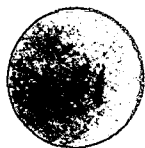


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U.S. Department of Justice
National Institute of Justice



Criminal Justice Research Report

**The Impacts of Mandatory Confinement for
Drunk Driving on Criminal Justice Operations**

U.S. Department of Justice
National Institute of Justice

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I. INTRODUCTION AND OVERVIEW

A. Drunk Driving as a Public Health and Safety Problem

Drunk driving is one of our nation's most serious public health and safety problems. Over the past ten years, 250,000 Americans have tragically lost their lives in alcohol-related accidents and in fact, some 50 percent of all highway deaths involve the irresponsible use of alcohol.⁽¹⁾ Drunk driving is also the nation's number one killer of young people. Conservative estimates place the annual economic loss from drunk driving at \$21-24 billion for property damages alone, not to mention the tremendous social costs in human deaths and injuries suffered in alcohol-related crashes⁽²⁾.

Despite these tragic social and economic costs, however, the actual risk that an intoxicated driver will be arrested for such irresponsible behavior is small. For example, it has been estimated that at night, when drunk driving is most prevalent, the chances that a drunk driver will be arrested are between one in five hundred (1/500) and one in two thousand (1/2000)⁽³⁾. Until the drunk driver faces a significant risk of being apprehended and punished and the public itself does more in response to the problem, significant reductions in alcohol-related accidents are not likely.

In 1982 President Reagan appointed a Presidential Commission on Drunk Driving to address various aspects of the problem. Recently the Commission issued its preliminary report with recommendations that emphasized the deterrence of potential drunk drivers, community action, coordination of state, local and private sector efforts, offender defrayment of control costs, and the development of a community consensus making drunk driving both socially and legally unacceptable.⁽⁴⁾

Apart from the Presidential Commission, federal program efforts in this area have been led by the National Highway Traffic Safety Administration (NHTSA) in the Department of Transportation. The key goals of the NHTSA programs are to educate the public about the magnitude of the problem, propose possible solutions, and generate action at the community level in an organized and systematic way.

In recent years, a number of public interest groups have begun to react to the drunk driving problem with increasing concern and intensity. The relatives of the victims of drunk drivers have become effective advocates for action and for the rights of such victims. As a result, many states and local jurisdictions have initiated programs aimed at drunk driving control. For example, 32 states and a number of cities have established Drunk Driving Task Forces to investigate potential solutions to the problem in their respective areas. Drunk driving reform bills have also been introduced in a large growing number of states in response to public concern about the problem. At the national level, Congress has recently provided additional financial incentives to the individual states to encourage them to develop improved means of preventing and controlling the drunk-driving problem.

B. Drunk Driving as a Legal and Crime Control Problem

1. Legislative Approaches

Historically, State laws dealing with drunk driving have varied considerably both in the sanctions prescribed and in their enforcement. Penalties have ranged from fines and release with a warning to license suspension or revocation and incarceration. In the last few years, however, a greater awareness of the magnitude of the problem and the actions of citizen groups have led many states to reexamine and reform their laws and enforcement practices. Since 1981, for example, 34 states have enacted legislation to better address the drunk driving problem principally through the use of more severe sanctions.

A recent review of the implementation of State drunk-driving laws revealed some discrepancies, however, between the legislated sanctions and those actually imposed⁽⁵⁾. While this review was not definitive, it generally found that sanctions mandated by State statutes are often not being imposed as prescribed because of differing interpretations by individual jurisdictions. Furthermore, sanctions typically imposed tend to be considerably less severe than those stipulated by State law and may be inconsistent across State jurisdictions as well. Judicial discretionary practices have frequently worked against efforts to make drunk driving control more consistent.

The discrepancies between law and actual practice are particularly relevant with respect to mandatory confinement. Twenty-five States now have statutes which include confinement for drunk driving that cannot be suspended or avoided by probation. However, less severe penalties still tend to be imposed on most first and some repeat offenders in many jurisdictions. When confinement is mandated, it often leads to increased defendant requests for jury trials and to greater use of plea bargaining and charge reduction to avoid jail. In many areas, offenders who are sentenced to jail serve their time on weekends or intermittent days and often in locations separated from normal jail facilities. In general, the jail sentences actually served by drunk drivers depends not only on legislative provisions but also on the individual's history of drunk driving offenses, the circumstances of his current arrest, local judicial and correctional policies and the availability of jail space or alternative treatment programs.

2. Deterrence of Drunk Driving

The general deterrence approach to drunk driving assumes that the public's behavior reflects not only an assessment of the inherent risks of being killed or injured or doing damage to property when driving while drunk, but also the belief that such behavior is likely to result in social sanctions and legal penalties. If these risks are considered sufficiently likely and severe, the perceived threat should serve to reinforce other law-abiding tendencies and prevent, or at least decrease, the frequency of drunk driving behavior⁽⁶⁾.

The influence of the law as well as its limitations in deterring drunk driving behavior has received considerable research attention. In fact, a major review of the findings of international studies on this topic has resulted in the following general conclusions: (a) Changes in the law promising increased

certainty and severity of punishment do in fact reduce the amount of drunk driving that occurs. Moreover, highly publicized campaigns appear to effectively diminish drunk driving fatalities. However, (b) Changes in the incidence of drunk driving resulting from changes in the certainty of such sanctions - at least on the order of those achieved by policy makers to date - tend to be transitory. (c) Innovations in programs or policies that are confined to changes in the severity of legal punishment, without a corresponding change in its certainty of enforcement, produce no real effect on the incidence of drunk driving; and (d) There is little or no evidence regarding the effects of swiftness of punishment on drunk driving.⁽⁷⁾

A major limitation to successful deterrence of drunk driving lies in the very modest level of real threat that drunk driving laws tend to produce. Prior research, for example, indicates that a driver impaired by alcohol would have to commit some 200 to 2000 such violations before he would be apprehended, and even then he would still stand only a 50-50 chance of being punished⁽⁸⁾. Such risks unfortunately are apparently acceptable to many individuals who drive under the influence of alcohol.

C. Rationale for the Project Report

It is evident that a number of states have made legal and administrative changes to deal more effectively with the problem of drunk driving. As indicated, these changes have resulted in large part from public pressure to bring about greater control over those persons whose driving is impaired by alcohol. One of the legal sanctions that has been increasingly enacted by State legislators is the use of mandatory confinement for drunk driving offenders. However, this sanction along with the others currently in use are often developed and implemented without knowledge of their impact on criminal justice system operations. An increased awareness and understanding of the impact of these laws and the criminal justice system's response to them can enhance the usefulness and effectiveness of this approach. By examining the problems that mandatory confinement laws may generate for the system, it should also be possible to address these problems in a more meaningful and comprehensive fashion.

In the following sections of this report we will discuss the experiences and response to the drunk driving problem in local jurisdictions in several different States including Washington, Tennessee, Ohio, Minnesota, and California. Although the impact of a number of severe sanctions will be examined, special attention will be given to the use of mandatory confinement for drunk driving and the effects of this sanction on levels of traffic safety and on the operations of the police, prosecutors and courts and incarceration facilities. Findings will be presented in a manner that can be useful to legislators and criminal justice personnel in other jurisdictions who are considering, or have recently initiated, the use of mandatory confinement to deal with drunk driving. Other lessons learned in dealing with this problem will also be highlighted.

II. BACKGROUND OF THE RESEARCH

This study was conducted by the staff of the National Institute of Justice at the request of its Advisory Board. The Board, realizing the public and legislative interest in increasing the penalties for drunk driving and the rapid pace with which mandatory sentencing provisions are being adopted, requested that information be compiled on the criminal justice implications of some of the mandatory sentencing provisions. Because of the urgent need for this information by both legislators and criminal justice professionals, the Advisory Board asked that a report be completed without delay.

Given the need for a short term project, the decision was made to gather descriptive information on the experiences of five jurisdictions, specifically selected for their strict penalties and consistent enforcement of mandatory confinement for drunk driving.

A. Study Sites

The experiences of the criminal justice system in dealing with the impact of mandatory confinement were examined in Seattle, Washington; Memphis/Shelby County, Tennessee; Cincinnati/Hamilton County, Ohio; Minneapolis/Hennepin County, Minnesota; and selected counties in California.

Washington State was one of the first states to adopt and implement a strong mandatory confinement law for drunk drivers in 1980. Seattle was selected as the primary study site for the project since it provided an opportunity to compare Seattle experiences over a 4 year period (1979-1982) based on an earlier assessment of the law's impact on criminal justice operations. In addition, the law appeared to have been implemented consistently in that jurisdiction and the number of drunk driving cases in Seattle was great enough to permit accurate measurement of the impact of these incidents.

Memphis/Shelby County, Tennessee was selected as a secondary study site because it had implemented a strict drunk driving law which provided unusually long mandatory sentences for repeat drunk drivers and which seemed to present major challenges for the corrections system. Memphis like Seattle, also provided the opportunity to build on an earlier research effort designed to assess the impact of the law on the criminal justice system in that jurisdiction.

Cincinnati/Hamilton County, Ohio was included in the study because it provided an opportunity to examine the critical role of local criminal justice policies in determining the impact of the State's mandatory confinement law. The situation in that jurisdiction-as distinct from other parts of the State-involved strict enforcement of Ohio's previous drunk driving legislation. Thus the findings from this site should provide some guidance on the effects likely to be observed statewide following the recent enactment of a new stricter mandatory confinement law.

Minneapolis/Hennepin County, Minnesota became a study site because it offered a unique contrast to the legislated mandatory confinement in the other sites. Since this jurisdiction mandated confinement through judicial consensus, the case study focussed on the manner in which this policy was initiated and on its effectiveness and impacts on the system.

Finally, information on the operation of mandatory confinement provisions in the California drunk driving law was also obtained. Some of these data reflected statewide impacts while other findings focussed on selected counties. This information provided a useful supplement to the assessment of experiences in the other study sites.

B. Research approach.

Most of the information in this report dealing with the impact of mandatory confinement on criminal justice operations is based on the use of agency or court records data routinely collected at the local level. In addition, information was obtained from interviews with criminal justice system practitioners and with personnel in those agencies concerned with drunk driving and traffic safety in the case study sites.

Information on alcohol-related accidents and fatalities was also examined in relation to mandatory confinement with a recognition of the limitations inherent in the causal interpretation of these data.

Original source data were compiled in two of the study sites, Seattle and Memphis. In Seattle, a sample of cases involving drunk driving arrests was tracked through the court system over a 2 year period. The purpose was to determine what happened to these cases and to examine the court system's response to them. Building on an earlier 2 year study, a comparable sample of drunk driving cases was drawn for 1981 and 1982.

In Memphis/Shelby County several sets of empirical data were collected including data on two samples of drunk driving cases processed by the court before and after the state's mandatory confinement law was enacted. In addition other, data were gathered to examine the impact of the law on the workload and population of the Penal Farm and on the Probation Department in that jurisdiction.

Data for the other study sites, Hennepin County, Minnesota, Hamilton County, Ohio and California were derived both from previous studies and more recent agency records, supplemented by interviews with criminal justice personnel in each jurisdiction.

III. FINDINGS

A. Case Studies

1. Seattle, Washington

a) Background

On January 1, 1980 a strict drunk driving law went into effect in the State of Washington. This "driving while intoxicated" (DWI) law increased the certainty of punishment by stipulating that a driver's blood alcohol concentration level of .10 percent or greater provided a legal definition of intoxication in and of itself. It required that those persons convicted of drunk driving for the first time serve a minimum of one day in jail as well as receiving other penalties. Second offenders face a mandatory seven day confinement and a third conviction results in a 90 day mandatory jail sentence. This case study focused on the impact of the law on the criminal justice system in Seattle, specifically on the operations of the Police Department, the Municipal Court and the King County Jail.

b) Research Approach

In addition to interviews with local criminal justice and traffic safety officials, empirical data were collected from police and court records on drunk drivers. The study samples consisted of every sixth drunk driving arrest during the first six months of 1981 and 1982 which were compared with comparable samples of cases for 1979 and 1980.

In addition, arrest records, accident and fatality statistics, monthly court reports on drunk driving cases and annual police reports were used. Annual and monthly reports of jail data and special drunk driving reports were also examined.

c) Findings

Traffic Accidents, Fatalities

In the first year (1979/80) under the new DWI mandatory sentencing law, Seattle experienced a decrease in overall fatal crashes (from 68 to 60) but a substantial increase in alcohol-related fatal crashes (from 17 to 24). Statewide data showed similar trends, although with a much smaller proportionate increase (less than 2%) in alcohol-related fatalities. In 1981 and 1982, overall fatalities continued to go down in Seattle and alcohol-related fatal crashes also fell. Alcohol-related traffic accidents did not change appreciably from 1979 - 1982. In summary, alcohol-related fatal crashes in Seattle, after experiencing a rather steep increase in the year immediately following imposition of the new mandatory sentencing law, decreased to a number lower than that of the 1979 baseline year.

Police Activities

The most significant impacts of the state's mandatory confinement law for drunk driving on Seattle Police Department practices was a consistent annual increase in drunk driving arrests, which was found not only for the special "DWI Squad" officers but for regular police patrol units as well. Table A presents trend data on drunk driving arrests for the year before the law took effect and for the three years after its implementation in 1980.

Table A
Trends in DWI Arrests*

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>Percent change</u>
Total DWI Arrests	3,090	3,295	3,635	3,854	+24.7%
Arrests by DWI Squad	1,160	905	1,113	1,534	+32%
Arrests by Patrol Force	1,636	2,012	2,091	2,217	+35.5%
Arrests by Other Units	294	378	431	103	-65%

*DWI arrests are reported annually and were derived from annual reports of the Seattle Police Department.

As the table indicates, three years after the law was enacted the total number of DWI arrests by the Seattle Police Department had increased by 24.7 percent. Despite slight staffing decreases over the 4 year period, DWI Squad arrests increased by 32 percent. Police credit this increase to a reduction in special assignments for the Squad, increased use of radar and improved supervision. During the same period, DWI arrests by the patrol force officers increased by 35.5 percent while the arrests by other units declined.

The patrol force often makes arrests of drunk drivers after an accident, whereas the DWI Squad makes most of its arrests among drunk drivers who have not been involved in an accident. The findings indicate, however, that the proportion of arrests made by the patrol force that are accident related have decreased steadily over the past four years, from about 57% to 39% of all of the drunk driving arrests that were made. This suggests that a greater percentage of patrol force arrests of drunk drivers are being initiated by officers on routine patrol.

In summary, several patterns in police practices have emerged since the enactment of the 1980 DWI law. Arrests for driving while intoxicated have consistently increased with a concomitant decrease in the proportion of accident related DWI arrests. Although these trends can not be directly attributed to the law, it appears that increased public concern over drunk driving may have played a role in the increased level of enforcement activity by the police.

The Courts

The average number of monthly DWI filings in the Seattle Municipal Court increased by over 20 percent from 1979 to 1982 (from 260 cases to 317 cases) and at the same time DWI charge reductions increased. In 1979, for example, 20.7% of the DWI charges were reduced to a less serious offense whereas in 1982 it was only 10.6%.

With respect to disposition, following the enactment of the 1980 law increases in the rate of deferred prosecution and failure to appear in court have resulted in a corresponding decrease in the likelihood of a defendant being convicted of drunk driving. As Table B indicates, the percent of defendants found guilty at trial was reduced from 80.4% of those charged in 1979 to 59.7% in 1982. The use of deferred prosecution (reflecting defendant enrollment in treatment programs) increased substantially from a negligible proportion of cases in 1979 (1.5%) to over 12 percent of the cases in 1982. At the same time, the proportion of defendants who failed to appear at trial or sentencing increased from 6.2% (in 1979) to 13.7% (in 1982). The rate of dismissals, however, although ranging from 6% to 10%, did not change appreciably. In addition, court officials indicate that acquittals at trial were rather rare, accounting for only about 3% of all filings.

Table B
Initial Disposition of Drunk Driving Cases in Seattle*

	<u>1979</u>	<u>1980</u>	<u>1981</u>	<u>1982</u>	<u>Percent Change</u>
	%	%	%	%	
Total Guilty	80.4	73.6	76.4	59.7	-20.7%
Guilty of D.W.I.	63.5	63.2	63.7	51.4	-12.1%
Guilty of Lesser Charge	16.5	1.6	5.9	6.1	-10.4%
Guilty-Charge Unspecified	.4	8.9	4.4	2.2	+ 1.8%
Failed to Appear	6.2	7.4	8.5	13.7	+ 7.5%
Deferred Prosecution					
Verdict	1.5	5.4	7.0	12.1	+10.6%
Case Dismissed	9.2	6.6	6.6	10.5	+ 1.3%
Not Guilty	2.7	6.2	1.5	3.5	+ .8%
Case Pending	-0-	.8	-0-	-0-	
Total Number of Case in Sample	260	258	271	313	

*All data are based on six month case samples drawn from January - June of the specified year. Every sixth drunk driving arrest was included in the sample so the numbers approximate one-month's workload of the court for the first half of each calendar year.

These general trends toward a lower proportion of guilty dispositions and an increasing rate of both deferred prosecution for treatment and defendant failure to appear for trial or sentencing are consistent with the findings of the 1979-1980 assessment of the implementation of the law. These data show a decreasing trend in the guilty rate and a growing number of defendants who fail to report for trial or sentence.

The number of jury trials per month increased markedly after the implementation of the drunk driving law. The jury trial rate doubled after the law went into effect and then increased at a relatively slow rate until the beginning of 1983 when there was another sharp increase. This recent increase is thought to be due in part to a ruling by the Washington Supreme Court, late in 1982, which required the state to presume that a case would be tried unless the defendant specifically waived the right to trial. Previously, the reverse was true and the defendant was required to specifically request a trial before one would be scheduled.

Seattle has six elected Municipal Court judges, and in the three years since the drunk driving law was passed 2 full time and 1 part time judge have been added. According to the Chief Judge, these additions were required because of the increased workload generated by drunk driving cases.

In addition to jury trials, a significant amount of court time is expended in drunk driving judge trials. In March 1983, for example, there were 179 judge trials for drunk driving, which was almost half of the judge trials held that month. Both judges and prosecutors in Seattle estimate that they spend 70-75% of their time on drunk driving cases, which is a seemingly disproportionate amount of their time, considering the great variety of criminal cases heard in the Municipal Court.

As Table C indicates there has been a complete change in sentencing practices in the Seattle Municipal Court since enactment of the 1980 drunk driving law and virtually all offenders found guilty of drunk driving have been sentenced to jail. Waiver of jail sentences have been granted only when judged to "pose a risk to the defendant's physical or mental well being" and since the law require judges to state in writing their reason for any suspension or deferral of jail sentences, few such waivers have been granted.

Table C
Jail Sentences for Convicted Drunk Drivers (1979-1982)*

	1979	1980	1981	1982
Number found Guilty of DWI	165	163	179	155
Number Sentenced to Jail	14	160	174	150
Percent Sentenced	8.5%	98.2%	97.2%	96.8%

*Based on study sample figures for January - June of each year.

In addition to jail sentences, most convicted drunk drivers have also been required to pay a \$200 - \$300 fine and have had to undergo screening for alcohol treatment. If an alcohol treatment program is stipulated as part of the sentence, defendants have usually been required to pay the program costs themselves. Although some judges reported that persons who could not afford these costs could qualify for free treatment, defense attorneys reported that it was virtually impossible for low income defendants to get such treatment unless they were on welfare.

Data from the 1981 sample were also examined to measure sentencing compliance. Of 226 cases receiving sentences of jail or fines, a total of 69 defendants or 30.5% failed to comply with sentence conditions or failed to pay the fine. Most of the persons in this group (67%) failed to pay some or all of their fine or court costs.

Incarceration Facilities

The King County Jail, which serves the Seattle Municipal Court and 12 King County District Courts, has had serious overcrowding problems for a number of years. The jail came under Federal court order because of the crowding in 1979, and the County has since taken a number of steps to relieve overcrowded conditions including building a new jail that is now nearing completion. In spite of these efforts, the average daily population has continued to rise each year, increasing from 836 in 1979 to 1,047 in 1982. These overall increases in the jail population make it difficult to separate out the full effect the 1980 drunk driving law. Nonetheless, it is quite clear that the number of drunk drivers serving sentences in King County Jail has risen dramatically.

An earlier implementation study reported a consistent statewide increase in the use of jail space for DWI offenders from 1979 to 1980, particularly for those sentenced to short terms (4 days or less). In King County the increase was dramatic, with average monthly jail commitments rising from 26 in 1979 to 270 in 1980. The current study found that average monthly jail commitments continued to increase in King County from 334 in 1981 to 433 in 1982. As a direct result of these continuing increases and with no concomitant expansion of jail space or resources, the jail prohibited weekend commitments in November and December, 1982 and at various points of time since then.

In addition to the increase in the number of jail commitments, there has also been a substantial increase in the average sentence length imposed on drunk drivers. This has had additional effects on the operations of the incarceration facilities in Seattle.

A King County jail study examined inmates files in May 1980 and in April and September 1981 and found that although all DWI offenders sentenced to one day in jail actually served that day, on the whole DWI offenders only served 53 percent of the days they were given in 1980 and 57 percent in 1981. Jail inmates earn "good time" on sentences over 15 days and this no doubt influenced these figures as did the practice of suspending a part of the sentence to ensure an ample period of probation supervision. It is still uncertain, however, what proportion of those being sentenced to longer terms are repeat offenders and the proportion of those longer sentences which are actually being served. Without this information, it is difficult to determine the full effect of the DWI law on sentence patterns and, thus, on the King County Jail itself.

It is clear, however, that the magnitude of the increase in the number of DWI offenders being sent to jail since enactment of the 1980 law has had an effect on the jail. In fact, in direct response to these increases, the King County Division of Corrections with the Division of Alcohol Services opened a new jail facility to house the 1-day DWI offenders, and other non-violent offenders with alcohol problems, including longer term DWI offenders. This is the North Rehabilitative Facility (NRF) where most men and women who are convicted of drunk driving in the county serve their 24 hours of confinement. The facility was established in the spring of 1981 as an alternative minimum security site for jail inmates who have drug or alcohol abuse problems. NRF is administered as a jail facility by the King County Division of Alcoholism and Substance Abuse Services. Its budget is part of the Division of Corrections budget, and inmates assigned to NRF are under the King County Jail's jurisdiction. They can be returned to the Main Jail at any time for disciplinary or other purposes. One of the major reasons the County agreed to establish NRF as a satellite jail facility was to handle the growing number of 1 day DWI offenders. For management and safety reasons, the jail preferred not to mix first offender DWI with other misdemeanants since the numbers were just too great. In addition to its 26 beds for the one day DWI offenders, though, the facility now has 151 beds for long term residents.

From May of 1981 (when NRF opened) through the end of 1982, it held 3,733 long term residents (about 10 percent of whom were serving sentences for DWI) and 5,338 1-day offenders. The overriding philosophy at NRF is that substance abuse is a primary illness which is diagnosable, treatable, and can be controlled. As such, the program for 1-day DWI offenders introduces them to information on drunk driving and alcoholism, films, group counseling, lectures, and an orientation to community-based aftercare facilities (of which there are over 40 in the Seattle area).

d) Summary

The findings in Seattle highlight changes that occurred in police arrest activity following enactment of the new law and the influence of increased public concern over drunk driving. Case filings in the courts also increased following the introduction of mandatory confinement, along with increases in charge reductions. With respect to disposition, increases in the rate of deferred prosecution and defendant failure to appear in court have reduced the likelihood that a defendant will be convicted of drunk driving. Rates of dismissal did not change appreciably, however. The number of jury trials has increased markedly in Seattle and a significant amount of court time is expended on drunk driving cases. There has been a dramatic change in sentencing practices and virtually all offenders found guilty of drunk driving, including first offenders, are now being sentenced to jail. The increased number of drunk drivers serving sentences has had considerable impact on the operations of the incarceration facilities in Seattle. A new facility has been opened to help in addressing this problem.

2. Memphis/Shelby County, Tennessee

a) Background

The State of Tennessee has one of the strictest drunk driving laws in the country today. A new law enacted in July 1982 calls for 48 hour jail sentences for first offenders and 45 days for second offenders. It also increased fine levels and license revocation periods and it has eliminated diversion as a prosecutor's option. Finally, it mandates probation for all convicted drunk drivers.

This case study involved an examination of the initial implementation and effects of the law on the local criminal justice system in Memphis/Shelby County with a particular focus on the laws' impact on the correctional system. Data were obtained on police activity, court processing, probation caseloads and the operations of the Shelby County correctional facility. Information on alcohol-related accidents and fatalities was also examined. Since the Tennessee law has only been in effect since July, this case study can only report findings of a preliminary nature. Nonetheless, these findings have important implications for policy-makers considering mandatory confinement laws for drunk driving.

b) Research Approach

Memphis/Shelby County provided an opportunity to build on a research effort that had been initiated to assess the impact of the law on criminal justice operations in that jurisdiction. Data on court operations were obtained by extracting two samples of drunk driving cases coming into court before and after the law was enacted and following these through the court process. In addition, data were collected on the impact of the law on the workload and population of the County Correctional Center and Probation Department. Local agency reports and records were also used in assessing the law's impact on criminal justice operations. Existing alcohol-related arrests, traffic accident and fatality data were also examined.

c) Findings

Police Activity

With regard to police practices, our review of existing statistics does not reveal any observable impact of the law on the number of arrests. This may not be surprising since the law did not alter the blood alcohol content required for the conviction of drunk drivers nor did there seem to be any sustained public awareness campaign surrounding the law.

Court Operations

In examining the law's impact on court operations, comparisons were made between two samples of drunk driving cases that were processed before and after the law was enacted. The samples consisted of all drunk driving cases coming into the courts in December 1981 (pre-law sample) and December 1982 (post-law sample). There were 409 cases in the pre-law sample and 403 in the post-law sample. The comparison of these two samples produced the following findings:

- o The number of drunk driving cases coming into the courts does not appear to have changed as a result of the law.
- o Defendants are being indicted for drunk driving at about the same rate now as before the law.
- o The law does not appear to have had an effect on the number of pending cases.
- o The law does not appear to have affected the number of not guilty dispositions nor dismissals.
- o The number of persons charged with drunk driving who are subsequently found guilty of drunk driving or a related charge has not changed because of the law.

While the processing of the pre-law and post-law samples of drunk driving cases does not appear to have changed, the sentencing patterns for convicted offenders have changed quite dramatically. In the pre-law sample, 72 percent of those found guilty received a fine or probation as their most severe penalty, while 29 percent were sentenced to a term of confinement. In the post-law sample, only one out of 206 convicted drunk drivers received probation as the most severe sanction, while nearly 100 percent of those convicted in the post-law sample were given sentences of confinement.

The findings also suggest that judges may be giving more uniform sentences in compliance with the new law. Eighty percent of those sentenced in the post-law sample received two-day sentences (the required sentence for first offenders) and another 11 percent received 45 days (the required sentence for second offenders). The pre-law sample sentences lengths were unevenly distributed with 5 percent serving two days and about 50 percent serving between three and ten days. These findings suggest that judges are generally implementing the new drunk driving law in a consistent and uniform manner.

Probation Department

The review of Probation Department records showed that the Department has an immense caseload, with drunk driving cases making up an average of 70 percent of the total cases. Since the law is being strictly implemented by the judges, every person convicted of drunk driving is placed on probation for a maximum term up to 11 months and 29 days. Because drunk driving offenders have longer probation terms than other misdemeanors the ultimate effect of the drunk driving probation caseload should be even greater over time. The volume of drunk driving probationers has overwhelmed the Department. Counseling of probationers has become virtually impossible and it appears that monitoring of defendant compliance with alcohol education and treatment program requirements will be difficult to manage.

County Correctional Center (The Penal Farm)

The data indicate that the new drunk driving law has contributed substantially to the Penal Farm's population, workload and costs. These findings are based on the collection and review of data from the Penal Farm records, budgetary information, special reports and interviews with Penal Farm officials.

A review of jail census information indicated that the in-house drunk driving population at the Penal Farm has increased following the enactment of the law from about 6 percent to about 12 percent.

The new law is contributing substantially to the increased number of "special" inmates who serve their sentences on weekends, on Saturdays only or non-consecutively on a schedule set by the court. Table A shows the increases in the number of "special" DWI intakes coming into the Penal Farm each month. About 75 percent of these "special" inmates have been convicted of drunk driving. First offender drunk drivers who are part of this group are kept separate from other regular inmates and some are assigned to work details in parks and public areas.

Table A

Number of Monthly Intakes of Special and Regular Inmates Into the Penal Farm

Time Period	Special Inmates*		Regular Inmates	
	Drunk Drivers	Others	Drunk Drivers	Others
June 1982	30	30	34	277
August	70	23	18	123
September	32	18	22	206
October	159	20	35	212
November	277	1	20	206
December	194	13	12	177
January 1983	443	59	30	239
March	288	51	52	278

*Special inmates are persons serving weekend, Saturday only or non-consecutive sentences.

The increase in "special" inmates has strained existing staff, facilities and resources at the Penal Farm. Processing of the special drunk driving inmates has increased administrative demands and created some disruption in control procedures for other inmates. In addition, another problem has been created by the increasing number of convicted drunk drivers who fail to appear to serve their sentences. The volume of warrants dealing with this problem has created a significant backlog.

While the total costs imposed on the Penal Farm by the new law cannot be specified, it is evident that staffing and facilities budgets have been affected. Six new guards and two clerks have already been hired and additional personnel increases are needed. In addition, plans are being made to renovate a facility on the Penal Farm ground to be used to free up space for weekend DWI offenders.

Alcohol-Related Accidents and Fatalities

The data on automobile accidents and fatalities in Memphis/Shelby County show a decrease from 1977 to 1982. The number of alcohol-related accidents and fatalities, however, appears to have remained fairly stable with some fluctuations occurring which are difficult to attribute to the effects of the new law.

d) Summary

The new drunk driving law reflects much less concern with treatment of the drunk driver than with punishment. The punishment orientation is evident in the findings based on the experience with the law. While arrests and convictions have not changed, judges are systematically imposing mandatory sanctions and the County's Probation Department and Correctional Center are experiencing increasing workloads. It is also evident that some accommodation and additional resources are needed to handle the increased demands generated by faithful implementation of the new law.

3. Cincinnati/Hamilton County, Ohio

a. Background

This jurisdiction was selected as a case study since it provided an opportunity to examine the critical role which local criminal justice policies may sometimes play in determining the degree to which system operations are affected by a severe state mandatory confinement statute against drunk driving. While Ohio's pre-1983 drunk driving legislation was frequently circumvented in other state jurisdictions, this was not the case in Cincinnati/Hamilton County, where local judicial policies supported strict enforcement of the legislation, including its mandatory confinement and other penalty provisions.

This case study of the effects of the pre-1983 Ohio law on Cincinnati/Hamilton County criminal justice operations should underscore the importance of local enforcement policies in determining the extent of state legislative impact. In addition, the experiences in this jurisdiction should provide valuable information on the effects likely to be observed elsewhere in the state, following the recent enactment of a 1983 drunk driving law which will require strict enforcement of its mandatory penalty provisions by all Ohio jurisdictions.

b. Research Approach

The findings presented in this case study are based on a synthesis of information from a number of data sources. These include reports addressing the nature and effects of drunk driving legislation in Ohio; local news articles on the state's strict 1983 drunk driving reform law; and interviews with local police, court, and incarceration facility officials on the effects which both the previous and the current state drunk driving legislation have had on criminal justice operations in Cincinnati/Hamilton County.

The case study provides information on police, court, and incarceration facility operations which are involved in drunk driving law enforcement in Cincinnati/Hamilton County. In addition, statistical information on statewide alcohol-related traffic fatalities is also provided.

c. Findings

Traffic Accidents, Fatalities

Prior to 1983, strict penalty provisions in the state's previous drunk driving law were commonly circumvented by the courts in many Ohio jurisdictions. Despite this lack of court enforcement, however, the state initiated a law enforcement program for police in 1979, which emphasized improvements in police testing for blood alcohol concentration levels, increased arrests through special enforcement patrols targetting drunk drivers, and police programs to increase public awareness about the consequences of drunk driving and to encourage public support for its prevention and control.

In 1981, an assessment of this two-year statewide law enforcement campaign resulted in some disturbing findings. Evaluators discovered that, although overall traffic deaths had decreased substantially in Ohio between 1979-1981, the decrease in alcohol-related fatalities had been smaller than that for non-alcohol related deaths, resulting in a slight increase in the proportion of traffic fatalities found to be alcohol-related. In addition, further assessment data (presented in Table A) showed that, while drunk driving arrests by police had increased dramatically statewide between 1979 and 1981 (up from 72,000 to 98,500), the conviction rates for these arrested offenders had decreased (from 49 percent to 40 percent) during this period.

Table A

Drunk Driving Arrests and Convictions in Ohio, 1979-81

	1979	1980	1981
Number of Arrests	72,000	90,000	98,500
Number of Convictions	35,000	41,000	39,000
Conviction Rate (Percent of Arrests)	48.6%	45.6%	39.6%

Based on these findings, officials concluded that plea bargaining and other court practices used to circumvent the strict, mandatory sanctions of the state drunk driving law were preventing the legislation from having its intended deterrent effect on drunk drivers. Thus, steps were initiated which have led to the recent enactment of a 1983 Ohio law requiring stricter enforcement of its mandatory penalty provisions.

Police Activity

Arrest rates for drunk driving in Cincinnati/Hamilton County had been quite high even before enactment of the new state law in 1983, due to local police participation in Ohio's statewide law-enforcement campaign and a local department policy already committed to strict drunk driving control under the earlier state legislation. Immediately following the recent legislative change, police drunk driver arrests increased even further, largely in response to the extensive media coverage and public attention which surrounded the introduction of the new Ohio law. As publicity has subsided, however, these initial arrest increases have subsided as well, and criminal justice officials anticipate a return to previous law enforcement levels.

Although arrest rates are not likely to be permanently affected by the 1983 Ohio law, local department practices have already been impacted by its provision for immediate police confiscation of drunk drivers' licenses at the scene. Since the law also requires that a special judicial "license hearing" be held for each offender within five days of his arrest, local officials have established procedures for daily police transmittal of these confiscated licenses to the Hamilton County Court, so that they will be available for presentation at the special hearings, as required.

Court Operations

The strict enforcement of Ohio's pre-1983 drunk driving law in Cincinnati/Hamilton County directly affected county court operations. As local police arrested more drunk drivers, the number of court cases charged with drunk driving also increased, due to a strict judicial policy which prohibited plea bargaining to lesser offenses, although similar increases did not occur in either the processing time or the jury trials required for these cases. Court convictions for drunk drivers also increased. This reflected both the larger drunk driving caseload and improvements in local police capabilities for testing the blood alcohol content (BAC) levels of arrested drivers (since court policy encouraged the acceptance of BAC evidence of intoxication as proof of guilt). Finally, because the court consistently enforced the mandatory confinement penalty provisions of the pre-1983 state law, the number of drunk drivers receiving incarceration sentences also increased significantly, matching the increased conviction levels.

The introduction of Ohio's new drunk driving statute in 1983 has had few further impacts on charging, disposition, or sentencing operations beyond those already experienced under strict court enforcement of the previous state law. The only major change which the 1983 law will require is its provision of a special "license hearing" for each drunk driving offender, which must be held within five days of his arrest in order to determine whether his confiscated license will be temporarily re-issued or retained by the court prior to his trial. Although this new provision has required the court to schedule an extra session each afternoon, solely to conduct its daily quota of drunk driver "license hearings", this has not increased its workload or case processing time excessively and has been accomplished with little disruption to court operations.

The Operation of Incarceration Facilities

The mandatory confinement penalties provided by Ohio's pre-1983 drunk driving statute—combined with the aggressive arrest policies of local police and the strict law enforcement policies of the county court—had a severely disruptive impact on the operations of Cincinnati/Hamilton County incarceration facilities. Since the crowded county jail could not accommodate the large number of convicted drunk drivers receiving mandatory 3-day incarceration sentences under the Ohio law, a new facility was opened in the county's nearby Drake Memorial Hospital and a special weekend "Alcohol Safety Action Program" was initiated in 1981, solely to serve the confinement needs of these offenders. Because of its Friday-to-Monday schedule, however, only one session could be conducted each week and the 60-65 person program capacity was too small to keep pace with the number of drunk driving first offenders convicted and sentenced by the court. Therefore, the Drake Hospital program began to backlog shortly after its initiation and, by the time Ohio's new drunk driving law took effect—on March 15, 1983—the program had already been booked up through the following September with drunk drivers convicted under the previous legislation.

Under Ohio's 1983 law, the Drake Hospital program backlog has continued to increase, and there is now a 6-7 month waiting period before convicted drunk drivers can serve their confinement sentences. In addition, because the new law now requires a mandatory incarceration period of "72 hours", the current 60-hour duration of the Drake Hospital confinement can no longer be maintained and twelve hours—or at least one working day—must be added to its schedule. Since this will effectively terminate its weekend advantage, officials are currently considering the expansion of the Drake program to two sessions per week, which would enable each session to satisfy the "72 hour" requirement of the law and, at the same time, would double the number of offenders who could serve their sentences each week, thus reducing the present inmate backlog.

d. Summary

The experiences in Cincinnati/Hamilton County indicate how local enforcement and judicial policies can influence the implementation of strict drunk driving legislation. In contrast to other jurisdictions in Ohio, police and court officials in Cincinnati/Hamilton County consistently enforced the pre-1983 state legislation in dealing with their drunk driving problem and the effects of this local enforcement policy are evident in the substantial impacts which that law has had on their criminal justice operations. Furthermore, since Ohio's new 1983 drunk driving law will require stricter enforcement throughout the state, it may produce impacts on the criminal justice operations in other Ohio jurisdictions similar to those experienced in Cincinnati/Hamilton County under the earlier state legislation.

4. Minneapolis, Minnesota (Hennepin County)

a. Background

Efforts to control drunk driving in Minneapolis, Minnesota are both complementary and contrasting to the approaches of the other jurisdictions described in this report. Since February 1982, under a policy established by collective decision of the Hennepin County Municipal bench, two-day jail sentences have been given to almost all first-time drunk driving offenders.

Minnesota has a relatively unique two-track method for dealing with drunk drivers. At the criminal justice level, offenders are arrested, prosecuted and, if convicted, penalized by a fine or jail sentence. At the same time, however, if a test reveals a blood-alcohol concentration of .10% or higher in these offenders, there is an automatic revocation/suspension of the driver's license. The locally-originated judicial policy imposing 2-day (48 hour) jail sentences on first time offenders appears to be accepted by both the public and local criminal justice officials. It is deemed reasonable in severity, fair in implementation, and generally effective. Furthermore, the policy seems to have been implemented without significant administrative problems for the courts or severe overcrowding of jails.

Upon the recommendation of County jail officials the court requires all drunk driving sentences to be initiated within 48 hours of the date of conviction. In this way jail commitments are spread over the week. Furthermore, the costs of drunk driving incarcerations are shared by the offenders and communities in which the offenses occurred through the use of fines and the imposition of court costs.

b. Research Approach

In assessing the Minneapolis - Hennepin County experience with its mandatory jail sentencing policy for first-time drunk drivers, a comparison was made with the neighboring County of Ramsey (which includes the other "twin city" of Saint Paul) as well as with general statewide data. It should also be noted that although none of the other counties in Minnesota had a mandatory jail policy for first-time DWI offenders during these periods, there was much statewide attention given to the problem due to media publicity and new DWI legislation at the state level.

Much of the information presented in this section was obtained from a January, 1983 report prepared by the Minnesota Department of Public Welfare and Public Safety entitled: "The Impact of Mandatory Jail Sentences for Drunk Drivers in Hennepin County, Minnesota. In addition, interviews were conducted with criminal justice personnel in that jurisdiction and use was made of agency record data.

c. FindingsTraffic Accidents

Data comparing the period of February - June 1982 (immediately following the adoption of the DWI jail policy) with the same period the year before (February - June 1981) showed that both total reported traffic accidents and all alcohol-related accidents decreased statewide. The percentage decrease in Hennepin County, however, was greater than either Ramsey County or the remainder of the state. In addition, the number of alcohol-related traffic fatalities decreased in these jurisdictions, with the percentage decrease being slightly greater in Hennepin County than in Ramsey and the state as a whole.

Police Activities

Concurrent with the adoption of a mandatory first-time offender jail policy, Minneapolis was also one of the sites participating in a federally-funded accident-reduction program known as Top Accident Control (TACT). Under this program the Minneapolis Police Department assigned additional officers to traffic enforcement during 1982, a move that may also have influenced both accident and arrest data related to drunk drivers.

In any event, a comparison of the pre-policy period of February - June 1981 with the February - June 1982 period revealed that DWI arrests had risen throughout the State (+2.9%) as well as in Ramsey (+1.3%) and Hennepin (+8.4%) counties. It is the opinion of local officials that the more substantial increase in Hennepin County's DWI arrest rate was the result of a combination of additional enforcement resources, increased police arrest efforts, and a greater community emphasis on drunk driving along with the acceptance of a "get tough" sentencing policy.

Court Operations

Available evidence from court statistics and interviews with Hennepin County municipal court officials indicate that the mandatory jailing policy for first-time DWI cases did affect court caseloads, although not always in a manner one might expect. New case filings for DWI, for example, fell by almost 5 percent in the year following implementation of the new policy (from 2,170 to 2,066), but, even more surprisingly, the backlog of DWI cases decreased by 20 percent (from 754 cases at the start of the year following implementation of the new policy to 601 at the end), while the backlog of all traffic cases during that period increased by almost 25 percent (from 9,101 to 11,301 cases). Also, while 62 DWI cases were tried in the year prior to the new policy, in the following year this number rose to 156. In addition, there was a 14 percent increase (from 1,801 to 2,063) in the number of DWI cases that were dismissed, settled out of court or in default. These and other data on case filings, backlogs and settlements are presented in Table A.

Table A

Hennepin County Municipal Court
Caseloads 12 Months Pre/Post-Policy Change

	Pre-Policy Feb.81/Jan.82	Post-Policy Feb.82/Jan.83	Percent Change
A. <u>All Traffic</u>			
New Cases	44604	47130	+5.7
Cases Awaiting Trial-Start of Period	7441	9101	+22.3
Cases Awaiting Trial-End of Period	9101	11301	+24.2
B. <u>DWI</u>			
New Cases	2170	2066	-4.8
Cases Awaiting Trial-Start of Period	335	754	+125.1
Cases Awaiting Trial-End of Period	754	601	-20.3
Dismissed/Settled/ Default	1309	2063	+14.0
Cases Tried	62	156	+151.6
C. <u>All Other Categories</u>			
Cases Awaiting Trial-Start of Period	13356	15071	+12.8
Cases Awaiting Trial-End of Period	15071	17018	+12.9

It should be noted that the wording of the two-day jail policy instituted in Hennepin County refers to "first alcohol-related offenses". Consequently even if a person who is initially charged with DWI enters a plea to the reduced charge of careless driving, the case is considered within the scope of the policy and subject to a sentence of two days in jail. All the judges interviewed for both the 6-month evaluation and the present review confirmed this interpretation, with at least one judge noting that it is this feature of the policy that makes it particularly effective.

In a 1982 statewide survey of 492 convicted Minnesota DWI offenders, a state evaluation team found that Hennepin County offenders were much more likely to have been sentenced to jail. Whereas 79% of the Hennepin County sample had been sentenced to jail, less than 5% in Ramsey and less than 1% in the other counties had been jailed. A person in Hennepin County convicted of a reduced charge is just as likely to get sent to jail as one convicted of DWI, with the large majority of such cases (over 88%) getting at least a two-day jail term.

Acceptance by the community of the mandatory jailing policy appears good, and none of the judges reported any significant public sentiment for its abolition. In fact the judges were generally of the opinion that the policy had grown in acceptance over time and that it should be continued. The judges did, however, report that other changes had occurred in the handling of DWI cases. For example, they reported that breathalyzer test results are now used as primary evidence of intoxication in almost all drunk driving cases.

Corrections

Both the facilities at the Hennepin County Workhouse, which accommodates those sentenced under the new DWI policy, and the policies under which it is administered, have contributed to the program's apparent success. DWI confinement features are as follows:

- a) All sentences are scheduled to begin within 48 hours of conviction. The purpose of this policy is to minimize the bunching of offender populations on weekends.
- b) DWI offenders who receive 2-day jail terms are segregated from offenders convicted of other crimes, primarily to minimize the possibilities of inter-offender victimization.
- c) Single-cell facilities are available for all offenders, with double-ceiling only permitted under emergency conditions.
- d) DWI treatment and educational services are coordinated with local community agencies, both to provide in-jail services and outside referrals in case of later need by individual offenders.

Because of the 2 day DWI jail sentences, DWI commitments to the Hennepin County Workhouse have increased five-fold (from 869 commitments in 1981 to 5,600 in 1982). Nevertheless, the percentage of the daily workhouse population that is there because of a DWI offense is only 10 percent. In

addition, the cost of incarcerating a DWI offender remains about the same in 1983 (\$37 per day) as it was in 1981. Most jail costs for drunk drivers are borne by the local communities in which the offense occurred. The communities reimburse the county, usually after having passed on the cost to the offender. Some of the treatment services and community-level follow-up support, however, are not included in these costs and are either provided through volunteers or funding from other sources.

A brand new modern facility to accommodate work-release cases, many of whom are DWI repeat offenders, has just been opened (April 83) adjacent to the main jail facility. Offenders in this program are required to pay room and board of \$5 a day and the local communities pay the balance of the charges, which while not covering the full costs of incarceration, does help to control the overall costs.

Summary

On the basis of quantitative and qualitative evidence available at this time, the Hennepin County policy of sentencing first-time DWI offenders to 2-day jail terms appears to have been implemented without causing problems at the police, court or corrections level. Furthermore, the policy seems to be well accepted by both the public and criminal justice personnel generally. This locally initiated judicial policy has attracted considerable interest from other parts of the state. Its provisions have not, however, been incorporated into the current state law, nor had it been adopted by other Minnesota jurisdictions as of Spring, 1983.

5. Selected Counties in California

a. Background

California's drunk driving laws were completely revised in January 1982 to provide increased criminal penalties, plea bargaining restrictions, and a mandate that persons driving a vehicle with 0.10 percent or more of alcohol in their blood are presumed guilty of a misdemeanor.

The new law allows for a minimum 96 hour jail term for first offenders convicted of drunk driving. Unlike the other sites discussed in this report however, judges in California have the option of substituting treatment or probation for the term of confinement. Nevertheless, reports on the experience in California to date have shown a number of important effects of these provisions on criminal justice operations in several large California counties that are of particular interest.

b. Research Approach

Due to the changes in the legislation, a number of state and local agencies in California began to look at its general impact, especially in terms of drunk driving, police activities, and court operations. Although much of this work is still ongoing, highly informative data have already been collected, analyzed and presented in a variety of papers and reports. These sources were used to develop the information presented in this report. The sources included the California Bureau of Criminal Statistics, the California Department of Motor Vehicles, the California Highway Patrol, the San Diego County Sheriff, the San Diego City Attorney's Office, the Los Angeles County Municipal Court Planning and Research Office, the California Department of Alcohol and Drug Programs, and the Alameda County Office of Court Services. Much of this information was presented at a hearing of the California Assembly Committee on Criminal Law and Public Safety in March 1983.

c. Findings

Statewide Trends

In comparing 1981 and 1982 statewide data, the California Highway Patrol reported there was a 15.8 percent reduction in deaths in which drunk drivers were the primary cause. This was a decrease in fatalities from 1,419 in 1981 to 1,195 in 1982. In the same period, there were 2,303 deaths in 1981 in which alcohol was a contributing factor and 1,869 such deaths in 1982, a 19 percent decrease. A California Highway Patrol official reported that steady law enforcement pressure on drinking drivers appeared to be affecting the drunk driving problem. Overall California Highway Patrol drunk driving arrests were up slightly from 131,480 in 1981 to 132,646 in 1982.

Additionally, the number of drunk driving convictions, license suspensions, and alcohol treatment referrals have shown some shift from 1981 to 1982 or reported by the California Department of Motor Vehicles. For example drunk driving convictions, increased by 14 percent in 1982 as compared with 1981, and reckless driving convictions decreased by 23 percent. In addition, the number of license suspensions and revocations ordered by the

Department of Motor Vehicles increased in 1982 by 37 percent over the number of such suspensions and revocations ordered in 1981.

The Drinking Driver Program Unit of California's Department of Alcohol and Drug Program has also been collecting information on drunk drivers, particularly those first offenders referred to alcohol treatment programs. That office has reported that on any one day there are 25,000 persons enrolled in the California Drinking Driver Program and that 70 percent of those persons starting the program, which lasts for a minimum of one year, complete all the requirements. The annual budget for this service is \$25 million dollars, and the entire budget is generated by client fees, with the average client fee for the year of treatment and education amounting to \$650.

Los Angeles County

The most extensive examination of the impact of the new California drunk driving legislation on court processing and outcome was conducted by the Los Angeles County Municipal Courts Planning and Research Unit. This unit reviewed the effect of the new laws on the Los Angeles municipal court system for both 1981 and 1982. It focused on all Group C misdemeanors, 95 percent of which are estimated to be DWI cases. The study found:

1. A slight increase of 1.8 percent in the number of defendants charged, from 113,399 in 1981 to 115,450 in 1982.
2. A 10.5 percent decrease in guilty pleas, from 36,549 in 1981 to 77,396 in 1982. Guilty pleas are apparently being entered at a later point in the proceedings than in the past, as evidenced by the fact that the number of defendants changing their plea to guilty at trial increased 20.3 percent in 1982.
3. A 24 percent increase in the number of juries sworn in Group C misdemeanor cases, from 992 in 1981 to 1,231 in 1982.
4. A 12.7 percent increase in misdemeanor trials, from 1,259 in 1981 to 1,419 in 1982.
5. A 10.4 percent decrease in Group C misdemeanor convictions, but a somewhat higher DWI conviction rate at trial.
6. A 78.3 percent increase in continuances sought in DWI cases.

In addition, a survey of eight Los Angeles County Judicial Districts in July 1982 found that:

1. 76.5 percent of all DWI defendants sentenced were first offenders, 20.5 percent were second offenders and 3.0 percent were known to have two or more prior offenses.

2. 74 percent of the first offender cases resulted in 3 years of probation, a fine, and 90 day license restriction; 27 percent received a 48 hour jail sentence, plus 3 years of probation and referral to an alcohol treatment program; and 3 percent received a 4 day jail sentence, a fine, and a six month license suspension.
3. For second offenders, 50 percent received a 48 hour jail sentence plus a fine, a one year alcohol program, a 1 year license restriction, and 3 years of probation; 46 percent were sent to jail for 10 days and also were fined, put on probation for three years, and given a one year license suspension; and in 4 percent of the cases the sentence was 90 days in jail, a fine, and a one year license suspension.

Finally, the Los Angeles County Sheriff's Office reported that the number of persons in custody on drunk driving related charges during the first 6 months of 1982 was 37 percent greater than during the same period of 1981.

San Diego County

The San Diego County Sheriff's Office also sought information on the impact of the new drunk driving laws. Although court data were not available, information was collected for both 1981 and 1982 on the number of alcohol related accidents in the County, the number of DWI injury accidents, DWI arrests, jail bookings, and use of the County's Quick Release Program.

The information collected by officials can be summarized as follows:

1. The number of alcohol related- fatal accidents decreased from 202 in 1981 to 152 in 1982, a decrease of more than 25 percent.
2. The number of DWI injury accidents also decreased, from 4,219 in 1981 to 3,889 in 1982 a decrease of almost 8 percent or a total of 330 injury accidents.
3. Misdemeanor DWI jail bookings increased from 27,547 in 1981 to 31,925 in 1982, an increase of 4,378 cases or almost 16 percent. In addition, DWI cases as a percent of all jail bookings increased from 24.5 percent in 1981 to 28.3 percent in 1982. Total jail bookings, however, increased by less than 1 percent, from 112,265 in 1981 to 112,976 in 1982.
4. Fewer misdemeanor DWI cases were released early from jail. In 1981, 52 percent of all such cases were released through the Sheriff's Quick Release Program, but in 1982 only 41 percent of such cases were so released.

d. Summary

The findings in California highlight the impact of the State's new drunk driving legislation particularly with respect to court processing and outcomes. In addition, the data indicate that a reduction in alcohol-related traffic accidents and fatalities occurred in several of the counties.

IV. OVERVIEW OF MAJOR FINDINGS

The National Institute's Project on Drunk Driving involved a study of five jurisdictions with special laws or criminal justice procedures to deal with this serious social and law enforcement problem. The focus of the research was on the use of mandatory confinement as a sanction for driving under the influence of alcohol. Both the impact of mandatory sentencing on criminal justice operations and the system's procedures for enforcing this particular form of social control were examined. The relationship between the use of mandatory confinement and changes in alcohol-related traffic accidents and fatalities was also addressed.

This overview is an attempt to highlight commonalities found in the various jurisdictions examined. It is also an effort to distill experiences or lessons learned in these communities that may prove useful to legislators and criminal justice personnel especially those who are implementing or considering a policy of mandatory confinement for drunk driving. The highlights also include recommendations for dealing with some of the problems that may arise with the use of mandatory confinement.

A. Mandatory Confinement for Drunk Driving and Alcohol Related Traffic Accidents and Fatalities.

A mandatory confinement sanction is considered by many to be an important potential deterrent to drunk driving behavior. Direct measures of such deterrence effects are difficult to obtain, however, due to the difficulty of determining the actual numbers of intoxicated drivers at any one time. Therefore, indirect measures, such as the number of alcohol-related accidents and fatalities, are often used to help identify trends associated with the introduction of the new "tougher" legislation. In general, caution is needed for any cause and effect interpretation of this relationship since other factors such as a public concern about traffic safety, general law enforcement procedures, and changes in automobile use may influence both the introduction of strict sanctions for drunk driving and a reduction in accidents and fatalities. Still, it's interesting to note that in two of the areas studied - Minneapolis/Hennepin County and selected counties in California - there was a decrease in alcohol - related traffic accidents and fatalities following the implementation of strict drunk driving sanctions. This pattern was not found, however, in the other study jurisdictions.

The complexity of interpreting specific traffic safety data is also influenced by the fact that traffic fatalities began a general decline nationally in early 1981. In fact, the current rate of such accidents per passenger mile driven is now the lowest in our nation's history. Experts are not certain of the reasons for this decline, but factors cited include new programs against drunk driving, changes in driving patterns linked to the economy, weather effects on driving, and a reduction in the number of persons in our population aged 16 to 19 who are disproportionately involved in traffic accidents and fatalities.

B. Mandatory Confinement and Criminal Justice Operations

The specific focus of this study dealt with the impacts of mandatory confinement on the activities of police, courts and correctional facilities in five case study jurisdictions. The findings should be of particular value to other jurisdictions which are considering mandatory confinement as a prime means of controlling the problem of drunk driving.

1. Police Activities

An examination of police practices in the study jurisdictions generally indicates an increase in drunk driving arrest activity following the implementation of mandatory confinement laws and policies. This was true in Seattle, Washington; Hennepin County, Minnesota; Hamilton County, Ohio and several counties in California, although no particular increase in arrests was found in Memphis. The increase in arrest activity was very likely influenced by public concern about drunk driving as well as by the introduction of mandatory confinement.

It is interesting to note that the general pattern of increased arrests contradicts the conclusions of other work suggesting that when severity of sanctions for drunk driving increase, police officers are less likely to arrest. (1) Clearly neither pattern of police response is automatic and either one can be obtained given the particular policies and resources in a particular jurisdiction. For example, an examination of selected police practices in Seattle over a 4 year period indicated an increase in police-initiated arrests for drunk driving among members of the regular patrol force. Since drunk driving arrests increased at the same time that there was a reduction in the proportion of arrests involving police response to accidents, more proactive police arrest patterns can be inferred.

In Ohio a marked increase in police arrests was apparently fostered by the initiation of a special statewide program involving enhanced police training and law enforcement activities and the use of a media campaign against drunk driving. Locally in Cincinnati/Hamilton County, police arrests increased in response to the publicity surrounding the introduction of a new mandatory confinement law in 1982. On the whole, our findings indicate that the increased police enforcement of drunk driving laws may be influenced by the introduction of strict sanctions for drunk driving and by the publicity devoted to the drunk driving problem. In turn, increased police activity can affect court workload and operations.

2. Court Operations and Defendant Responses

The review of the findings in each of the study jurisdictions indicated that more and more defendants convicted of drunk driving, even for the first time, are now receiving jail sentences. This finding is clear and consistent.

The findings on conviction rates for drunk driving, however, were found to vary in the five study jurisdictions. California data indicate significant increases in drunk driving convictions while in Memphis findings suggest that conviction rates remained relatively stable. In Ohio, drunk driving conviction rates decreased under previous mandatory confinement legislation due to widespread use of plea bargaining and other prosecutorial practices. Seattle data also indicate a decrease in drunk driving conviction rates probably as a result of a variety of factors including deferred prosecution and defendant failure to appear for trial. In fact as a result of this latter trend, the issuance of bench warrants seems to have increased significantly.

With regard to caseload and case processing, there is evidence that court caseloads increased in several jurisdictions following the introduction of mandatory confinement. As adaptations are made in court operations, however, the backlog tends to decline.

In Alameda County, California the data indicate a significant increase in case processing time along with a decrease in cases sentenced at arraignment, an increase in the number of appearances to sentence or dismissal, and a decrease in the number of cases reaching sentence or dismissal in six months. Jury trials have also risen sharply in that jurisdiction.

In Hamilton County, Ohio the new requirement for a "license hearing" following confiscation of the offender's drivers license has had a substantial impact on court operations and an additional daily traffic court has been scheduled as a result. The collective decisions of the judges to broaden hearing procedures by including disposition and sentencing for non-contesting defendants, however, has served to improve the overall efficiency of case processing.

In a number of the jurisdictions (but not all) the findings reveal a similar pattern in the responses of drunk driving defendants. These include an increase in not guilty pleas, greater use of private attorney representation, increased use of jury trials, and some failure to comply with conditions of the sentence received. The increased use of jury trials in California and Seattle and the greater reliance on private attorney representation appear to be based on the assumption that these actions are less likely to result in convictions or severe sanctions. These assumptions seem to be at least somewhat warranted on the basis of studies conducted in Michigan and Wisconsin (2,3).

The offender's failure to comply with some aspect of the sentence received also appears to be a major problem in a number of jurisdictions. This often includes failure to complete payment of the fine imposed or failure to respond fully to the conditions set at the time of disposition. This suggests the need for improved administrative procedures to promote compliance.

In summary, the review of court experiences in the study jurisdictions indicates a clear and consistent pattern with respect to the increased likelihood of jail sentences for convicted drunk drivers. There is more variation, however, in the pattern of factors influencing rates of conviction and processing time. In general, some of the findings seem to support the conclusions of other research which suggest that the more severe the sanctions imposed for drunk driving, the greater the likelihood that defendants will plead not guilty, will hire private attorneys and will request jury trials. (4)

3. The Operation of Incarceration Facilities and Probation Services

Clearly one of the special points of interest in addressing mandatory confinement is the impact it may have on the organization and management of incarceration facilities. The focus here is directed not only at the issue of overcrowding but also at the extent to which administrative problems may arise because of processing demands and the possible disruption of security procedures.

The study's assessment of this set of issues produced a number of important findings. First, convicted drunk drivers in the study jurisdictions are usually handled as a "special" group of offenders who are generally confined in an area or building separate from other offenders. It is also clear that the impact of a mandatory confinement policy tends to be quite pronounced and often requires the introduction of special programs, facilities or procedures to deal with drunk driving offenders. For example, the use of mandatory confinement for drunk driving in Memphis has created a situation in which the operation of the Penal Farm is severely strained on weekends. Jail personnel must cope with a large influx of offenders (150-200 persons) on Saturdays and deal with processing in a manner that does not create a disruption of other jail routines. In addition, the law in Memphis stipulates that all convicted drunk drivers are to be placed on probation. This has resulted in totally unrealistic case loads for individual probation officers such that probation under these conditions has little or no meaning.

In Seattle, the average daily jail population has continued to rise since 1975. Mandatory confinement has contributed directly to the increase but it is not the only cause of jail overcrowding. Less than 18 months after mandatory confinement was implemented, the county opened a new facility that now handles all first offender drunk drivers. With regard to probation, drunk drivers now represent about 70 percent of the Probation Department's workload, and probation officers primarily serve as brokers of services and monitors of offender compliance.

In Hamilton County, Ohio, mandatory sentences for drunk drivers have overburdened the county jail, and an existing hospital facility has been taken over for weekend confinement and the education and counseling of drunk drivers. Because of its weekend nature, the current program capacity is too small to keep pace with the number of convicted drunk drivers sentenced by the local court. This has created a backlog, with offenders scheduled to serve their sentences some 6-7 months in the future. Because the new (1983) drunk driving law in Ohio requires "72 consecutive hours" of incarceration, offenders will be required to add at least one additional day of confinement to their current 60 hour weekend sentences. Officials are now considering changes in the program schedule to include the addition of a second weekly session which may help to reduce the serious problem of backlog.

Hennepin County provides an interesting contrast to the patterns of jail overcrowding that have been described in Memphis, Seattle and Hamilton County. In Hennepin County, mandatory confinement for drunk driving is based on judicial consensus. In that setting, the judges have accommodated the managerial requests of the county jail administrators by agreeing to require that offenders begin to serve their sentences within 43 hours following their date of conviction. As a result, peaks in caseloads are moderate and spread throughout the week to avoid overcrowding on weekends. Hennepin County also has appropriate facilities and resources to deal with the confinement of drunk drivers and carries out its policy in a manner that accommodates those who are sentenced without creating serious administrative problems. The program also includes segregation of drunk drivers from other convicted offenders, single cell facilities and coordination of treatment and educational service for offenders with local community agencies.

In summary, while mandatory confinement often creates serious managerial and administrative problem for jail and probation personnel, there is evidence that these effects can be reduced if efforts are made to develop policies of accommodation involving court decisions and jail operations. In addition, the impact of mandatory confinement was found to be mitigated when adequate facilities and resources were made available to deal with the implementation of this type of sanction.

V. ISSUES AND POLICY RECOMMENDATIONS

The experiences in the five study jurisdictions along with the review of related reports on the use of severe sanctions for drunk driving have highlighted several important issues. These merit special attention both by policy makers and by practitioners interested in the control of drunk driving.

If the use of mandatory confinement is being considered as a sanction for drunk drivers, there are a number of actions which should be taken in the planning, implementation and evaluation of this strategy.

1. First, a comprehensive approach to planning is recommended, which involves legislators and all of the key agencies concerned with drunk driving control including the various components of the criminal justice system and the Division of Motor Vehicles. With such an approach it is possible to systematically consider the use of various sanctioning strategies and to identify areas of responsibility and necessary forms of coordination and accommodation before any plan is actually implemented. While a comprehensive and coordinated planning approach to the problem of drunk driving will not assure success, it can help to reduce many of the problems and constraints likely to be encountered by the various agencies in the implementation of specific sanctions and thus improve the efficiency with which they are administered.

In general the findings of this study are consistent with the view that the criminal justice system often functions in a manner leading to an equilibrium between the various components of the system. When changes occur in the severity of sanctions, such as in the use of mandatory confinement, they can influence the system's equilibrium and accommodations may become necessary in various parts of the system. The approach used in planning and implementing these changes often determines the extent to which the system's equilibrium is affected and the kind of accommodations that may be necessary.

2. The use of mandatory confinement for drunk drivers does require some additional resources (in funds, personnel or facilities) as well as some accommodations in criminal justice operations. These changes and accommodations need to be considered by legislators and practitioners before legislation is enacted in order to deal in a meaningful way with the impact of this sanctioning strategy on all components of the criminal justice system-including police, courts and incarceration facilities.

Legislators should give adequate consideration to the severe impact which mandatory confinement for drunk drivers is likely to have on incarceration facilities and their operations and should ensure that adequate resources are made available to the agencies responsible for implementing these provisions of the law so that effective enforcement may be achieved without undue disruption of other criminal justice functions and operations.

Prior to the implementation of mandatory confinement for drunk drivers, it is helpful to forecast the cost of additional responsibilities and increased workload for each agency involved within the criminal justice system. This provides the basis on which to determine agency capacity to absorb new work requirements, to reallocate resources within an agency or to request

additional resources. When all relevant agencies coordinate and plan together they can inform each other of the resource needs and costs which they expect to incur, and together the system can plan how best to meet these needs.

3. In general, costs that are incurred by local criminal justice agencies in dealing with the confinement of the drunk driver need to be addressed realistically. One solution to the demand such costs may place on local budgetary resources can be a policy of making the defendant participate in paying for the costs of his own confinement. This approach is being used in several jurisdictions and merits general consideration as a policy option.
4. If the decision to use mandatory confinement for drunk drivers has been made it is important that this sanction be applied consistently in order to increase the likelihood that drunk drivers will be deterred and that justice will be administered equitably. Making explicit the judicial policies that guide the use of mandatory confinement can be important in promoting the consistent imposition of this sanction for drunk driving offenses. Citizen groups can play an important role in addressing this issue and promoting the consistent use of sanctions.
5. Jurisdictions that have implemented mandatory confinement for drunk driving need to consider the potential effects of allowing defendants to serve their confinement time on weekends. Such patterns of scheduling often generate additional costs and may produce a significant disruption in the operation of incarceration facilities. Given the serious nature of the drunk driving offense, the criminal justice system should carefully assess whether or not to use this type of scheduling accommodation. Some review of the daily population of incarceration facilities can help in making a determination of the most appropriate confinement policy that will avoid a backlog and overloading of facilities.
6. It is helpful to develop a monitoring and evaluation process to assess the implementation and effects of mandatory confinement. This makes it possible to obtain feedback from those personnel who play a role in implementation and can help to identify problems which can be used as a basis for corrective action. Such a monitoring function may be carried out more effectively by an agency or department not directly involved in the implementation of mandatory confinement. (e.g. a Department of Human Resources)
7. Publicizing the drunk driving problem and the use of strict sanctions is very important and can help to increase public awareness and maintain the salience of deterring drunk drivers. The experiences in several jurisdictions demonstrated the impact of publicity on law enforcement activities dealing with drunk drivers and the importance of publicity on the effects of mandatory confinement over time. These results are consistent with other research findings on this issue.

There are several problems that also merit special attention by policy makers and practitioners who must deal with the control of drunk driving.

- o Every jurisdiction concerned with drunk driving provides more severe sanctions for second and repeat offenders. There is some indication however, that jurisdictions may not always be aware of the drinking and driving history of offenders when case processing decisions are made and sentences are imposed. This may be due to inadequate coordination or limitations in procedures used for collecting and transmitting relevant information about the offender at key points in the judicial process. This issue merits special attention since repeat offenders may often be involved in alcohol-related accidents and fatalities. Responsive record keeping procedures are essential for increasing criminal justice access to information on the history of drunk driving offenders. In addition, attention should be given to the development and designation of a standard information processing system for use both by the Division of Motor Vehicles and criminal justice personnel before decisions are made in particular cases.
- o In a number of jurisdictions there is evidence that drunk driving defendants may be avoiding the full sanctions of the law by failing to appear for trial or sentencing or by failing to comply with all aspects of the requirements set at the time of disposition. Increased attention needs to be given to insuring greater defendant compliance with all of the requirements of the criminal justice process in order to avoid unfairly penalizing those persons who do respond as expected. Procedures to deal with noncompliance could include routine screening of driver license and car registration applications and the establishment of mechanisms to more systematically monitor defendant compliance. Such an approach could be especially cost effective in insuring the full payment of fines.
- o One of the key issues confronting every jurisdiction concerned about drunk driving deals with the means used to obtain evidence of driver intoxication. The use of several independent and reliable measures of driver intoxication can often enhance the administration of justice in dealing with this issue. Such an approach may also facilitate early case disposition and minimize both the requests for and the actual frequency of jury trials. A number of criminal justice officials in Seattle offered suggestions for obtaining useful and objective evidence in this area including the videotaping of breathalyzer tests sobriety tests administered to drivers. In addition, the use of two separate breathalyzer tests at least one-half hour apart were recommended in order to provide reliable evidence of blood alcohol concentration levels. More frequent use of blood-alcohol tests were also encouraged as a more accurate measure of the amount of alcohol in a driver's blood. All of these actions should make it more likely that cases involving a charge of drunk driving will lead to an accurate legal determination and a just outcome.

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