsher anti-drinking laws have not led to substantially stiffer penalties in Maryland, Virginia, and the District of Columbia, according to a study of court records and interviews with judges and lawyers.

"And, although alcohol-related highway deaths in most jurisdictions have fallen dramatically, officials say the sentences meted out in the courtroom have had little if anything to do with it. Officials credit the lower fatality rate to increased public awareness, bolstered by police roadblocks, special patrols and, in most areas, increased arrests.

"The new laws, along wth more arrests, have meant a boom in business for defense attorneys. More defendants are hiring lawyers, more cases are being tried and more decisions are being appealed. Attorneys, particularly those now specializing in drunk driving defenses, say they have more clients and are charging higher fees." (Molly Moore and Tom Vesey, the *Washington Post,* November 28, 1983)

SUMMARY

Most courts use a combination of sanctions. This appears to be appropriate because different sanctions have differing purposes. Since some sanctions have been shown to be effective for one purpose and some for another, it is likely that a combination of sanctions is needed to deal with the drunk driving problem most effectively. This review of the purposes of sanctions indicates that advocates of various penalties have many different objectives in mind in supporting various DWI legislation and in establishing court policies. Because there is little reliable scientific data to support the efficacy of one or another sanction, there is much room for controversy. There is reason to believe, however, that our knowledge in this area will improve. The increasing public consensus on the use of tough penalties for DWI has produced new legislation that is being more uniformly applied. This should permit better evaluation. Greater uniformity in applying these laws should also lead us to be cautious regarding the frequently negative results of past studies of the jail sanction in the United States. With more uniform and effective application, the effectiveness of this penalty as a general and specific deterrent may improve.

Section 6 Developing a Coherent Sanctioning Policy

In considering the mix of sanctions to be used, in a community, it is important to weigh what is known about each sanction's effectiveness, cost, and impact on the criminal justice system.

In its report on mandatory confinement for drunk driving (1983), the National Institute of Justice recommended that this particular sanction must be applied consistently:

> Effective use of a mandatory confinement policy for drunk drivers requires that the sanction be applied in a consistent manner. This will increase the likelihood of deterrence and equitable administration. Making explicit the judicial policies that guide the use of mandatory confinement and other strict sanctions is also important and can play a key role in promoting the consistent use of these sanctions (NIJ, 1983).

Because a number of different types of penalties are commonly applied to DWIs for differing purposes, the establishment of a uniform, coherent sanctioning policy is difficult. Differences in sanctioning policy between judges can cause "judge shopping" by defense attorneys. Differences in objectives between citizens activist groups, court personnel, corrections officials, and treatment specialists can produce serious policy controversies. And the latitude for such controversy is increased by the lack of information on the relative effectiveness of different sanctions. Thus one key to effective planning of a community corrections program for DWIs is to develop a reasonable consensus regarding the purpose of sanctions. Leaving aside for the moment license restriction, which is generally the province of State motor vehicle departments and treatment which is not, strictly speaking, a sanction, the three principal penalties available to the courts are:

1. Deprivation of wealth (fines).
2. Deprivation of freedom of movement and action (jail, work release, probation, driver's license restriction).
3. Work without remuneration (community service, victim restitution, jail work details).

1. Fines

Fines have been a traditional part of the sanctioning process. Typically, the judge has discretion within certain maximum/minimum levels to assess a fine as punishment for an offense. A significant problem in the application of fines has been the varying income status of offenders. Fines are not a useful sanction for the indigent. On the other hand, a fine may be the least onerous of sanctions for the wealthy. The punitiveness of a fine is obviously related to the resources of the offender. In the case of the indigent, no fine can be collected and therefore a fine may have little significance. In the case of the wealthy, even a high fine may be less punitive than jail or enforced community service.

2. Confinement

One purpose of a jail sentence is to "incapacitate" the offender by separating him or her from the public. The major impact on the individual inmate is the limitation in freedom of mobility and activity and the separation from family and community. This punishing limitation in freedom can also be obtained by other methods. Non-secure work release centers, for example, also separate offenders from their homes and families and limit their freedom. While the limitations in such a facility are generally less strict than those imposed in secure facilities, the degree of freedom given the individual offender can be varied depending on the individual and the policy of the institution.

Similarly, individual freedom can be limited through probation supervision that requires offenders to limit their movement within the community and to be at their residence or in a known location at all times. Once again, the restriction of freedom and mobility under probation is less than in a secure facility, but the amount of restriction can be varied by the amount of supervision provided. The general principal that offenders can be punished through restrictions in freedom without assignment to a secure facility is widely used in the punishment of criminal offenders.

3. Unpaid Work

Many State prison systems use incarcerated offenders to help maintain and support the prison facilities. A more recent trend has been to use unpaid labor as a substitute for incarceration by sentencing offenders to community service. Such sentences may require a number of days of work but, other than requiring the individual to be present for that work, may not restrict his or her freedom of movement. The Presidential Commission on Drunk Driving (1983) suggested that 10 days of community service could be substituted for the 2 days of jail that they also recommended.

These three types of penalties clearly have some common interactive elements. A fine, for example, could be seen as a special case of involuntary service. The individual works and earns money on his or her own job but then gives up the money in the form of a fine. In a community service sentence,

the offender works at another job and receives no money. Alternatively, weekend community service is a way of limiting the freedom of an offender wthout locking up the person.

Punishing the Drunk Driver Can Be Expensive

An important feature of these alternative sanctions is that they involve considerable differences in cost to the community. The cost of residential programs ranges between $26 per day for a local jail (DOJ, 1984) to $35 per day for a State prison (DOJ, 1983a) or modern well-staffed and well-equipped work release center (Montgomery County, Maryland, 1984). Supervising the same offender in a community service program may cost only $2 to $10 a day (California League of Alternative Service Programs, 1983). Probation supervision depending on its intensity, may cost from a few cents to a few dollars per day. At the other end of the scale, fines, rather than being an expense, generate income for the community.

The mix of sanctions imposed by a court can produce large variations in the expense of the corrections program to the community. For this reason, there has been considerable emphasis within the community of corrections professionals to assign offenders to the least restrictive, appropriate corrections programs. This policy of using the least restrictive corrections solution is embodied in a recent policy statement of the American Correctional Association.

Obviously, the most cost-efficient corrections system is one with maximum flexibility in sentencing. The extent to which such flexibility can be exercised, however, is limited by at least two significant factors: equity and image. There is no substantial agreement, for example, regarding the relative punitiveness of fines, unpaid service, and restriction of freedom. Is a day of community service an equitable substitute for a day in jail? How many dollars in fines equate to a day of community service? From the standpoint of the individual offender, punitiveness is obviously determined by his or her perception of the severity of the penalty. Regardless of the particular sanctions applied in a given locality, the individual's perception is subjective and not accessible to analysis by the court. Nevertheless, if the three general types of penalties could be roughly scaled, then the use of various alternatives could be tailored to the particular needs of the individual and of the community.

A second limit on the flexible use of penalties is the image these penalties present to the public. Incarceration is established in the public mind as the appropriate response to crime. Sanctions such as work release, community service, and probation may be seen as "letting the criminal off easy." Similarly, fines may be seen as inadequate or worse, as allowing the wealthy to buy their way out of approprite punishment. Thus, the penalties assessed are an important expression of the public and official attitude toward an offense.

Producing an Integrated Scale of Punishment

A number of corrections officials have suggested the need for a common dimension on which different types of sanctions such as incarceration, service, and fines could be scaled, based on the seriousness of the offense. A particularly detailed system has been proposed by Thomas J. Quinn (1984), Executive Director, Delaware Criminal Justice Planning Commission. Quinn suggests the "accountability" sanctioning scale, shown in Figure 6-1. This scale has 10 "accountability" categories ranging from a fine with essentially no restriction to incarceration in a maximum security prison. The selection of the accountability level appropriate to the offender would be based on the seriousness of the crime, including whether it was a first or repeat offense.

Quinn notes:

> The options which now exist in most jurisdictions are more or less restrictive based on undefined criteria. Most observers would agree that prison is more restrictive than an outpatient treatment program, which is more restrictive than unsupervised probation. Most would also agree that the greater the restrictions, the more punitive the sanction. However, currently there is no definition of "restrictiveness," no way of ranking one sanction compared to another.

Quinn suggests that the various types of restrictions be scaled according to "accountability" level to relate to the seriousness of the offense and to each other. He suggests a 10-point scale. The court would determine at which point on the scale the particular crime placed the offender. Based on this classification, appropriate sanctions could be applied.

Quinn's accountability scale lists six categories of restrictions (penalties) commonly applied to offenders:

1. *Mobility in the Community*—How much time the offender can spend freely in the community.
2. *Choice of Residence* —Living where one chooses.
3. *Mobility Within the Setting*—What constraints on their movements are placed on offenders in

Figure 6-1— **Proposed Accountability Scale for Court Sanctions (Thomas Quinn, Delaware)**

Restrictions	I	II	III	IV	V	VI	VII	VIII	IX	X
Mobility in the Community	100% (unrestricted)	100% (unrestricted)	90% (10% of time restricted)	80% (20% of time restricted)	60% (40% of time restricted)	30% (70% of time restricted)	20% (80% of time restricted)	10% (90% of time restricted	0%	0%
Amount of Supervision	0:0	Written report/ month	1-2 Face-to-face/month 1-2 Weekly phone contact	3-6 Face-to-face/month Weekly phone contacts	2-6 Face-to-face/week Daily phone Written reports/weekly	Daily phone Daily face-to-face Weekly written reports	Daily on site supervision 8-16 hrs/day	Daily on site supervision 16-24 hrs/day	Daily on site supervision 24 hrs/day	Daily on site supervisdion 24 hours/day
Financial Obligations	Fine/costs may be applied	Fine/cost/rest./ probation super fee may be applied	Same (increase probation fee by $5-10/ month)	Same (increase probation fee by $5-10/ month	Same (pay partial cost of food/lodging/ supervision fee	Same	Same	N/A	N/A	N/A
Examples (These are examples only—many other scenarios could be constructed meeting the requirements of each level)	$50 fine/court costs; 6 months unsupervised probation	$50 fine, restitution, court costs; 6 months supervised probation; $10/ month fee; written report monthly	Fine/costs/ restitution; 1 year probation; weekend community service; no drinking	Weekend community service Or mandatory treatment 5 hrs/day; $30/ month probation fee; no drinking; no out-of-state trips	Mandatory rehab. skills program 8 hours/day; restitution; probation fee of $40/month; no drinking curfew	Work Release; pay portion of room/board/ restitution; no kitchen privileges outside meal times; no drinking; no sex; weekends home	Residential treatment program; pay portion of program costs; limited privileges	Minimum security prison	Medium security prison	Maximum security prison

Source: Thomas J. Quinn, Executive Director, Delaware Criminal Justice Planning Commission (1984)

residential programs or in prison and jail.

4. *Amount of Supervision*—Phone contact, face-to-face contact, on-site supervision; monthly, weekly, daily.
5. *Privileges*—What restrictions are placed on the offender's freedom to travel out of state, make phone calls, receive and send mail, etc.
6. *Financial Obligations*—Fees, fines, etc.

The scaling for three of these types of restrictions is illustrated in Figure 6-1. Mobility in the community would vary from unrestricted (level 1) to confinement in medium and maximum security prisons (levels 9 and 10). Intermediate levels would permit mandatory treatment in the community or residence in a work release center.

Also shown in Figure 6-1 is the range for supervision, which runs from "unsupervised probation" in level 1 to daily face-to-face contacts in level 6, to supervision 24 hours per day in prison at levels 9 and 10. The final example shows a similar range for fine and fee assessments. At the bottom of Figure 6-1 are examples of the types of sentences that might be imposed at each accountability level.

An important feature of the scale suggested by Quinn is that it helps integrate in a rational way the different types of penalties (restrictions) that can be imposed on offenders. It is easy to grasp the increasing scale of punishment as mobility is more and more restricted and supervision is increased. The scale suggests an equity relationshp between fines, probation, community service, mandatory treatment, work release, and incarceration.

The use of such a scale can objectify debates over the extent of punishment appropriate to offenders of different types and can be extremely important to the handling of DWIs. Because DWIs should be subject to the range of sanctions established for other offenders, it is important to be able to scale DWI offenses in relation to other crimes.

LACK OF INTERMEDIATE-LEVEL RESTRICTIONS

To determine the "level" at which offenders in Delaware were being placed, Quinn surveyed the number of offenders in various correctional programs wthin the State. The results of his study are summarized in Figure 6-2. The various types of programs, ranging from unsupervised probation to incarceration in a maximum security prison, are arrayed from left to right with the least restrictive programs on the left. As can be seen, the largest numbers of offenders receive penalties at the extremes of this graph. Relatively few are accommodated in programs in the middle range of the scale, which include such programs as work release and intensive probation supervision. This illustrates a characteristic of correctional programming in the United States that is generally recognized by corrections specialists—the lack of intermediate-range facilities and supervised programs (for example, community service and work release).

One result of this lack is that courts are forced to choose between sending offenders to secure facilities and releasing them into the community with relatively little supervision. As the diagram shows, the largest number of offenders were placed on probation or were being supervised on parole following incarceration. Yet, as shown in Figure 6-3, 88% of the State's total corrections budget was being expended on the 21% of offenders who were incarcerated in prison. The 8 out of 10 offenders who were not incarcerated were being supervised in the community for slightly more than one-tenth of the total budget. On an average, it was costing the State $11,800 per year to incarcerate an offender and only $420 a year to supervise an offender in the community. This difference in cost should motivate communities to find combinations of sanctions that minimize incarceration and that make maximum use of lower-cost community facilities and programs where offenders can receive adequate supervision and treatment as needed.

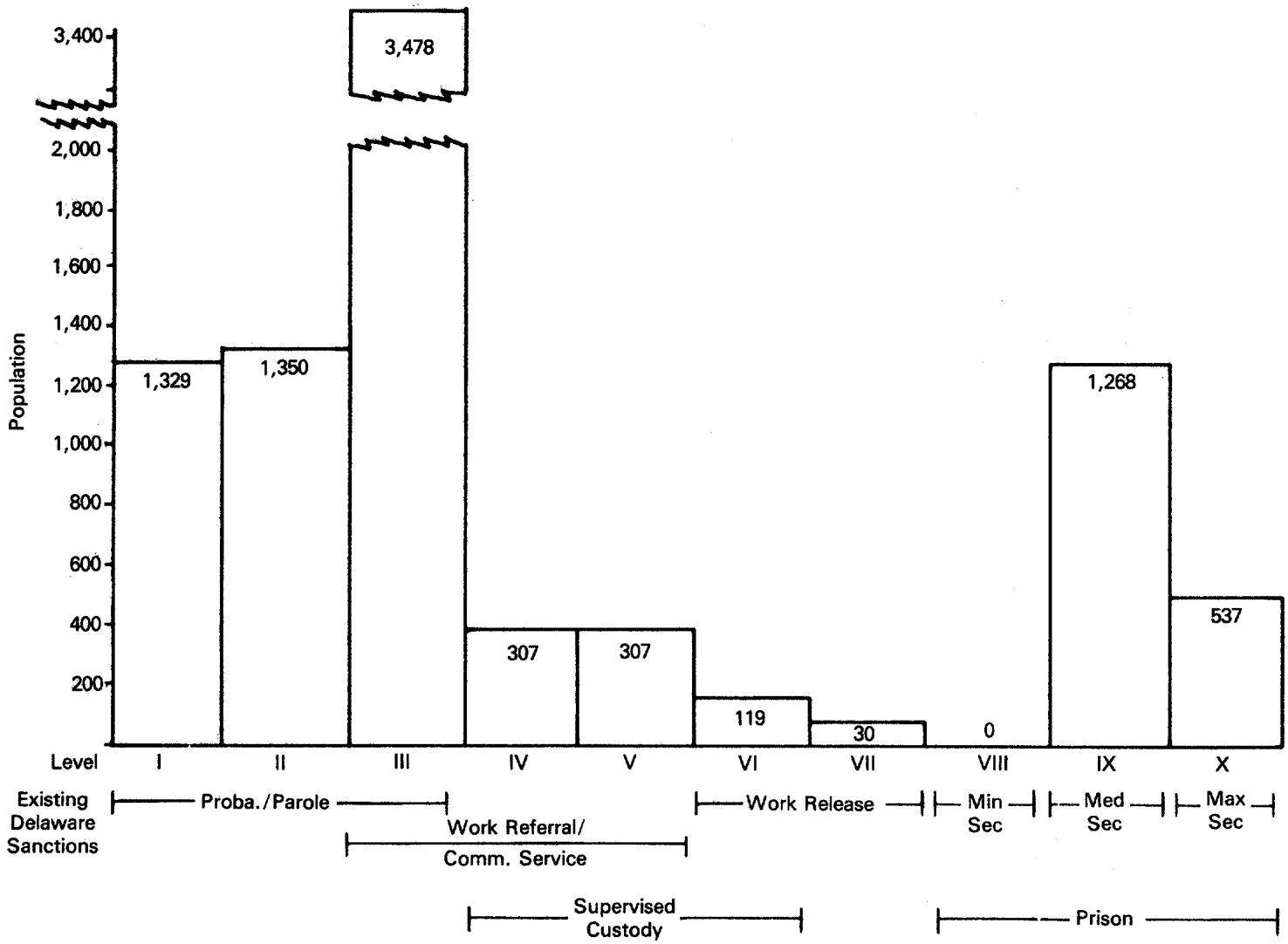
DWI PROVIDES SPECIAL SANCTION OPPORTUNITIES

The convicted drunk driver offers a unique opportunity for the flexible application of sentencing alternatives. In general, DWIs are not violent and pose no significant escape risk. Therefore, they need not be incarcerated in a secure facility.

The license sanction can significantly lower the threat of reoffense. Taking away the driver's license "incapacitates" drunk drivers and protects the public against the acts they commit under the influence of alcohol. This protection is not perfect; studies demonstrate that most individuals whose licenses are suspended continue to drive. However, these same studies also indicate that they drive fewer miles *and* drive more carefully than they did before their licenses were suspended or revoked. As a result, their accident involvement is significantly reduced.

License restrictions and treatment programs for drunk drivers provide two additional sanctions to go along with the traditional sanctions of fines, unpaid service, and limitation of freedom. It should be kept in mind, however, that license restriction and alcohol treatment, while punitive, have additional special purposes.

Figure 6-2 Number of Inmates Under Correctional Supervision, by Type of Program (Delaware)



Source: Thomas J. Quinn, Executive Director, Delaware Criminal Justice Planning Commission (1984)

Figure 6-3— **Comparative Costs of Incarceration and Community Corrections (Delaware)**

	Custody Status	Percentage of Population	Cost (Millions)	Percentage of Cost
Incarcerated*	1,805	21	21.3	88
Not Incarcerated**	6,668	79	2.8	12
TOTAL	8,573	100	24.1	100

*Incarceration = Sentencing Reform Commission accountability levels VIII, IX and X

**Not Incarcerated = Sentencing Reform Commission accountability levels I through VII

Source: Thomas J. Quinn, Executive Director, Delaware Criminal Justice Planning Commission (1984)

License restriction protects the public from reoffense by reducing future drinking and driving. Therefore, it should not be traded off against other sanctions. While other penalties might produce equal or greater "punishment," they may not be equally effective in protecting the public.

The principal purpose of treatment is to deal with the DWI offender's drinking problem. This health problem is manifest in the vast majority of drunk drivers who are multiple offenders. While health care and treatment rehabilitation programs are not normally considered part of the punishment for a crime (but rather as necessary adjuncts to managing imprisoned offenders), alcohol treatment has been shown to help reduce recidivism. In addition, it is punitive because it limits freedom (offenders must attend therapy sessions and AA) and it forces a change in behavior (abstinence) that is not desired by most drunk drivers.

SUMMARY

Because of the variety of penalties that can be imposed on the drunk driver, and the significant differences in the cost of these penalties to the community, it is important to develop community consensus with regard to the scaling of penalties to be imposed on DWIs and other offenders. This scale will serve as a basis for a comprehensive corrections program. This program must have sufficient public support and authority to assure that all drunk drivers are appropriately punished. At the same time, the program must provide maximum flexibility for tailoring the penalties to specific needs and to the community facilities and programs that are available.

Traditional stereotypes regarding what is punitive and what is not should be avoided. Jail sentences, for example, may be a highly humiliating and frightening experience to some drunk drivers—so frightening, in fact, that they may move to take their own lives (see Section 4). On the other hand, short-term jail sentences may be experienced by other drunk driving offenders as opportunities to escape from more pressing problems. At the recent symposium on weekend jailing of DWIs, several jail administrators commented that, from their observations, many of the offenders appeared happy to get away from their wives and jobs for the weekend and have the opportunity to relax, play cards, and socialize with other inmates. Part of the process of developing a coherent, appropriate, and cost-effective corrections program for drunk drivers, then, is reaching a reasonable consensus on what is appropriate punishment and "correction" for what offense.

Section 7
Alcohol Treatment Requirements

Alcohol abuse is not a new problem to corrections officials. As shown by Figure 7-1, which reports the results of a 1979 Department of Justice (1983c) survey of prison inmates, 47% of offenders compared to 17% of the general male population drank one ounce or more of pure alcohol daily. Almost half of the inmates had been drinking just before they committed their offense. Figure 7-2 gives the time spent drinking just prior to the offense as reported by prison inmates. One in five had been drinking for over nine hours! Other studies report that as many as 86% of homicide offenders and 72% of those convicted of other assaults and robbery were drinking at the time of their offense (Roizen, 1982).

While it is well recognized that a high proportion of inmates in local jails and State prisons have alcohol and drug problems, programs for dealing with these problems have generally been very limited, particularly in local jails. Traditionally, public drunks were arrested and placed in the "drunk tank" (generally a cell separate from other prisoners) to sober up. Recognizing that incarceration was no solution to the problem of public drunkenness, most States passed public inebriate acts during the late 1960s and early 1970s. These acts decriminalized public drunkenness and allowed police to deliver intoxicated individuals who had not committed a crime to a detoxification center. Unfortunately, many communities did not provide detoxification facilities. As a result, public inebriates continue to be placed in jail for their own safety (Whitford, 1983).

Drunk drivers generally do not present the same picture of acute alcohol intoxication that requires immediate medical attention. On the other hand, their impaired status may make them more violent and/or subject to being the victim of violence or attempting suicide. Because of this potential for injury, drunk drivers probably should be held in individual rooms or cells and should be under close observation during the first hours of their incarceration. However, as already described, most local jails lack the facilities and personnel to do this.

DRUNK DRIVER TREATMENT PROGRAMS

Historically, education and treatment programs for DWIs have been mandated by the court as part of the sentencing process for the DWI offense. These programs have generally been implemented through the courts as one element supported by offender payments and motivated by a reduction in one of the traditional penalties for drunk driving (fine, jail sentence, or license suspension). The offender generally signs an agreement that he or she will attend and successfully complete an alcohol abuse education/treatment program. This agreement becomes one of the conditions for probation. Although offenders can sometimes select among several alternatives, in most areas the court assigns the offender to a specific treatment agency.

Figure 7-1— **Drinking Habits of Male Inmates in U.S. Prisons Compared with U.S. Male Population (Ages 18-34)**

Average ounces of pure alcohol consumed per day	Prison Inmates	General Population
None	18%	14%
Less than one ounce	35%	69%
An ounce or more	47%	17%

Source: U.S. Department of Justice, *Prisoners and Alcohol,* 1983c

Figure 7-2— **Hours Spent Drinking Just Prior to Offense By Prison Inmates Who Say They Drank on Day of Offense**

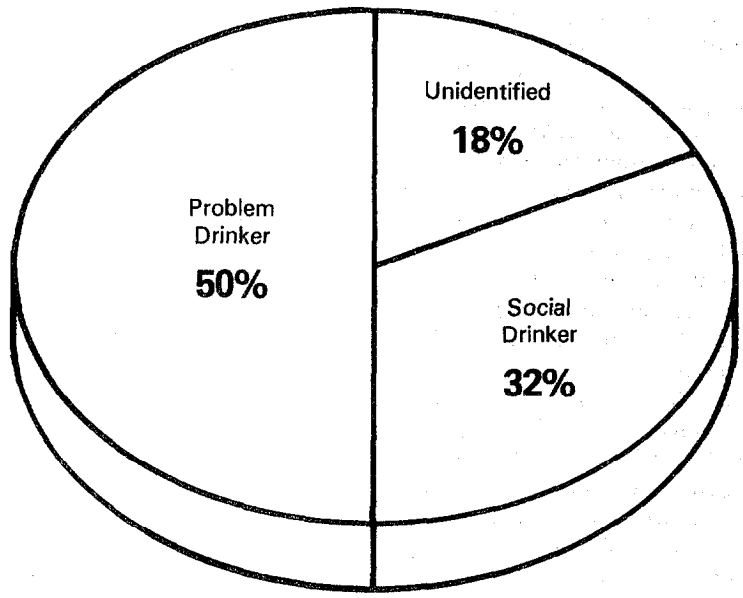
	Number	%
Less than 1 hour	12,150	10%
1 to 2 hours	32,192	25%
3 to 4 hours	25,547	20%
5 to 8 hours	29,550	23%
9 or more hours	27,330	22%
Total	126,769	100%

Source: U.S. Department of Justice, *Prisoners and Alcohol,* 1983c

Offenders are generally assigned to programs based on an assessment of their individual drinking problem. Drinker type, as used in drunk driving programs, is best understood as a dimension beginning with those who do not drink and moving through the "social drinkers"—those who drink relatively small amounts of alcohol and experience relatively few problems associated with alcohol consumption—to the "problem drinkers"—those who frequently drink large amounts of alcohol or have had adverse consequences because of their drinking.

From 1971 to 1976, the National Highway Traffic Safety Agency funded the Alcohol Safety Action Projects (ASAP) program in 35 communities around the country. In the course of this program, 200,000 DWIs were referred to treatment. Figure 7-3 (Nichols et al., 1980) shows the proportion of them who fell into each of three drinking categories: social drinker, problem drinker, and unidentified drinker type (this type is most likely to include developing problem drinkers). DWIs who are "social drinkers" are generally assigned to education programs of 10 to 16 hours in length over a 4- to 6-week period. Problem drinkers are generally assigned to a more intensive and more expensive treatment program covering a 3- to 6-month period (NHTSA, 1984).

Figure 7-3 Drinking Status of DWIs Referred to Treatment through Alcohol Safety Action Project, 1971-1976



Source: Nichols et al. (1980)

Number referred: 200,000

Programs for Social Drinkers

One of the earliest specialized programs for social drinkers was an education program developed in Phoenix, Arizona, and later sponsored by the American Automobile Association. This program, entitled "DWI Phoenix," consists of lecture-type sessions on the dangers of drinking and driving with groups of up to 30 offenders.

Students are led to understand how they came to be arrested and are guided in developing their own plan to avoid future drunk driving episodes. The concept behind this and other education programs is that if individuals become more knowledgeable about the dangers of drinking and driving, their attitudes regarding drinking and driving will change. This in turn will ultimately change their DWI behavior. This concept would be best applied to social drinkers who are able to change their behavior based on a better understanding of the problem.

Evaluation of these education programs in the 35 Alcohol Safety Action Projects demonstrated that they had a positive effect on the recidivism of social drinkers. The programs reduced by approximately 10% the probability that these drunk drivers would reoffend (NHTSA et al., 1978). Interestingly, giving the social drinkers home study materials and allowing them to study on their own, returning only to take a test, was as effective in reducing recidivism as the traditional lecture method of instruction (Reis, 1983).

Short-Term Treatment Programs for Problem Drinkers

While the social drinker can be helped to a small extent by education programs, problem drinkers show no improvement as a result of attending educational programs. In fact, evidence collected during the ASAP period indicated that problem drinkers did worse when exposed to large classroom sessions as compared to smaller group treatment procedures (Nichols et al., 1978).

Because it was recognized that the problem drinker would require more intensive treatment, two types of short-term therapy programs were widely evaluated during the ASAP period. The first type of program was based on traditional group therapy and generally involved one session a week for three to six months. Careful scientific evaluation of these efforts using random assignment to treatment and no-treatment conditions demonstrated that the short-term group therapy program was ineffective in reducing DWI arrests among problem drinkers (Nichols et al., 1978).

The second type of short-term program evaluated was developed as an alternative to traditional alcohol treatment programs. This program was based on the theory that problem drinking was principally a "symptom" of an underlying personality problem. An effective way of treating this health problem, then, should be to deal with the underlying personality problem. Emphasis on the drinking issue could be reduced because the drinking would tend to disappear as the personality problem was alleviated. The theoretical assumption was that problem drinkers drank because they felt ineffective and powerless in dealing with people when they were sober. Alcohol provided the assistance they needed to relax and become more assertive and effective in social and work situations. The treatment program therefore focused on helping individuals to be more effective in their dealings with others and included relaxation therapy and other means for reducing tension without turning to alcohol. However, evaluation of this therapy indicated that, if anything, it increased rather than decreased the probability that the problem drinkers would recidivate (Nichols et al., 1978).

A third short-term program has recently been developed by Dr. Harvey Siegal at Wright State University Medical School in Dayton, Ohio (Siegal, 1982). Called the Weekend Intervention Program (WIP), the program is based on an intensive two- or three-day "intervention" with the drunk driver. During this time, the emphasis is threefold: 1) diagnosis (of both the alcohol problem and any drug addiction); 2) educating the offender about drinking and driving; and, finally, 3) making an initial effort to break through the "denial" (refusal to admit the drinking problem) that characterizes the problem drinker.

The result of this intensive intervention program is a detailed diagnosis of the drinking and/or drug problem and a treatment referral plan. The problem was initially established to handle drunk drivers in Ohio who received the mandatory three-day jail sentence for first offenders. At the end of the WIP session, the diagnosis and referral plan are provided to the court, which has the option of making the referral a condition of probation.

The WIP program is not designed to cure problem drinking but, rather, to be an intervention that begins the recovery process. The effectiveness of this procedure in terms of motivating problem drinkers into treatment is still under evaluation. The current state of our knowledge regarding the effectiveness of short-term (less than six months) education and treatment programs for DWIs indicates that these programs can produce a small (10%) reduction in recidivism among social drinkers. But so far they have achieved no success in reducing the probability that problem drinkers will reoffend.

Long-Term Treatment Programs

In 1975, California passed a law permitting offenders guilty of multiple drunk driving offenses to retain their licenses provided they participated in a year-long treatment program. The program had to include at a minimum a weekly therapy session and an individual interview with either a therapist or probation official every other week.

The passage of this law provided the opportunity to evaluate the effect of longer-term treatment programs. Evaluation efforts were established by both the Federal Government, through the Department of Transportation (Reis, 1983), and the State (Sadler and Perrine, 1984). In the U.S. Department of Transportation study conducted in Sacramento, California, convicted drunk drivers were randomly assigned to a year-long therapy program that included biweekly individual interviews. These multiple offenders were compared with DWIs who received no treatment. Both groups were allowed to retain their licenses. Under these conditions, the treated drivers had significantly fewer DWI arrests than the untreated drivers in the two-year period during and following treatment. However, there were no significant differences in the number of accidents between the treated and untreated group.

In the study conducted by the California Motor Vehicle Department, drivers

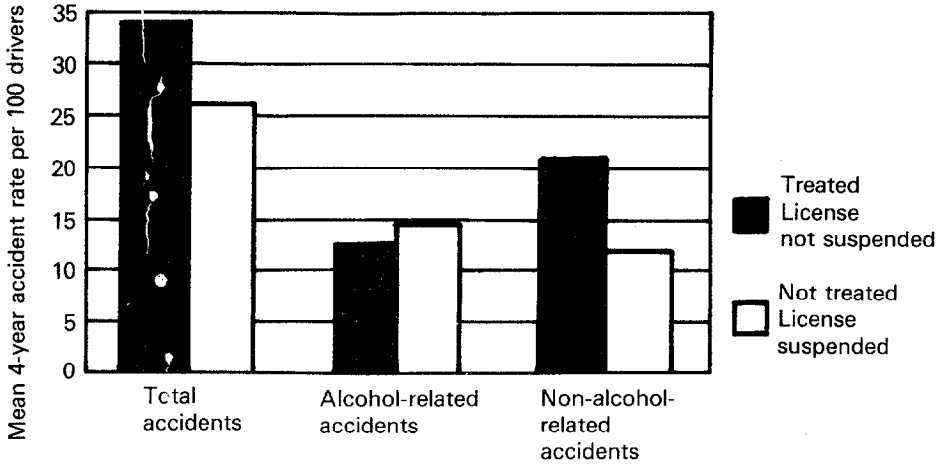
who received year-long treatment and were able to retain their licenses were compared with drivers who did not receive treatment and, as a result, suffered a license suspension for six months to a year or more. In this study, the untreated drivers who lost their licenses had the better driving records. As can be seen in Figure 7-4, the drivers who were treated and retained their licenses had approximately the same number of alcohol-related accidents as the untreated, suspended-license group. However, they had significantly more non-alcohol-related accidents than the drivers who lost their licenses. Thus, while the drivers who lost their licenses did continue to drive to some extent, and did continue to have accidents, the evidence suggests that they had fewer accidents than they would have had if they had retained their full driving privileges. The treated individuals (who were able to retain their licenses) apparently continued to drive as they had before and thus had a considerably larger number of non-alcohol-related accidents. On the other hand, they had fewer alcohol-related accidents than the drivers whose licenses were suspended. This indicates that the treatment had some effect on the alcohol-related accidents, though not enough to equal the highway safety impact of taking away the license. Moreover, many of the non-treated suspended drivers did not reinstate their licenses after their suspension so that they continued to be without licenses for up to three or four years.

As a result of these data, the Federal Government emphasizes that the license sanction should not be traded off against treatment programs. Taking away the license reduces accidents more than even a long-term treatment program for problem drinkers. Nevertheless, the results of both the Federal and State studies of California's long-term treatment program for problem drinkers indicate that such programs can help reduce recidivism and the proportion of accidents that are alcohol-related.

Two major problems arise in regard to use of the long-term (minimum one-year) treatment programs required to effectively rehabilitate problem drinkers. First, most States do not provide sufficient sanctioning authority and/or resources to make long-term treatment programs a feasible sentencing option, particularly for first offenders who are problem drinkers. Although several States now mandate a one-year license suspension for drinking and driving, the data just presented indicate that trading off the license suspension for treatment is not desirable from a highway safety standpoint. Reducing the relatively low fines (less than $500) assessed in most States is not a sufficient incentive to persuade an individual to accept a year-long therapy program. Moreover, even a 30-day jail sentence does not provide sufficient time to treat the problem drinker.

A second problem with long-term treatment of problem drinkers is the issue of equity with respect to social

Figure 7-4 Accident Rates for Two Groups of Multiple Offender DWIs (California)



Source: Sadler and Perrine (1984)

drinkers who commit the same offense. This problem arises principally with first offenders, one-third to one-half of whom may be social drinkers. Social drinkers do not require a long treatment program. They can be motivated into a short-term education program with the relatively light penalties that are applied to first offenders. The first-offender problem drinker, on the other hand, cannot benefit from short-term education programs and must be motivated into long-term treatment. There is a question whether the courts can, with equity, set considerably tougher requirements for the problem drinker than for the social drinker where the offense is the same. A more punitive set of sanctions for an offender because he or she has a health problem may not be viewed as equitable.

SUMMARY

The drunk driving offense offers an important opportunity to intervene in the problem drinking process and an important opportunity for health officials to take action to reduce this serious national health problem. If DWIs who are problem drinkers are incarcerated, it should be within facilities with the resources to make a meaningful intervention in the drinking problem by initiating therapy. Moreover, sufficient resources must be available to ensure that treatment continues for a minimum of one year regardless of the individual's status within the corrections system.

Section 8
Considerations for Sanctioning Drunk Drivers

In recent years, communities have experienced an increase in the volume of criminal cases. This has placed further demands on an already overburdened court, prosecution, and detention system.

Many local correctional facilities are faced with severe problems due to overcrowding. The cost of building secure facilities is staggering. Many jurisdictions are unable to afford the cost of building and maintaining these facilities. Yet, as a result of public demands for more incarceration, local jails are receiving more and more sentenced offenders.

Many individuals serving time in local jails represent a minimal risk to public safety. However, they must be held accountable for their crimes. Local communities can best accomplish this through the use of controls and sanctions consistent with effective correctional management and the need to protect the community. The community must decide how offenders will be deterred, punished, and rehabilitated, and if and how they will make restitution.

The cost of a correctional program for criminal offenders principally depends on the following factors:

1. Number of offenders
2. Length of sentences
3. Amount of supervision required
4. Programs and services that must be provided
5. Extent of offender payments

In general, drunk drivers as a group have the following characteristics with respect to those factors:

1. Large numbers
2. Short sentences
3. Require moderate supervision
4. Require considerable treatment services
5. Can afford to pay substantial fees

These characteristics of the typical DWI offender demand serious consideration by those advocating and planning programs to control drunk driving. The drunk driver problem cannot simply be left to the local (or State) corrections department. Combatting drunk driving involves critical activities—such as public education, sustained treatment, and license actions—that normally are not within the control of local correctional agencies. Because of this, and because of the large number of drunk drivers, dealing successfully with the drunk driver problem requires a community wide commitment of concern and resources before, during, and after any period of mandatory confinement.

It is important for communities to keep in mind that focusing on the special characteristics of drunk drivers—low-risk, non-violent offenders with drinking problems—does not imply that drunk drivers should have their own facilities or programs separate from other groups of offenders with special needs. Many existing facilities and programs are appropriate for drunk drivers. Similarly, facilities and programs developed principally in response to the influx of convicted DWIs into the corrections system can be used for other types of low-risk, non-violent offenders, especially those with alcohol problems.

A community's plan for dealing with drunk drivers must therefore be comprehensive and take into consideration the interests of all agencies concerned, including police, prosecutors, defense attorneys, judges, correctional officials, treatment specialists, and State motor vehicle officials. Ideally, each agency's areas of responsibility should be clearly defined. Also, careful planning should take place before legislation is drafted to ensure that the legislation itself is shaped by this systemwide consideration of broad goals and objectives. This will enhance the program's chances for success.

Unfortunately, legislative mandates for controlling drunk drivers have not always followed this scenario. Nevertheless, it is incumbent upon communities to clearly define realistic goals for correctional programs for drunk drivers and to specify how these goals will be met. Communities should also be thoroughly familiar with national standards for good correctional practice to ensure that their programs adhere to these standards. The following guidelines for correctional programming for DWIs summarize much of the material presented in earlier sections of this volume.

1. Individuals convicted of drunk driving are criminals and, as such, should be subject to the range of sanctions applied to other convicted offenders, up to and including incarceration.

In the past, drunk drivers were rarely sentenced to jail but, rather, received a fine or short license suspension. Public and legislative attitudes toward the drunk driving offense have changed, resulting in tougher sanctions, up to and including incarceration. At the same time, it is important that this change be reflected in sanctioning procedures that are equitable, consistently applied, and effective. Sanctions for drunk drivers should be based on the best available data about the effectiveness of various sanctions for reducing drunk driving in general and for preventing repetition of this offense by individuals who have already served sentences for DWI.

2. The general policy of placing offenders under correctional jurisdiction in the least restrictive appropriate programs should apply to

convicted drunk drivers as well as other offenders. Jail alternatives involving work release, community service, and intensive probation supervision should be considered.

While some drunk drivers may be prone to violent behavior, the majority are non-violent and do not represent a risk to other offenders or to the public. As a result, they are often good candidates for residential and non-residential programs. Placing drunk drivers in secure facilities is generally neither cost-effective nor necessary.

3. All drunk driving offenders should be screened for drinking problems.

The requirement for diagnosing the extent of a drinking problem is not unique to the drunk driver. National standards for good correctional practice require a full medical screening for all inmates admitted to a jail (ACA Standard 2-5273). Diagnosis of alcohol use, including amounts and frequency, is a part of this screening.

Research conducted during the last decade by the Federal and State governments has shown that from one-third to one-half of the drunk drivers arrested for the first time and 9 out of 10 of those arrested twice or more have a drinking problem. In many jurisdictions, the drinking status of DWI offenders is diagnosed as part of the pre-sentence investigation. If drinking status is not determined prior to sentencing, a program should exist to permit an accurate diagnosis of the DWI offender's drinking problem. Short-term jail sentences (48 to 72 hours) offer an opportunity for intensive diagnostic screening. Short sentences also present an opportunity for programs that begin to break through the "denial" that typifies problem drinking and that initiate referral to long-term treatment programs in the community.

4. Medical support and detoxification treatment should be available for DWI offenders.

National standards for good correctional practice require that community residential centers and local detention facilities be able to provide 24-hour emergency medical care for all offenders (ACA Standards 2-2120, 2-5266). Standard 2-5281 specifies that, if performed at a correctional facility, detoxification must be done under medical supervision. DWI offenders are less likely than public inebriates to report to correctional facilities with an acute alcohol intoxication problem that requires medical intervention. However, because a large portion of drunk drivers are problem drinkers and the experience of being incarcerated can be highly stressful, DWI offenders frequently do report to jails in a highly intoxicated condition. Correctional facilities need to be able to provide detoxification treatment either within the facility itself or at some nearby location.

5. Convicted drunk drivers should have an opportunity for alcohol education or treatment.

National correctional standards call for each resident in a community residential center to have a written, personalized program plan that incorporates the offender's needs, problems, capabilities, and limitations (ACA Standard 2-2144). The standards for local detention facilities require counseling and program services for inmates with drug and alcohol addiction problems (ACA Standard 2-5371).

While one-third to one-half of first-offense drunk drivers are social drinkers, the vast majority of multiple offenders have a health problem: problem drinking. The shock of conviction and placement under correctional control can provide strong motivation for seeking education and treatment for their problem. Programs for drunk drivers should require appropriate education and treatment. These programs should be funded by offender fees, when possible, with alternate provision for indigent offenders.

6. DWI offenders under correctional supervision in the community should be carefully monitored to ensure that they are not drinking.

The most appropriate correctional program for many DWIs may be assignment to a work release facility and/or to non-residential community service. Where DWI offenders are free to move about the community, it is important to monitor their activities to ensure they are not drinking while under correctional supervision. This provides a two-fold benefit. First, it assures that the individual is not a threat to the community through driving while intoxicated. Second, the requirement to remain abstinent should assist in treatment programs aimed at reducing the offender's drinking problem.

7. While suspension and revocation of driver licenses is and should remain the responsibility of the State motor vehicle department, corrections officials should establish rules that prohibit driving by any offender who poses a threat to others.

Because of the nature of the offense, drunk drivers are likely to be serving a period of license suspension. This poses no problem for managing the offender who is continuously incarcerated. It may

be desirable to establish rules barring driving for all DWIs under correctional supervision, including those who have retained or regained a valid driver's license. For drunk drivers in work release or community service programs, the inability to drive may produce a special transportation problem. Because many work release and community service facilities are located near public transportation, however, this should not be a major problem.

8. Treatment and supervision of DWI offenders who are problem drinkers should normally continue for not less than one year.

Research supported by National Highway Traffic Safety Administration and the State of California has demonstrated that to achieve a significant traffic safety benefit, problem drinkers must participate in an intensive treatment program for at least one year. Therefore, a program for DWIs who are diagnosed to be problem drinkers should include supervision for at least one year.

9. Communities should consider requiring that convicted drunk drivers pay a significant portion, or all, of the expense related to their correctional programs and treatment programs.

Drunk driving offenders tend to have higher incomes and greater financial resources than other types of offenders. A higher proportion of these offenders are employed. The nature of their offense assures that most have at least minimal financial resources—they were driving a car, which, in most cases, they own, and they were able to consume large amounts of alcohol, which suggests an above-average discretionary budget. For these reasons, DWI offenders often have the resources to pay fees or fines for the correctional services they receive.

10. A special effort should be made by criminal justice officials in concert with employers to permit the DWI offender to preserve employment.

Because the payment of fees can reduce the tax burden of correctional programs, it is important to provide DWI offenders with an opportunity to work and earn an income. Most drunk drivers have a job at the time of conviction and sentencing. This suggests that work release facilities or after-hours community service and treatment programs may be appropriate for these offenders.

11. Weekend sentencing should be avoided when possible.

The use of weekend or other special jail sentences for the convenience of the offender exacerbates the overcrowding problem for corrections officials. A jail that must accept a large influx of DWI offenders over the weekend needs substantially more beds than a facility where the offender population is relatively the same throughout the week. Further, weekends are a high crime period in most areas. Adding the DWI weekend sentence to this already serious weekend overcrowding simply compounds the difficulties for corrections officials.

If the jail term is as short as two to three days (the term mandated in many States for second offenders), the term can often be served on a vacation or leave status. If the jail sentence is longer and is to be served over, say 15 to 30 weekends, it would appear more appropriate to sentence the offender to a work release center.

12. When drunk drivers are placed in secure facilities, adequate provisions should be made for ensuring their safety.

National standards for good correctional practice call for certain categories of offenders to be managed separately to assure the safe and efficient operation of local detention facilities (ACA Standard 2-5354). These categories include community custody inmates (for example, inmates on work release) and inmates with special problems (alcoholics, drug addicts, the mentally disturbed).

The typical DWI offender is not an experienced criminal and is not used to the jail environment. While some drunk drivers may be violent, the vast majority are non-violent. They have a higher potential for being victimized than other types of offenders. Therefore, it is generally necessary to segregate DWI offenders from offenders who have a higher potential for violence. Moreover, drunk drivers may present a special risk for suicide; they are likely to have been drinking when admitted, and the shock of incarceration is likely to produce significant depression. Therefore, special supervision is frequently necessary during the first few hours of confinement.

13. Drunk drivers should be required to provide restitution to their victims or society when possible.

Drunk drivers have a high potential for causing serious injury to their victims. It is important that efforts be made to assure that DWI offenders make whatever restitution they can when the drunk driving episode has resulted in injury or property damage. When there is no accident and no victim (as is the case in the majority of DWI arrests), restitution through community service or

by payment into a victim's compensation fund should be a part of the corrections program.

SUMMARY

There is considerable disagreement among the experts as to the best methods for reducing the deaths and injuries resulting from alcohol-related crashes. Despite this, public concern with the DWI problem has led to increasingly severe drunk driving laws and stricter enforcement of these laws. During this last year, this concern has culminated in the passage by the U.S. Congress of a law providing incentives to the States to pass laws requiring that drunk drivers serve jail sentences.

This trend to use jail as a sanction for drunk driving catches local jails in the United States at a time when many—particularly those in large urban areas—are already overcrowded, and when many jails, large and small, are understaffed and under court order to reduce their inmate population and/or improve services. If DWIs are to compete with other offenders for the limited space available in local detention facilities and correctional programs, then it will be important to develop a logical scaling of the corrections alternatives so that reasonable decisions can be made in sentencing DWIs relative to other offenders. In addition, establishing accepted relationships between fines, probation restriction, community service, and incarceration will offer the courts and corrections officials maximum flexibility in dealing with limitations in local correctional facilities and programs. By assessing their total needs, communities can ensure that their correctional responses are both cost-effective and appropriate.

APPENDIX A

EXECUTIVE SUMMARY OF REPORT ENTITLED

"THE IMPACT OF TWO-DAY JAIL SENTENCES FOR DRUNK DRIVERS IN HENNEPIN COUNTY, MINNESOTA"

by
Carol L. Falkowski

Final Report on
NHTSA Contract DTNH22-82-05110
October 1984

available from
NATIONAL TECHNICAL INFORMATION SERVICE
Springfield, Virginia 22161

Executive Summary

This is the final report of a research contract undertaken collaboratively by the Minnesota Department of Human Services, Chemical Dependency Division, and the Minnesota Department of Public Safety, Office of Traffic Safety, and funded, in part, by the National Highway Traffic Safety Administration (NHTSA), U.S. Department of Transportation. It concerns the impact of two-day jail sentences for convicted drunk drivers, a judicial policy which began in 1982 in Hennepin County, Minnesota.

The major findings are:

1. In spite of the fact that two-day jail sentences are voluntarily imposed by the municipal judges (vs. statutorily required), there is a high degree of judicial compliance. Even after two years and a large turnover of judges, roughly 82 percent of the DWI offenders are sent to jail for two days.
2. There has not been an increase in the number of DWI trials held, nor has there been an increase in the length of time from arrest to sentencing in DWI cases.
3. The Hennepin County Adult Corrections Facility for the most part, has been able to effectively accommodate the DWI offenders serving two-day sentences. There is no chronic overcrowding.
4. Drunk drivers who served their two days in jail are more likely than those who did not, to believe that the policy is fair and that it should be continued.
5. There has been a statistically significant average monthly reduction of 35 night-time injury accidents coincident with the adoption of the policy and after a two-month lag time in Hennepin County. This is a 20 percent reduction when compared to the pre-policy monthly average. There has also been a marked increase in the number of DWI arrests.
6. The number of traffic fatalities in Hennepin County has declined but not significantly more than in neighboring Ramsey County which did not have a DWI jail policy during the time periods considered.
7. Frequency of alcohol consumption and a perceived increase in the likelihood of punishment are the strongest determinants of self-reported changes in drinking and driving behavior for Hennepin County drinkers.
8. In regard to self-reported changes in drinking and driving behavior, daily drinkers are the exception to most patterns found. Although their number is quite small (N = 5), this suggests that a different approach is necessary for the chronic, daily drinker.

The key elements of the Hennepin County experience which contribute to its apparent success are:

1. The municipal bench has remained committed to the policy over time in spite of a large turnover in judges.
2. The Hennepin County Adult Corrections Facility generally has been able to accommodate the influx of additional DWI offenders.
3. The adoption of the policy occurred when the public outcry against drunk driving was growing and thus, in an atmosphere of public support.
4. The adoption of the policy was accompanied by a simultaneous increase in DWI enforcement activity.

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