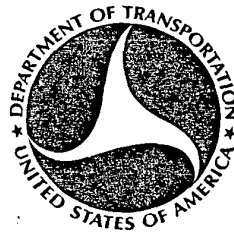


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**ARREST PROCEDURES FOR
DRIVING WHILE INTOXICATED**

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Contract DOT-HS-8-02002: \$99,694



August 1980
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Model arrest procedures were developed in this project to enhance the enforcement of laws against driving while intoxicated (DWI). Conclusions of previous research suggested that DWI arrest procedures typically require excessive time and resources, and as a consequence, tend to inhibit DWI enforcement. Toward the goal of improving the procedures employed in the arrest process, this research was conducted to obtain answers to the following questions:

- What procedural alternatives are now possible?
- How might the various alternatives affect processing time?
- What enforcement factors are likely to influence DWI arrest rates?
- What set of laws and arrest procedures should be employed to enhance DWI enforcement?

Research methodology emphasized the collection of data in the field during the apprehension of DWI suspects and during the subsequent processing of each suspect arrested. Data were collected at a sample of law enforcement agencies at different locations throughout the United States. Analyses of the data provided answers to the research questions.

The DWI arrest process was described in terms of nine components: apprehension of the suspect, field sobriety testing, arrest, disposition of the offender's vehicle, transportation of the offender, evidential testing, interrogation, reporting, and incarceration or release. Within these components, at least 23 procedural alternatives are now employed by different law enforcement agencies.

(Continued)

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16. Abstract <p>Model arrest procedures were developed to enhance the enforcement of laws against driving while intoxicated (DWI). Development was based on answers obtained to the following questions: what procedural alternatives are now possible? How do alternatives affect processing time? What factors most influence DWI arrest rates? What set of laws and procedures should be employed?</p> <p>Research methodology emphasized the collection of data in the field during the apprehension of DWI suspects and during the subsequent processing of each suspect arrested.</p> <p>The DWI process was described in terms of nine components: apprehension of the suspect, field sobriety testing, arrest, disposition of the offender's vehicle, transportation of the offender, evidential testing, interrogation, reporting, and incarceration or release. Within each component, procedural alternatives were defined and described.</p> <p>In a sample of 505 DWI arrests made by eight participating agencies, the average processing time was 91 minutes. The agency with the shortest times required an average of 58 minutes, while the agency with the longest times averaged 134 minutes. The burden imposed by the DWI arrest process was found to be indirectly related to DWI arrest rate. Although the amount of processing time required was not significantly correlated with DWI arrest rate among the agencies studied, the processing burden was a major contributor to negative attitudes that existed within the agencies toward DWI enforcement. A high, statistically significant positive correlation was obtained between agency attitudes and agency DWI arrest rates. Factors that had the greatest impact on arrest rates were attitudes within the agencies toward DWI enforcement and use of DWI emphasis patrols.</p>					
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PREFACE

The analysis of arrest procedures for driving while intoxicated required the support and cooperation of many people and agencies. Special recognition is given to the patrol officers who participated in the data collection effort. The liaison officers for the participating agencies were:

- Sergeant Fred Lizarraga of the Arizona Department of Public Safety
- Officer Rick Burrows of the Euclid Police Department
- Captain Harold L. Goodwin of the Houston Police Department
- Lieutenant John Briggs of the Lincoln Police Department
- Deputy Paul Schmalz of the Rock County Sheriff's Department
- Captain Kirby Duncan and Sergeant John Thayer of the Santa Barbara Police Department
- Lieutenant Elgene Erickson of the Sioux City Police Department
- Mr. Darwin Merrill of Project CRASH and Lieutenant Jake Maranville of the Vermont State Police

Contributions were made during the initial part of the project by Captain C. L. Forrester of the Atlanta Department of Public Safety, Detective George Dougherty of the Buffalo Police Department, Captain C. Christianson of the Park Ridge Police Department, and Deputy Merl Sterling of the Pierce County Sheriff's Department.

The advisors who evaluated the model arrest procedures and provided many helpful suggestions for improving the procedures were:

- Dr. Murray Blumenthal, University of Denver
- Sergeant John Carrel, Dade County Department of Public Safety
- Lieutenant John Connelly, Kansas Highway Patrol
- Mr. Matthew T. Crosson, New York District Attorney's Office
- Mr. Edward Kearney, National Committee of Uniform Traffic Laws
- Dr. Joseph F. Little, University of Florida
- Captain Robert Willsey, Monroe County Sheriff's Department

Anacapa staff members Richard G. Fuller and James B. Howlett assisted in different phases of the project. Mr. William C. Wheeler, Jr., the NHTSA Contract Technical Manager, provided technical assistance, support, and guidance.

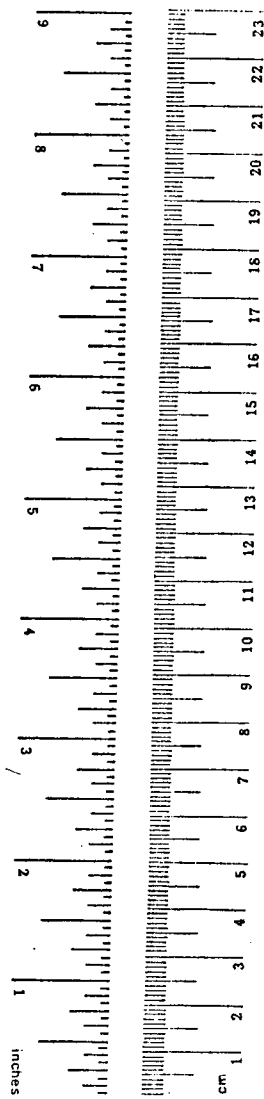
METRIC CONVERSION FACTORS

Approximate Conversions to Metric Measures

Symbol	When You Know	Multiply by	To Find	Symbol
LENGTH				
in	inches	*2.5	centimeters	cm
ft	feet	30	centimeters	cm
yd	yards	0.9	meters	m
mi	miles	1.6	kilometers	km
AREA				
in ²	square inches	6.5	square centimeters	cm ²
ft ²	square feet	0.09	square meters	m ²
yd ²	square yards	0.8	square meters	m ²
mi ²	square miles	2.6	square kilometers	km ²
	acres	0.4	hectares	ha
MASS (weight)				
oz	ounces	28	grams	g
lb	pounds	0.45	kilograms	kg
	short tons (2000 lb)	0.9	tonnes	t
VOLUME				
tsp	teaspoons	5	milliliters	ml
Tbsp	tablespoons	15	milliliters	ml
fl.oz	fluid ounces	30	milliliters	ml
c	cups	0.24	liters	l
pt	pints	0.47	liters	l
qt	quarts	0.95	liters	l
gal	gallons	3.8	liters	l
ft ³	cubic feet	0.03	cubic meters	m ³
yd ³	cubic yards	0.76	cubic meters	m ³
TEMPERATURE (exact)				
°F	Fahrenheit temperature	5/9 (after subtracting 32)	Celsius temperature	°C

Approximate Conversions from Metric Measures

Symbol	When You Know	Multiply by	To Find	Symbol
LENGTH				
mm	millimeters	0.04	inches	in
cm	centimeters	0.4	inches	in
m	meters	3.3	feet	ft
m	meters	1.1	yards	yd
km	kilometers	0.6	miles	mi
AREA				
cm ²	square centimeters	0.16	square inches	in ²
m ²	square meters	1.2	square yards	yd ²
km ²	square kilometers	0.4	square miles	mi ²
ha	hectares (10,000 m ²)	2.5	acres	
MASS (weight)				
g	grams	0.035	ounces	oz
kg	kilograms	2.2	pounds	lb
t	tonnes (1000 kg)	1.1	short tons	
VOLUME				
ml	milliliters	0.03	fluid ounces	fl oz
l	liters	2.1	pints	pt
l	liters	1.06	quarts	qt
l	liters	0.26	gallons	gal
m ³	cubic meters	35	cubic feet	ft ³
m ³	cubic meters	1.3	cubic yards	yd ³
TEMPERATURE (exact)				
°C	Celsius temperature	9/5 (then add 32)	Fahrenheit temperature	°F



*1 in = 2.54 (exactly). For other exact conversions and more detailed tables, see NBS Misc. Publ. 286, Units of Weights and Measures, Price \$2.25, SD Catalog No. C13.10:286.

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TECHNICAL SUMMARY

Model arrest procedures were developed in this project to enhance the enforcement of laws against driving while intoxicated (DWI). Conclusions of previous research suggested that DWI arrest procedures typically require excessive time and resources, and as a consequence, tend to inhibit DWI enforcement. Toward the goal of improving the procedures employed in the arrest process, this research was conducted to obtain answers to the following questions:

- What procedural alternatives are now possible?
- How might the various alternatives affect processing time?
- What enforcement factors are likely to influence DWI arrest rates?
- What set of laws and arrest procedures should be employed to enhance DWI enforcement?

Research methodology emphasized the collection of data in the field during the apprehension of DWI suspects and during the subsequent processing of each suspect arrested. Data were collected at a sample of law enforcement agencies at different locations throughout the United States. Analyses of the data provided answers to the research questions.

The DWI arrest process was described in terms of nine components: apprehension of the suspect, field sobriety testing, arrest, disposition of the offender's vehicle, transportation of the offender, evidential testing, interrogation, reporting, and incarceration or release. Within these components, at least 23 procedural alternatives are now employed by different law enforcement agencies.

In a sample of 505 DWI arrests made by eight participating agencies, the average time required to process a DWI arrest was 91 minutes. The agency with the shortest times required 58 minutes, on the average, while the agency with the longest times required an average of 134 minutes. The most time-consuming segments of the process were transportation and evidential testing, and interrogation and reporting. Each required an average of 26 minutes. Differences among agencies were mainly a function of differences in the procedures they used.

The burden imposed by the DWI arrest process was found to be indirectly related to DWI arrest rate. Although the amount of processing time required was not significantly correlated with DWI arrest rate among the agencies studied, the processing burden was a major contributor to negative attitudes that existed within the agencies toward DWI enforcement. A high, statistically significant positive correlation was obtained between agency attitudes and agency DWI arrest rates.

Another factor significantly correlated with DWI arrest rates was the employment of DWI emphasis patrols. Agencies that employed DWI emphasis patrols had an overall DWI arrest rate of about twice that of agencies that did not.

New techniques for DWI enforcement were reviewed and summarized. These included: evidential test devices, portable breath screening devices, videotape recording, mobile testing facilities, DWI detection methods, DWI training manuals, and physical coordination tests.

Based upon the research findings, a model set of DWI arrest procedures were developed and evaluated by a panel with expertise in the three main facets of DWI enforcement—legal, enforcement, and adjudication. The recommended DWI arrest procedures and associated statutes are described in the report, along with the rationale for the recommendation of each.

INTRODUCTION

Conclusions of previous research on the enforcement of laws enacted to deter driving while intoxicated (DWI) suggest that the DWI arrest process requires excessive time and resources (Joscelyn & Jones, 1970; Borkenstein, 1975; Summers & Harris, 1978). As reflected by typically low DWI arrest rates, the burdens imposed by the arrest process are likely to inhibit DWI law enforcement. The present research was conducted to obtain a more definitive picture of the DWI arrest process, as currently practiced, and to identify model procedures for the process. Specifically, the research was conducted to obtain answers to the following questions:

- What procedural alternatives are now possible?
- How might the various alternatives affect processing time?
- What enforcement factors are likely to influence DWI arrest rates?
- What set of procedures should be employed to reduce the arrest burden and enhance DWI enforcement?

As an introduction to the research described in this report, a historical perspective and a summary of the legal framework for DWI enforcement are provided in this section.

HISTORY OF DWI ENFORCEMENT

Some form of DWI enforcement has existed in the United States for more than 65 years. In 1913, California passed a law banning driving while under the influence of alcohol; in 1926, a provision against driving under the influence of alcohol was added to the Uniform Vehicle Code; and, by 1936, statutes on drunk driving had been enacted in 19 states. Courts then started accepting the results of chemical tests of a defendant's blood alcohol content (BAC) as evidence of intoxication, and in 1939, Indiana passed a statute that BAC was presumptive evidence of intoxication. However, presumptive BAC statutes were not widely accepted because the evidence was not considered to be admissible unless the defendant had consented to the chemical test.

Implied Consent

In 1945, implied-consent statutes were first proposed and in 1953, New York became the first state to pass such a law. The implied-consent statute provided that a person who operates a motor vehicle on public highways shall be deemed to have consented to a chemical test of blood, breath, or urine for determining BAC, and that refusal to submit to a chemical test shall result in revocation of the person's license to drive. An implied-consent provision was added to the Uniform Vehicle Code in 1962; by 1964, implied-consent laws had been adopted by 39 states, and by 1972, both presumptive BAC and implied-consent statutes had been enacted by every state.

Prearrest Breath Tests

Following the emphasis on prearrest breath tests in the British Road Safety Act of 1967 and the development of portable breath-testing equipment, several states provided for the use of prearrest screening by breath testing. These provisions permitted the police officer to request and conduct a preliminary breath test of the person suspected of DWI to aid in the arrest-release decision; however, they stipulated that test results could not be used as courtroom evidence of intoxication. New York, in 1969, was the first state to pass a prearrest screening law for drivers involved in traffic infractions and accidents; and, in 1971, Nebraska passed a law that imposed a penalty on a driver who refused to take the test. Currently, the following states have adopted prearrest breath test laws: Georgia, Iowa, Maine, Minnesota, Nebraska, North Carolina, Virginia, Florida, South Dakota, and Wisconsin.

Chemical Test Development

Existing chemical test instrumentation and methodology have evolved as a consequence of developmental efforts conducted over the past 40 years. As described by Mason and Dubowski (1974, 1976), some of the first instruments employed breath analysis techniques. The Drunkometer, developed by Harger in 1938, measured the carbon dioxide (CO₂) and alcohol content in a breath specimen. The BAC was calculated under the assumption that the amount of alcohol

associated with a given quantity of CO₂ was equivalent to the amount of alcohol in a given quantity of blood and that the CO₂ content of alveolar air was constant. The Drunkometer was finally abandoned in 1960 as these assumptions were attacked (Smith, 1959).

The Alcometer, an instrument which analyzed alveolar air for alcohol without relating it to the quantity of CO₂, was developed in 1941. This instrument was the predecessor of the Breathalyzer (Borkenstein & Smith, 1961), developed in 1950, that survives to the present day as the instrument almost universally accepted by law enforcement agencies and the courts. Recently, both breath and blood testing instrumentation and methods have proliferated (Dubowski, 1975). New developments include: portable screening devices, remote sample collectors, methods of sample collection, and analysis techniques that have improved the precision, reliability, and specificity of the tests.

Emphasis on DWI Enforcement

The first significant national effort on DWI enforcement began with the Highway Safety Act of 1966, and the 1968 Report to Congress on Alcohol and Highway Safety that formed the basis for the Alcohol Safety Action Projects (ASAP's). The National Highway Traffic Safety Administration (NHTSA) sponsored the ASAP's as demonstration programs to promote countermeasures against DWI within the states. A major portion of each ASAP was devoted to increasing the effectiveness of DWI enforcement. Funds were provided in demonstration areas for special emphasis patrols (increasing the number of patrol units at the time and locations of peak drunk-driving activity) and for the modernization of enforcement procedures. The modernization efforts, designed to increase the post-arrest handling of DWI offenders, included the use of videotapes to record the behavior of drivers cited for drunk driving, the use of mobile vans to bring breath-testing equipment to the scene of an arrest, and the development and use of portable breath testers for prearrest breath screening (NHTSA, 1972).

Most ASAP communities easily doubled or even quadrupled the number of DWI arrests. However, the program evaluation did not provide sufficiently definitive measures to determine which changes in enforcement effort contributed

to increased arrest rates, or what enforcement procedures might have decreased arrest processing time (Hawkins, Scrimgeour, Krenek, & Dreyer, 1976).

Since 1970, NHTSA has supported a series of efforts to enhance DWI enforcement, including: development of DWI enforcement training programs (Carnahan, Holmes, Keyes, Stemler, & Drevesbrach, 1974), development of portable breath test instrumentation for both screening and evidential testing (Moulden & Voas, 1975), identification of factors influencing DWI arrests (Oates, 1974; Arthur Young, 1974), standardization of physical coordination tests (Burns & Moskowitz, 1977), and the development of cues and procedures for on-the-road detection of DWI (Harris, Howlett, & Ridgeway, 1979; Harris, Dick, Casey, & Jarosz, 1980). Beyond the ASAP's, NHTSA has sponsored demonstration projects for DWI emphasis patrols such as the Selective Traffic Enforcement Programs (McEwen & Brazil, 1976) and the Stockton DWI Demonstration Project (Hause, Matheson, Hannon, & Chavez, 1977).

THE LEGAL FRAMEWORK FOR DWI ENFORCEMENT

The authority under which police apprehend and arrest drivers for DWI is provided by state and municipal statutes that make it unlawful to drive while intoxicated. While these statutes present the legal framework within which the police officer may act, they also are designed to protect the constitutional guarantees of individual citizens. A review of DWI statutes and their implications was provided by Fisher and Reeder (1974). Reese, Beaney, Blumenthal, Ross, and Tiffany (1974) presented the DWI legal framework from a legal management point of view. Planning and Human Systems (1975) presented the state statutes circa 1974 for 20 ASAP sites. Current provisions of DWI statutes are discussed below. The provisions of the DWI statutes of a sample of 12 states are summarized in Table 1.

Statute Provisions

The Uniform Vehicle Code provides that it is unlawful for any person who is under the influence of alcohol to drive or be in physical control of any vehicle within the state. However, statutes vary from state to state: **being in physical**

TABLE 1
SUMMARY OF THE PROVISIONS OF 12 STATE DWI STATUTES, 1979

	DWI DEFINITION				IMPLIED CONSENT			PREARREST BREATH TEST
	OPERATION	VEHICLE	LOCATION	BAC LEVEL	ARREST REQUIRED	CHEMICAL TEST	OPTION	
	OPERATES PHYSICAL CONTROL	MOTOR VEHICLE ANY VEHICLE	PUBLIC HIGHWAY WITHIN STATE	0.10 PRESUMPTIVE 0.08 PRESUMPTIVE 0.10 PER SE 0.15 PER SE	YES NO	BREATH ONLY BLOOD OR BREATH ONLY BLOOD, BREATH, OR URINE	AGENCY OPTION OFFENDER'S OPTION	PENALTY FOR REFUSAL NO PENALTY FOR REFUSAL
ARIZONA	■	■	■	■	■	■		
CALIFORNIA	■	■	■	■	■		■	
GEORGIA	■	■	■	■	■		■	■
ILLINOIS	■	■	■	■	■	■		
IOWA	■	■	■	■	■		■	■
NEBRASKA	■	■	■	■	■		■	■
NEW YORK	■	■	■	■ ¹	■		■	■ ²
OHIO	■	■	■	■	■		■	
TEXAS	■	■	■	■	■		■	
VERMONT	■	■	■	■	■	■ ³		
WASHINGTON	■	■	■	■	■	■ ³		
WISCONSIN	■	■	■	■	■	■	■	■

¹ Ability impaired law

² For accidents or violations

³ Breath only unless incapable

control might be omitted or defined as a lesser offense; the type of vehicle might be limited to motor vehicles only; or the provision might be limited to public highways. In addition, **being under the influence of alcohol** might become in some statutes **under the influence of an intoxicating liquor**, and in others **while intoxicated**. Some states have a lesser offense which is typically worded **while ability is impaired by alcohol**. This provision might have the same presumptive BAC as driving while intoxicated, or a lower level.

Chemical Tests of BAC

All states use the chemical analysis of a person's body fluids to determine BAC. Most states use a BAC of 0.10 percent or greater by weight as presumptive evidence of intoxication; if the BAC is between 0.05 and 0.10, there is no presumption; if the BAC is below 0.05, the person is presumed to not be intoxicated. Several states have adopted a per se statute that makes it unlawful **per se** to drive with a certain percentage of alcohol; one state in the sample has a presumptive level of 0.10 and a per se level of 0.15.

Implied Consent

Implied consent statutes are designed to aid the prosecution of DWI cases. Although these statutes vary somewhat from state to state, they follow the same basic pattern. Usually the wording is **any person who operates a vehicle on a public highway has given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcohol content of the person's blood, if arrested for an offense while driving under the influence of an intoxicating liquor. A law enforcement officer may administer the test if the officer has reasonable cause to believe the person was driving while intoxicated.** A person has the right to refuse to submit to a test; however, refusal will result in revocation of the person's driving license.

In some states, the suspect does not have to be arrested; the law enforcement officer might request a chemical test if there is reasonable cause to believe the person to be intoxicated. In some states, the implied consent law covers only tests for breath; in others it covers breath and blood tests; and in others it covers

breath, blood, and urine tests. Most of the states that offer an option of chemical test leave the decision to the enforcement agency; other states give the offender the option. Some states allow the offender to take a second test of his choice, but at his own expense.

Preliminary Breath Test

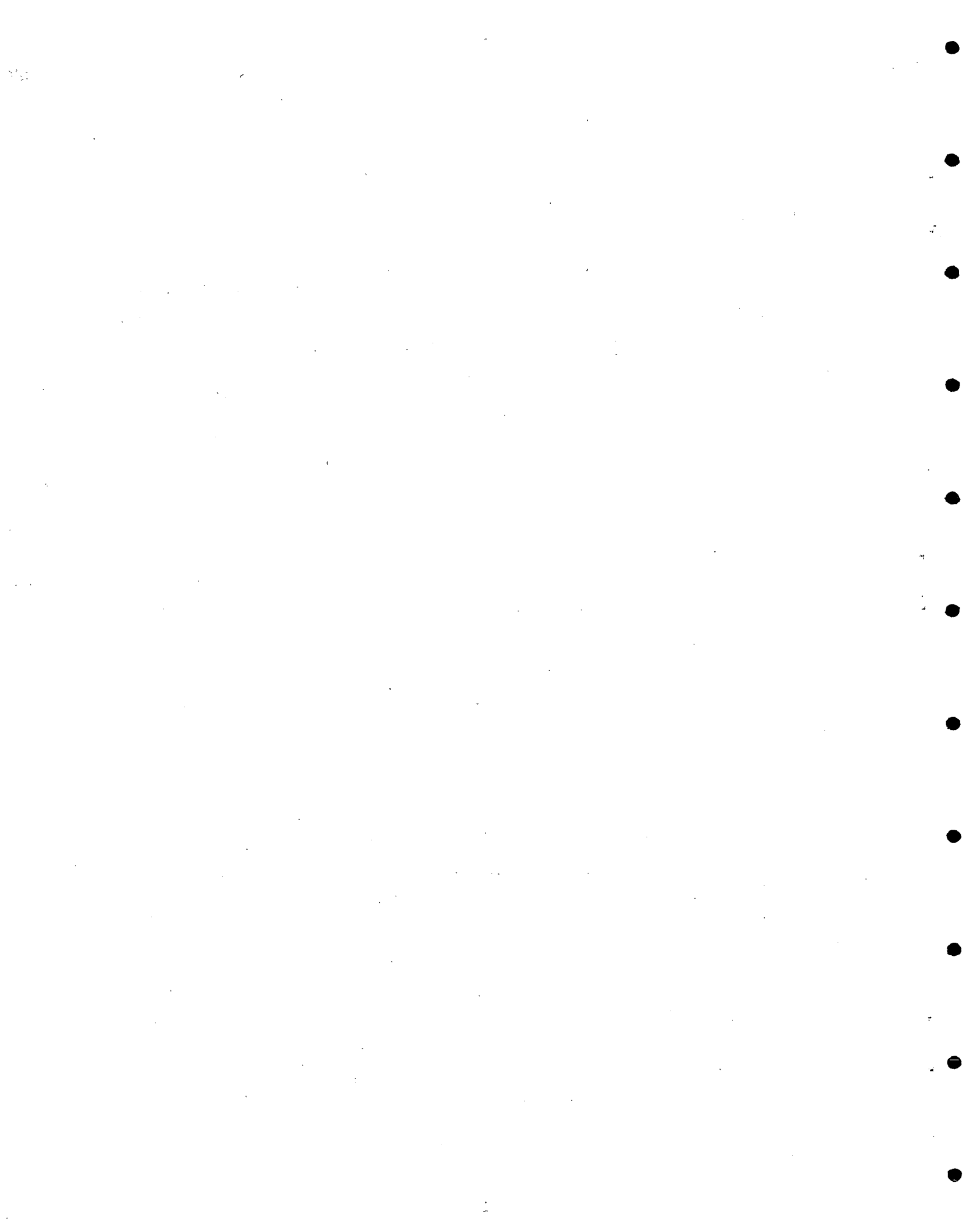
As discussed earlier, several states have implemented statutes that permit the apprehending officer to request a preliminary breath test to aid the arrest-release decision. The test results are not admissible as evidence in court. This provision might be under the implied consent statute and penalize the driver for refusal, or might not involve a penalty for refusal.

Authority to Arrest Without a Warrant

In all states, DWI offenses are misdemeanors except in injury-causing accidents, or in New York where a second offense is a felony. For a misdemeanor, an officer must either witness the offense or have a warrant in order to arrest a suspect. Most states have added a provision to their statutes allowing an officer, without a warrant, to arrest a person involved in a traffic accident when the officer has reasonable cause to believe that such a person has been driving while under the influence of intoxicating liquor.

Tort Liability

Little and Cooper (1977) reviewed the tort liability of an enforcement agency in the use of a non-detoxified offender who is released and goes on to injure himself or another in an automobile accident. Some agencies hold the offender until he becomes detoxified. However, other agencies release the offender immediately on his own recognizance, or after he posts bond. Little and Cooper concluded that the risk of tort liability was small. This was corroborated by the finding that there had been no court decisions resulting from not holding offenders.



METHOD

Research methodology emphasized the collection of data in the field during the apprehension of DWI suspects and during the subsequent processing of each suspect arrested. Data were collected at a sample of law enforcement agencies at different locations throughout the United States. Analyses of the data led to the identification and assessment of alternative DWI arrest procedures. The method consisted of the steps discussed in the following paragraphs and illustrated in Figure 1.

REVIEW PREVIOUS RESEARCH

Reports of previous studies and related documents were reviewed to define DWI arrest procedures, identify influencing factors and constraints, describe the legal framework for DWI enforcement, and identify technological developments of potential importance to DWI enforcement. The results of this effort are reported in various sections of this report.

SELECT AGENCY SAMPLE

Twelve law enforcement agencies were selected for detailed study of DWI arrest procedures. Primary selection objectives were to obtain adequate representation of alternative procedures, and to meet the requirements established for data collection and analysis. Secondary objectives were to obtain representative cross-sections of agency types and geographical locations.

Review of previous research revealed that the DWI arrest process consisted typically of about nine action segments, and that at least 23 different procedural alternatives were employed within the nine segments. Further, the distribution of alternatives suggested that a sample of 2592 agencies would be required to represent all possible combinations of the 23 alternatives. Since a sample of this size would have been beyond the resources of the project, a sample of 12 agencies was selected so that each of the 23 alternatives was employed by at least one agency. The 12 participating agencies were:

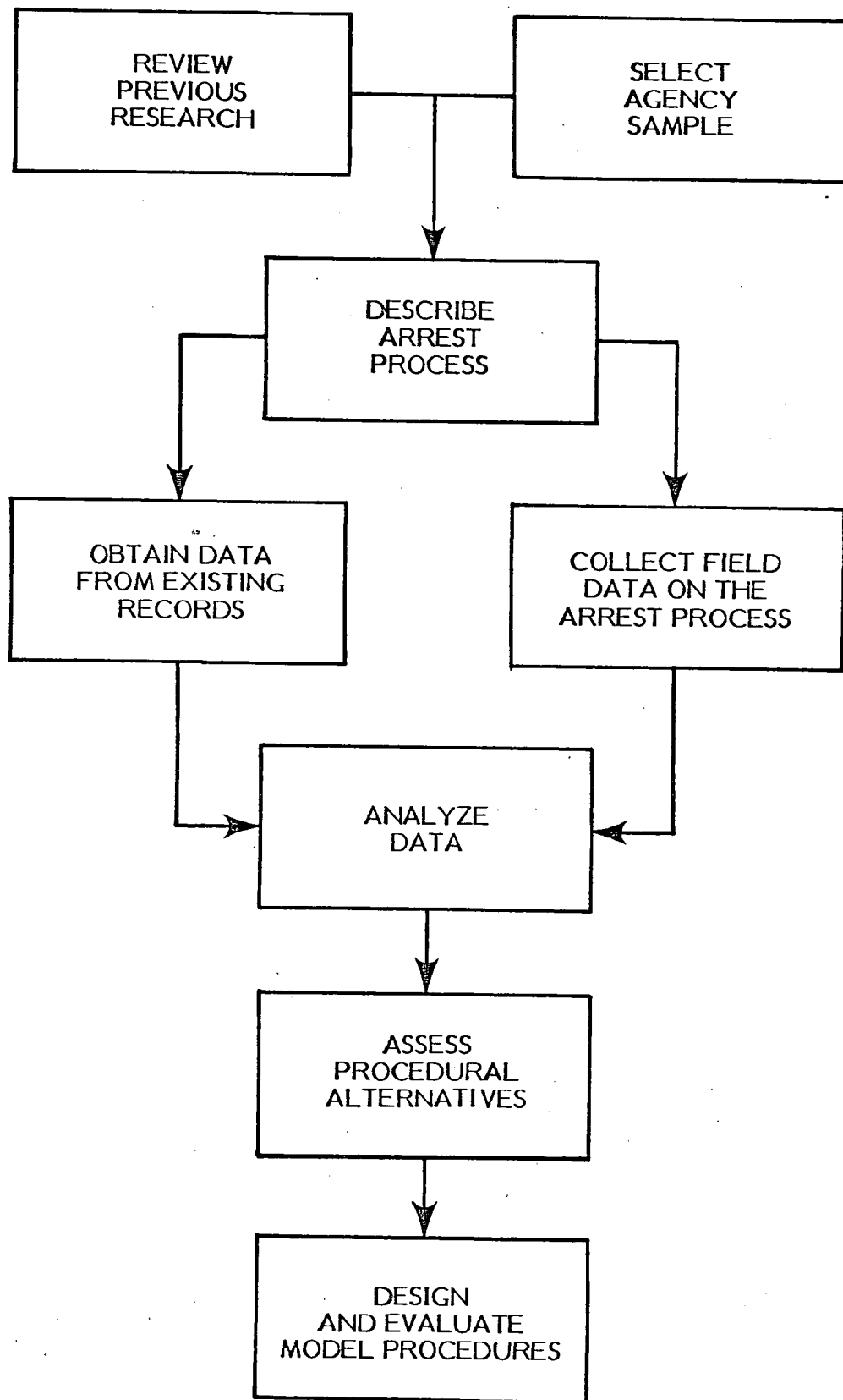


Figure 1. Components of the research method.

Arizona Department of Public Safety (AZ)
Atlanta (Georgia) Department of Public Safety (AT)
Buffalo (New York) Police Department (BU)
Euclid (Ohio) Police Department (EU)
Houston (Texas) Police Department (HO)
Lincoln (Nebraska) Police Department (LI)
Park Ridge (Illinois) Department of Public Safety (PR)
Pierce County (Washington) Sheriff's Department (PC)
Rock County (Wisconsin) Sheriff's Department (RC)
Santa Barbara (California) Police Department (SB)
Sioux City (Iowa) Police Department (SC)
Vermont, Project Crash (VT)

DESCRIBE ARREST PROCESS

Information obtained from reports of previous research was augmented by information on arrest procedures collected directly from the sample of 12 agencies. The following was obtained from each agency:

- Characteristics of the agency
 - Number of uniformed officers
 - Number of traffic patrols per shift
 - Patrol deployment strategy
 - Use of special-emphasis patrols for DWI
 - Nature and amount of DWI instruction
- Characteristics of the jurisdiction
 - Population
 - Geographical size
 - Practices that might influence DWI arrests
- Description of DWI arrest procedures
- Summary of legal statutes
- Summary of the adjudication program
 - Diversion programs
 - Alternatives to normal court trial
 - Sanctioning procedures

A description was developed of the DWI arrest process. The description included the primary components of the process and the procedural alternatives that might be employed within each component. In addition, descriptions of the characteristics of the sample agencies and jurisdictions were prepared. These are described in the appendix of this report.

OBTAIN DATA FROM EXISTING RECORDS

Visits were made to each agency to collect information from existing records; information included the following:

- Number of DWI arrests by the agency during calendar years 1978 and 1979.
- Estimated population of areas serviced by the agency.
- Estimated number of drivers within the serviced areas.
- Number of patrol-unit hours devoted to traffic enforcement by types of patrol.

COLLECT FIELD DATA ON THE ARREST PROCESS

Data were collected from a sample of 716 apprehensions that led to 518 DWI arrests. The arrests were made by patrol officers in a sample of eight law enforcement agencies. The eight agencies were part of the original sample of 12, less four that were eliminated for being unable to comply with the data collection requirements. The four eliminated agencies were:

Atlanta (Georgia) Department of Public Safety,
Buffalo (New York) Police Department,
Park Ridge (Illinois) Department of Public Safety, and
Pierce County (Washington) Sheriff's Department.

A DWI Contact Form was used by the patrol officers of each agency for recording data from each DWI contact. The form was tailored for each agency to the specific DWI arrest procedures employed by the agency. The form was designed to facilitate the recording of data. The officer checked each procedure used, and recorded event times, test results, and the final disposition.

Patrol officers and liaison personnel were instructed in data collection methods during site visits by project staff members. Officers were instructed to complete a DWI Contact Form for each traffic apprehension in which the officer suspected DWI. Each agency was provided forms in packets of 20 forms each for 10 patrol officers. Except for the forms completed initially, completed forms were returned monthly to the project staff. The first forms were returned shortly after their completion, to permit an early check of consistency and completeness. Data collection was completed during a six-month period.

Upon completion of the DWI Contact Forms, a group interview was conducted by a project staff member at each agency with the liaison officer and the participating patrol officers. The purpose of each interview was to solicit opinions on factors that influence the DWI arrest process and to obtain suggestions for procedural improvements. The discussions were semi-structured, encouraged the introduction of any topic related to DWI enforcement, but addressed, at a minimum, the following topics:

- Management attitudes toward DWI enforcement.
- Officer attitudes toward DWI enforcement.
- Problems with the DWI arrest process.
- Methods of improving the DWI arrest process.
- Impact of adjudication on DWI enforcement.

ANALYZE DATA

Data collected from the various sources were organized and subjected to six different types of analyses. Each type is summarized briefly in the following paragraphs.

Procedural Differences

Frequencies were tabulated of the alternative procedures employed both within the same agency and among different agencies. Tests of procedural differences were made with the χ^2 distribution.

Differences in Processing Times Among Agencies

For this analysis, the arrest process was divided into five components. These components were selected because adjacent components were independent in terms of processing time.

- Apprehension of the suspect and field sobriety testing.
- Arrest of the offender and disposal of the offender's vehicle.
- Transportation of the offender and evidential testing.
- Interrogation of the offender and report preparation.
- Incarceration or release of the offender.

Analysis of variance was employed to test differences among agencies.

Differences in Processing Times Among Procedural Alternatives

Within each component of the DWI arrest process, analysis of variance was used to test differences among procedural alternatives in processing time.

Factors Influencing the DWI Arrest Process

A content analysis was completed of responses obtained from group interviews. Influencing factors were identified and rank ordered by frequency of mention for both positive and negative influence.

Correlation of Influencing Factors and Arrest Rates

DWI arrest rates were calculated for each agency and adjusted for jurisdictional differences. Rank-order correlation coefficients were then calculated between arrest rates and influencing factors--procedural differences, differences in processing times, and the number of positive/negative factors cited.

ASSESS PROCEDURAL ALTERNATIVES

The analytical results were reviewed and alternative procedures were assessed.

DESIGN AND EVALUATE MODEL PROCEDURES

Model procedures were defined by analyzing different combinations of alternative procedures and minimizing the time and processing steps and the number of negatively influencing factors. Descriptions and rationale for the model procedures were evaluated by a panel with expertise in various facets of DWI enforcement.

THE DWI ARREST PROCESS

An understanding of current DWI arrest procedures requires knowledge of the primary components of the arrest process, the sequence in which actions are taken, and the alternative methods by which the actions can be taken. The purpose of this section is to provide this knowledge by means of discussion and illustration. The information was compiled indirectly from reports of previous research and evaluation projects, and directly from the sample of law enforcement agencies that participated in this study.

THE GENERIC PROCESS

The DWI arrest process typically consists of nine components. These components and their sequence are illustrated in Figure 2. Legal requirements dictate the nature and sequence of certain of these components. Initially, because most DWI violations are misdemeanors, the offense must occur in the presence of the police officer if the officer is to arrest the suspect without a warrant. Thus, the officer must establish probable cause prior to the arrest, including detection of deviant driving behavior and observation or testing the suspect.

An arrested suspect (now called offender) is requested by the arresting officer to submit to chemical tests of his blood, breath, and/or urine to determine the alcohol content of his blood under the implied consent statute. Although the offender can refuse to submit to the test, refusal can lead to revocation of his driver's license. Typically, administration of the test necessitates transporting the offender to a test facility where the test is administered by a court-certified officer. The remainder of the DWI arrest process involves interrogation of the offender, record keeping, and incarceration.

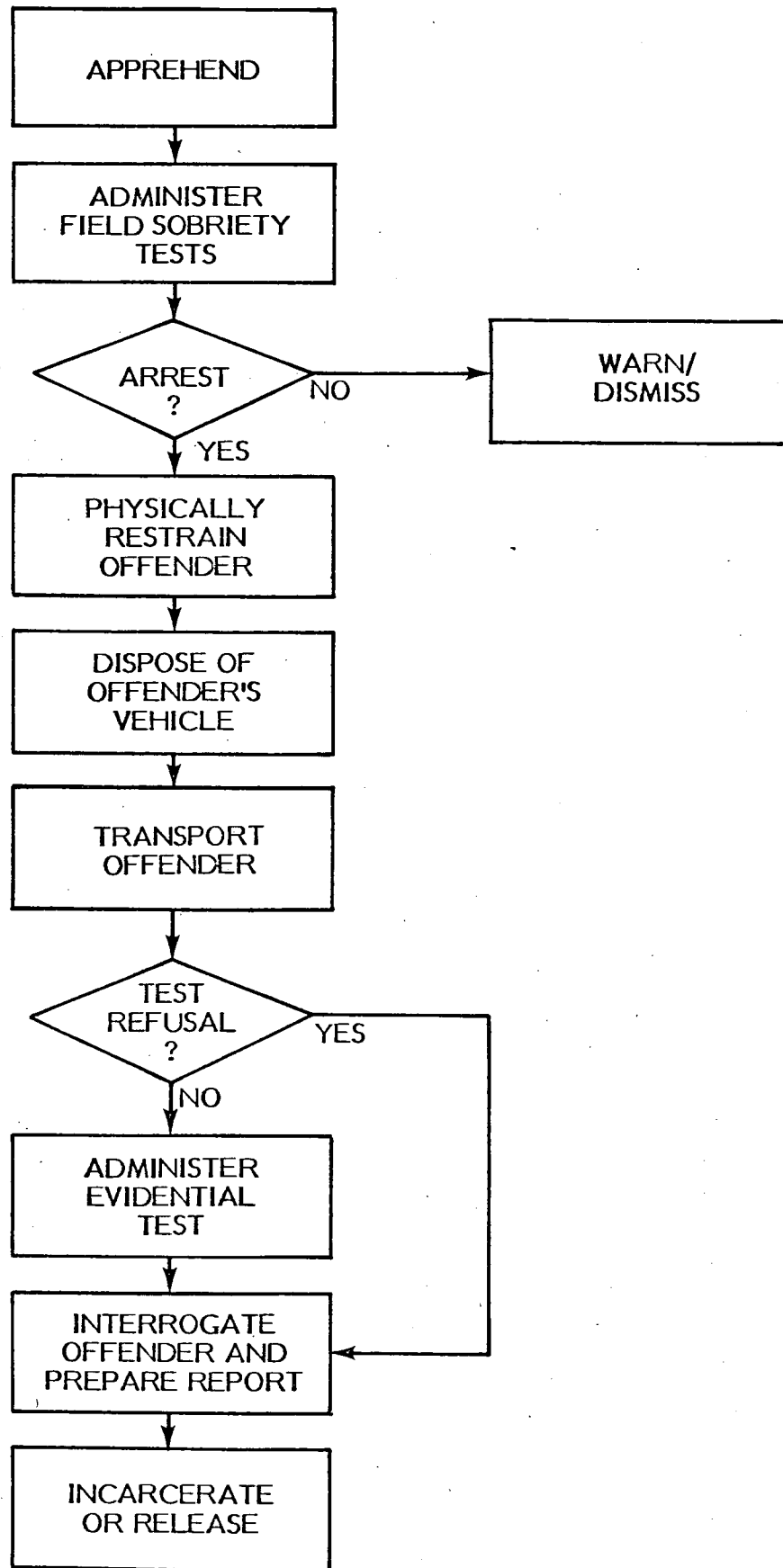


Figure 2. Components of the generic DWI arrest process.

PROCEDURAL ALTERNATIVES

Several earlier reports described and discussed DWI arrest procedures. Joscelyn and Jones (1970) described DWI arrest practices existing in two communities circa 1970: Fairfax County, Virginia, and Indianapolis, Indiana. Carnahan et al. (1974) provided a description of DWI arrest procedures in a DWI Training Manual developed for NHTSA. Planning and Human Systems (1975) summarized the DWI arrest procedures employed in 22 of the ASAP communities during the period the demonstration projects were in process. Summers and Harris (1979), to supplement their system analysis of DWI general deterrence, provided descriptions of procedures used by three agencies in 1978: Santa Ana Police Department, California; New Jersey State Police; and Tacoma Police Department, Washington. The procedural alternatives found in previously reported descriptions of the DWI arrest process are summarized by agency in Table 2. The procedural alternatives employed by the 12 agencies surveyed in the present study are summarized in Table 3. Procedural alternatives are organized by process component, and described in the following paragraphs. Also, where appropriate, frequency distributions are presented of alternatives employed by the eight agencies that participated in the field study.

Apprehend Suspect

Essentially the same apprehension procedure is used by all agencies. The patrol officer, after observing deviant driving behavior, uses flashing lights, spotlight, bullhorn, and/or, if necessary, the siren to signal the driver to pull over to the side of the road. When the suspect pulls over and stops, the officer parks behind the suspect's vehicle and issues a radio message to the dispatcher giving his location and the license number of the suspect's vehicle. The officer, then, approaches the suspect's vehicle from the driver's side, informs the suspect of the reason for the stop, and requests to see the suspect's driver's license and the registration of the vehicle. In the field study, the 716 DWI apprehensions made by the eight participating agencies were completed in essentially this manner.

Administer Field Sobriety Tests

After the suspect is apprehended, four different procedures are employed to gather additional information to aid the decision to arrest or release the suspect. Described from the perspective of the patrol officer who has apprehended the suspect, the procedural alternatives are:

- Observe the suspect's appearance, odor of breath, demeanor, and speech; decide to arrest for DWI or release, based on this information only.
- Request the suspect to perform physical coordination tests (PCT); decide to arrest for DWI or release, based on results of the test.
- Request the suspect to perform physical coordination tests; decide to arrest for DWI, release, or request the suspect to submit to a prearrest breath test (PBT); decide to arrest for DWI or release, based on PBT results.
- Request the suspect to submit to a prearrest breath test; decide to arrest for DWI or release based on test results.

There are several different physical coordination tests available for use in this component of the process. They include the following:

- **Walk-straight-line-and-turn.** The suspect attempts to walk a straight line, heel-to-toe, turn around, and walk the straight line back.
- **Balance (Rhomberg).** The suspect attempts to close eyes, place hands on hips, hold head back, and stand at attention.
- **Finger-to-nose.** The suspect attempts to stand with arms outstretched, close eyes, and touch nose with finger of one hand and then with the other.
- **One-leg-stand.** The suspect attempts to stand with eyes closed, arms outstretched and, while lifting one leg off the ground, stand at attention.
- **Pick-up-coins.** Suspect attempts to pick up coins thrown on ground by officer.
- **Recitation.** Suspects attempts to recite the alphabet or tongue twisters, or count backwards.
- **Alcohol gaze nystagmus.** The involuntary jerking movements of the eyes characteristic of an intoxicated person.

Use of the alternative procedures by the sample of participating agencies is summarized in Table 4. For each agency, the percentage of sampled cases in which each alternative was employed is shown. Where percentages do not total 100 for an agency, test refusals account for the difference.

TABLE 4
ALTERNATIVE FIELD SOBRIETY TEST PROCEDURES

AGENCY	NUMBER DWI APPREHENSIONS	PERCENTAGE OF APPREHENSIONS IN WHICH USED			
		OBSERVATION ONLY	PCT	PCT & PBT	PBT
AZ	66	—	99	—	—
EU	44	39	61	—	—
HO	101	53	47	—	—
LI	152	5	—	—	93
RC	117	12	39	35	13
SB	73	4	96	—	—
SC	105	6	12	77	3
VT	58	18	78	4	—

Arrest and Restrain Offender

Following his decision to arrest, the officer tells the suspect he is under arrest. In some agencies, the suspect is "pat-down" searched and handcuffed as agency policy. Other agencies leave these actions to the discretion of the arresting officer. The offender is placed into the patrol vehicle. As a consequence, the officer must secure the offender's vehicle in some manner. A total of 518 DWI arrests were made of the 716 reported apprehensions in the field study.

Dispose of Offender's Vehicle

Four alternative procedures are employed for disposing of the offender's vehicle. Depending upon the circumstances, an agency will employ more than one alternative. However, within the sample of agencies studied, one procedure was typically dominant within an agency (see Table 5).

The four procedures are:

- Release vehicle to a responsible person, with the offender's consent and if such a person is available.
- Secure the offender's vehicle and leave it at or near the arrest site, if considered safe to do so.
- Backup officer either drives the vehicle to the station or calls and waits for the tow service.

TABLE 5
ALTERNATIVE PROCEDURES FOR VEHICLE DISPOSAL

AGENCY	NUMBER OF DWI ARRESTS	PERCENTAGE OF ARRESTS IN WHICH USED			
		RELEASE TO RESPONSIBLE PARTY	SECURE AND LEAVE	BACKUP OFFICER	TOW SERVICE
AZ	54	11	—	—	89
EU	20	—	—	62	38
HO	91	10	—	33	57
LI	128	17	67	—	16
RC	90	14	60	1	25
SB	54	7	88	—	5
SC	51	12	31	47	10
VT	30	37	21	30	12

- Call a tow service, wait until tow service arrives, and release the vehicle to the tow service.

The percentages of sample cases in which each alternative was employed by each agency is shown in Table 5.

Transport Offender

Typically the arresting officer transports the offender in his patrol vehicle to a police station or jail for evidential testing. However, alternatives to this procedure are currently employed. The three alternatives are:

- Arresting officer transports the offender to a police station, jail, or hospital for evidential testing.
- Mobile testing facility (van) either comes to the arrest site or serves as a nearby testing station; after testing, those offenders to be incarcerated are driven to jail by either the van operator or the arresting officer.
- Breath sample is collected at the arrest site; offenders cited are released to a responsible third party, or are transported to a motel, their residence, or jail.

Only two of the eight participating agencies employed other than the first alternative. The percentage of times in which each agency employed each alternative in the sample of 518 DWI arrests is shown in Table 6.

TABLE 6
ALTERNATIVE PROCEDURES FOR TRANSPORTING OFFENDER

AGENCY	NUMBER OF DWI ARRESTS	PERCENTAGE OF ARRESTS IN WHICH USED		
		ARRESTING OFFICER	MOBILE FACILITY	BREATH SAMPLE
AZ	54	100	—	—
EU	20	100	—	—
HO	91	100	—	—
KU	128	100	—	—
RC	90	100	—	—
SB	54	52	48	—
SC	51	100	—	—
VT	30	—	—	100

Administer Evidential Test

Evidential test procedures differ with respect to the type of test administered (breath, blood, or urine), the location at which the test is administered, and the person who administers the test. At the present time, the predominant procedure is the administration of a breath test by a certified breath-test operator at a police station or jail. Figure 3 illustrates the procedure employing the Breathalyzer, the most commonly used breath tester. Within the sample of eight agencies, the following five procedural alternatives were used.

- Breath test administered at a central police or jail facility by a certified patrol officer or breath-test operator.
- Breath sample collected at the arrest site and subsequently submitted to a toxicology laboratory for analysis.
- Blood sample drawn by medical personnel and submitted to a toxicology laboratory for analysis.
- Urine sample collected and submitted to a toxicology laboratory for analysis.
- Blood sample drawn after administration of a breath test, when the offender has a low BAC reading and drugs are suspected.

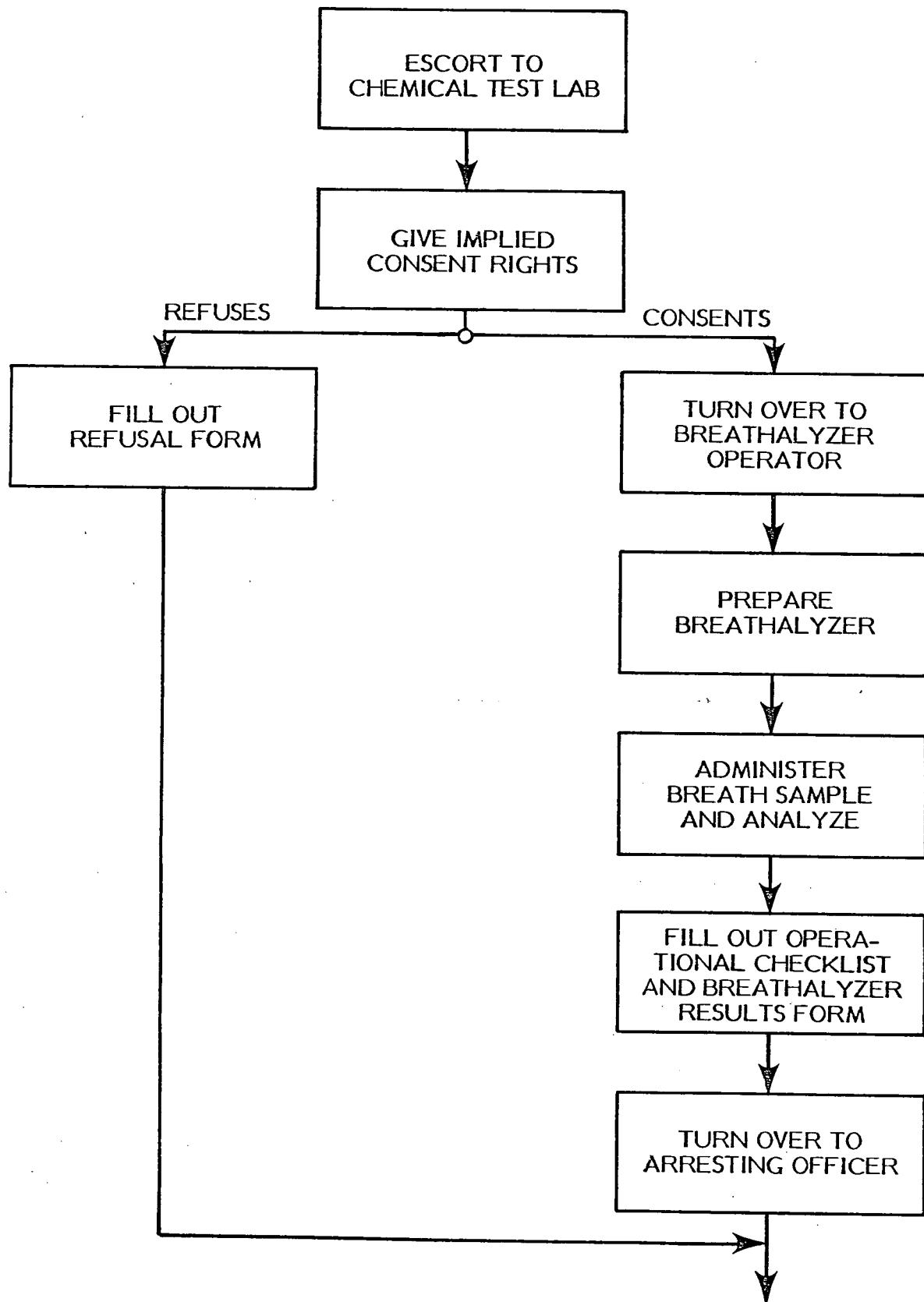


Figure 3. Activity flow for evidential test using Breathalyzer.

In the eight participating agencies, 468 of the 518 persons arrested for DWI were administered evidential tests; 50 refused to be tested. Of the 468 tested, 442 were retained and 23 were released or cited with a lesser violation on the basis of test results. Table 7 summarizes, by agency, the percentages of those arrested who were administered chemical tests of each type. Difference between totals shown for each agency and 100 is accounted for by refusals.

Breath tests were administered either by the arresting officer, who was a certified breath-test operator, or by an assigned certified breath-test operator. Table 8 shows the percentage of breath tests administered by each for each agency.

Interrogate and Report

Persons retained after completion of chemical testing are typically interrogated. After Miranda rights are presented, questions from an alcohol influence report are asked. The primary exception to interrogation is where a per se law has been enacted, eliminating the need for interrogation. (One agency of the three covered by per se laws in the present sample did not interrogate.) The following procedural alternatives are employed:

TABLE 7
TYPES OF CHEMICAL TESTS ADMINISTERED

AGENCY	NUMBER OF DWI ARRESTS	PERCENTAGE ADMINISTERED TEST			
		BREATH	BLOOD	URINE	BREATH & BLOOD
AZ	54	96	—	—	—
EU	20	80	—	—	—
HO	91	77	—	1	1
LI	128	95	—	—	1
RC	90	86	4	—	1
SB	54	89	9	—	—
SC	51	82	2	—	—
VT	30	90	—	—	—

TABLE 8
ALTERNATIVE BREATH-TEST ADMINISTRATORS

AGENCY	NUMBER OF DWI ARRESTS	PERCENTAGE OF TESTS ADMINISTERED BY	
		ARRESTING OFFICER	OTHER TEST OPERATOR
AZ	54	26	74
EU	20	—	100
HO	91	—	100
LI	128	44	56
RC	90	40	60
SB	54	100	—
SC	51	95	5
VT	30	—	—

- Offender is not interrogated, because no other evidence of intoxication is required under the per se law.
- Offender is presented the Miranda rights and questioned on drinking and driving activity.
- Offender is questioned and requested to perform physical coordination tests.
- Offender is questioned and/or requested to perform physical coordination tests, and the interrogation is videotaped.

Upon completion of interrogation, the officer completes the remainder of the required forms and reports. These might include an arrest report, a traffic citation, booking slip, and a vehicle impound report.

Use of alternative interrogation procedures by the sampled agencies is summarized in Table 9.

Incarcerate or Release

Three alternative procedures are employed in the final stage of the DWI arrest process; these are the following:

- Arresting officer cites the offender, allows the offender to call a responsible party, and releases the offender to that party.
- Arresting officer transfers custody of the offender to the jailer for booking and incarceration.
- Arresting officer books and incarcerates the offender.

TABLE 9
ALTERNATIVE INTERROGATION PROCEDURES

AGENCY	NUMBER	PERCENTAGE OF EACH TYPE OF INTERROGATION			
		NONE	QUESTIONS ONLY	QUESTIONS + PCT'S	VIDEO-TAPED
AZ	54	—	100	—	—
EU	20	—	5	11	84
HO	84	—	80	20	—
LI	121	93	7	—	—
RC	88	—	100	—	—
SB	47	—	100	—	—
SC	51	—	8	4	88
VT	30	—	100	—	—

In six of the sample agencies, most offenders were booked and incarcerated by either the arresting officer or the jailer. In two agencies, most offenders were cited and released. A summary is provided in Table 10 of the percentages of cases in which each alternative was employed by each agency.

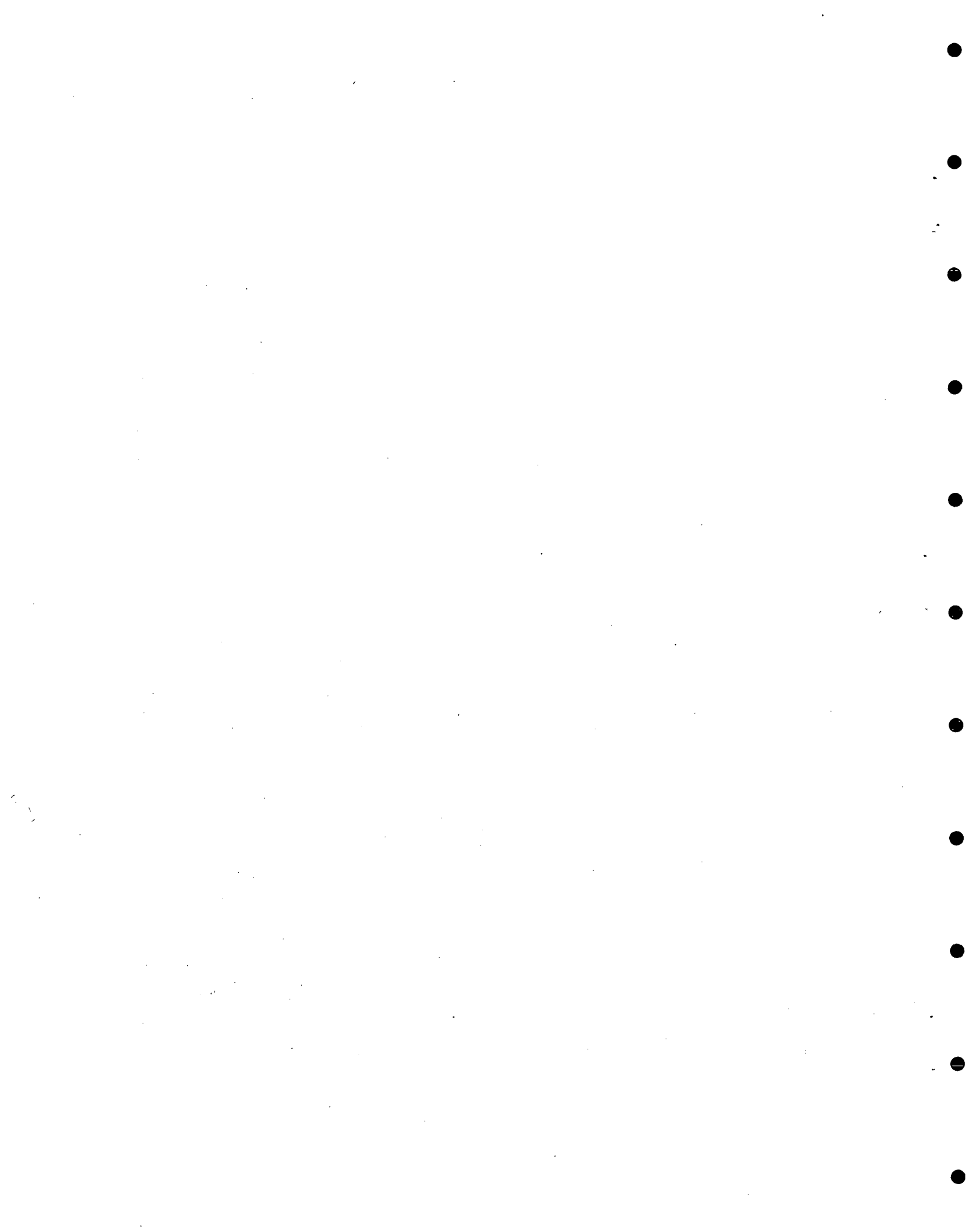
ADJUDICATION

Beyond the DWI arrest process, the arresting officer might be involved in some aspects of the adjudication process. A preliminary hearing is held within 48 hours or, if bond is posted or the defendant is released on recognizance, within 10 days to hear the charges and arraign the defendant. The arresting officer is not required to be present at the arraignment hearing. If the defendant pleads not guilty, a court trial date is scheduled. However, in the event of plea bargaining in pre-trial conferences between the prosecuting and the defense attorneys, it is possible that the arresting officer will be called into these pre-trial conferences. If the case goes to court trial, the arresting officer and the certified test officer will be called to testify in court. In these cases, the court schedules the court date and the officers receive compensation for their court time, if it occurs outside of working hours.

TABLE 10
OFFENDER'S DISPOSITION

AGENCY	NUMBER	PERCENTAGE OF CASES		
		JAILER BOOKED	ARRESTING OFFICER BOOKED	CITED AND RELEASED
AZ	54	75	—	25
EU	20	5	85	10
HO	84	98	—	2
LI	121	67	—	33
RC	88	23	—	77
SB	47	40	60	—
SC	51	92	—	8
VT	30	—	13	87

If the defendant refuses to take an evidential test, an administrative hearing is scheduled by the motor vehicle department to determine if the defendant's license should be revoked. The arresting officer might be required to testify at such a hearing. After court testimony, enforcement officers have no further involvement.



ARREST PROCESSING TIMES

The DWI arrest processing times presented in this section were collected in the field, as described earlier, from a sample of arrests processed by the eight participating agencies. Processing times are presented for the total process and for segments of the total process. Segments were formed by dividing the process in a manner that precluded the possibility of overlapping time measures, thus assuring the independence of processing times of procedures within adjacent segments. The segments were: apprehension and field sobriety testing, arrest and vehicle disposal, transport and evidential testing, interrogation and reporting, and incarceration/release.

Procedural differences in processing times were confounded with agency differences because all possible combinations of procedural alternatives could not be assigned to each agency in the sample. However, analyses of variance, completed where two or more agencies employed the same procedure, revealed that variability contributed by the different agencies was relatively small (see Table 11). Consequently, the assumption was made that differences among agencies were accounted for primarily by differences in the procedures employed. That is, agency differences reflect mainly procedural differences.

AVERAGE PROCESSING TIMES

The average time required to process each of 505 DWI arrests in the sample for which processing times were obtained was 91 minutes. The agency with the shortest processing times required an average of 58 minutes, and the agency with the longest times required an average of 134 minutes.

The average processing time for each of the five segments is shown in the chart of Figure 4. The longest average times were required by the transportation and evidential testing segment, and the interrogation and report preparation segment. Each of these two segments required an average of 26 minutes.

TABLE 11
 PARTITIONING OF VARIABILITY OF ARREST PROCESSING TIMES
 AMONG PROCEDURES (PRO) AND AGENCIES (AGY)

PROCESSING SEGMENT	PERCENTAGE OF VARIANCE		
	WITHIN PRO & WITHIN AGY	WITHIN PRO & BETWEEN AGY	BETWEEN PRO & BETWEEN AGY
Field Sobriety Testing	12	39	49
Arrest & Vehicle Disposal	1	8	91
Transport & Evidential Testing	3	10	87
Interrogation & Reporting	8	1	91
Incarcerate/Release	3	18	79

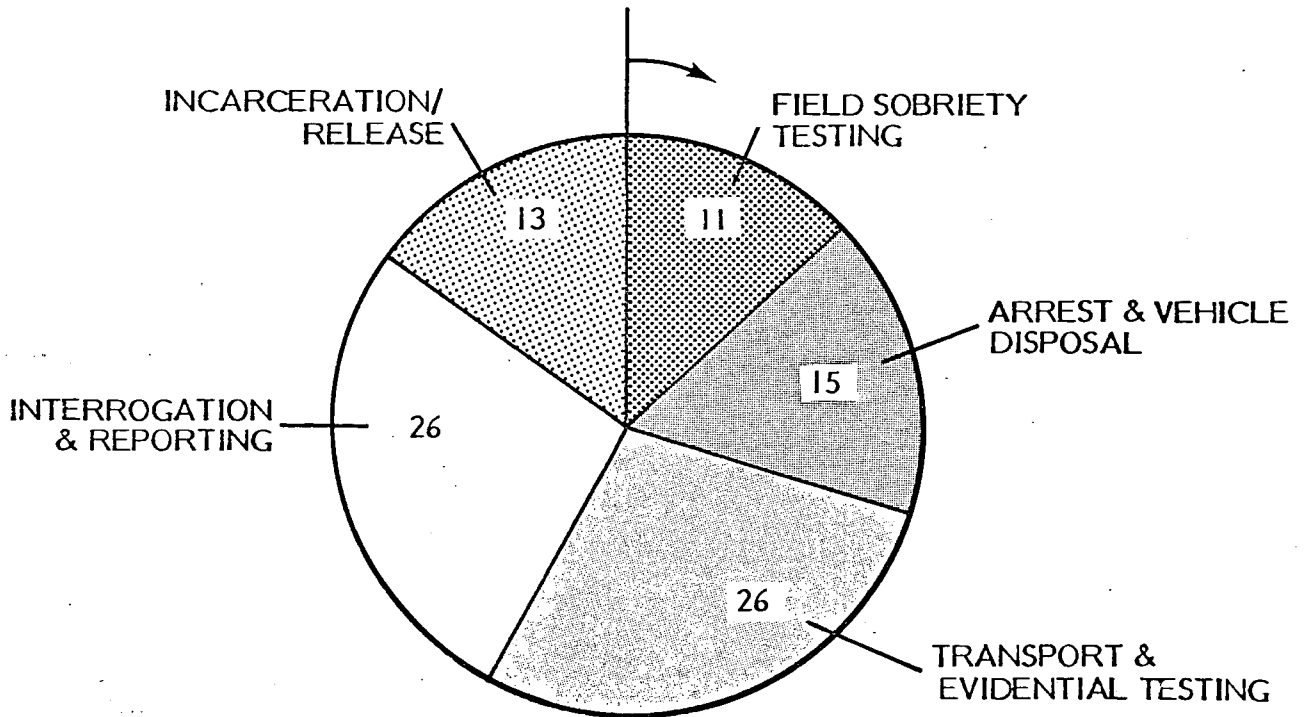


Figure 4. Average arrest processing times for each segment of the process.

As noted earlier, differences among agencies were mainly a function of the different procedures they employed. Figure 5 shows the average processing times, by segment, within each agency. Examination of this figure reveals substantial variability from agency to agency in total processing time and in processing times for each of the five segments.

Differences among agencies were statistically significant ($p < .01$) for both total processing times and for processing times within each segment. Statistical tests were conducted by one-way analyses of variance (ANOVA). The ANOVA summary is provided in Table 12.

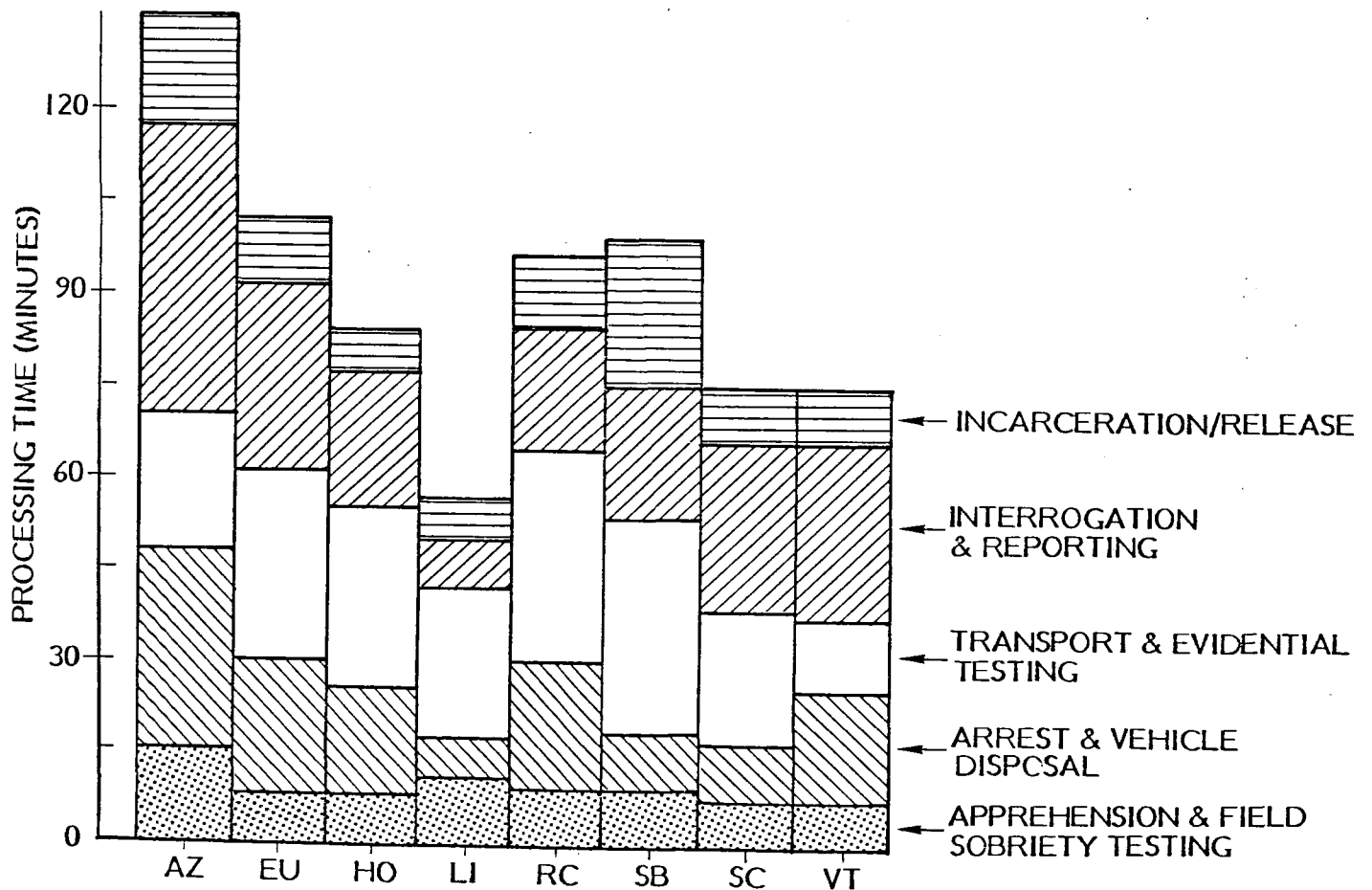


Figure 5. Average processing times, by segment, within each agency.

TABLE 12
ANOVA FOR AGENCY DIFFERENCES IN PROCESSING TIMES

SOURCE	df	MS	F	p
Total Time				
Between Agencies	7	34245	38.87	.01
Within Agencies	497	881		
Apprehension & Field Sobriety Testing				
Between Agencies	7	302	6.16	.01
Within Agencies	497	49		
Arrest & Vehicle Disposal				
Between Agencies	7	4516	57.90	.01
Within Agencies	497	78		
Transport & Evidential Testing				
Between Agencies	7	4047	20.75	.01
Within Agencies	497	195		
Interrogation & Reporting				
Between Agencies	7	9383	36.51	.01
Within Agencies	497	257		
Incarceration/Release				
Between Agencies	7	1943	16.90	.01
Within Agencies	497	115		

PROCESSING TIMES FOR PROCEDURAL ALTERNATIVES

Specific procedural alternatives required substantially different amounts of processing time. Within each segment of the DWI arrest process, average processing times for alternative procedures were significantly different. Statistical tests of the differences, conducted by ANOVA, were all significant ($p < .01$). These results are presented in the remainder of this section for each processing segment.

Apprehension and Field Sobriety Testing

Differences among processing times for alternative field sobriety testing, while statistically significant, were not large. As shown in Table 13, the longest average processing times were required by the prearrest breath tests. The time required was even greater than the time needed for the combination of prearrest

TABLE 13

AVERAGE PROCESSING TIMES FOR APPREHENSION AND FIELD SOBRIETY TESTING

PROCEDURE		AVERAGE PROCESSING TIME(MINUTES)			
Observation Only		8.6			
Physical Coordination Test (PCT)		11.9			
Prearrest Breath Test (PBT)		12.6			
PCT and PBT		9.7			
ANOVA SUMMARY		df	MS	F	p
Procedures		3	370	7.25	.01
Error		501	51		

breath tests and physical-coordination tests. This was a function of how testing was conducted by different agencies. A single agency accounted for 93 percent of the cases in which prearrest breath tests alone were employed. The procedures of this agency required that a certified officer administer the test. When an uncertified officer made the arrest, the officer had to request and await a chemical test officer dispatched to the scene, adding substantially to the time required. In the two agencies that employed both physical coordination tests and prearrest breath tests, the arresting officer administered the breath test. Also, these two agencies administered only three physical coordination tests, and the three were among the least time-consuming of the tests available.

Although assessing field sobriety by means of observation only required the least time, on the average, the time required was not much less than that of the other procedures.

Arrest and Vehicle Disposal

The variability among procedures within this segment of the arrest process was a function mainly of alternative methods of vehicle disposal, since the arrest procedure itself was nearly identical among agencies. As shown in Table 14, releasing the vehicle to a tow service required the most time, on the average, while securing the vehicle at the site required the least time. As shown in the ANOVA summary in the table, the differences among procedures were statistically significant ($p < .01$).

TABLE 14
AVERAGE PROCESSING TIMES FOR ARREST AND VEHICLE DISPOSAL

PROCEDURE		AVERAGE PROCESSING TIME(MINUTES)			
Secure Vehicle at Site		8.6			
Release Vehicle to Responsible Party		11.0			
Backup Officer Disposes of Vehicle		12.2			
Release to Tow Service		24.8			
ANOVA SUMMARY		df	MS	F	P
Procedures		3	8223	90.36	.01
Error		501	91		

Transport and Evidential Testing

Transporting the offender to the testing facility and conducting evidential tests constitutes one of the two most time-consuming segments of the arrest process. Processing times for procedural differences were found to be different, statistically ($p < .01$). For this analysis, transportation from rural locations to the testing facility was considered apart from transportation from urban locations, because of the longer transport distances. Average processing times are provided in Table 15, along with the ANOVA summary.

There was no statistically significant ($p > .10$) difference in average evidential testing times between tests conducted by arresting officers and tests conducted by specialized breath-test operators. The average time required by arresting officers was 16.8 minutes; the average time required by breath-test operators was 15.2 minutes. Individual differences among both types of operators were great.

INTERROGATION AND REPORTING

Differences among the alternative procedures employed for interrogation led to statistically significant differences ($p < .01$) in processing times during this segment. On the average, as much time was required by this segment, 26 minutes, as was required by the transport and evidential testing segment. The least time

was required by the agency, operating under a per se statute, that conducted no interrogation. The most time was required by the procedure used by one agency that incorporated part of the booking procedure (fingerprinting, property inventory, booking slip) into the interrogation process. Processing times for the procedural alternatives are presented in Table 16.

TABLE 15
AVERAGE PROCESSING TIMES FOR OFFENDER TRANSPORT AND EVIDENTIAL TESTING

PROCEDURE		AVERAGE PROCESSING TIME(MINUTES)			
Breath Sample Collected		12.2			
Transport to Facility (Urban)		24.4			
Transport to Facility (Rural)		36.1			
Mobile Testing Facility		44.6			
ANOVA SUMMARY		df	MS	F	p
Procedures		3	8374	41.87	.01
Error		501	200		

TABLE 16
AVERAGE PROCESSING TIMES FOR INTERROGATION AND REPORTING

PROCEDURE		AVERAGE PROCESSING TIME(MINUTES)			
No Interrogation		10.1			
Interrogation Only		20.7			
Interrogation and Physical Coordination Tests (PCT)		20.8			
Videotaped Interrogation and PCT		27.4			
Interrogation and Preliminary Booking		50.7			
ANOVA SUMMARY		df	MS	F	p
Procedures		4	15722	60.24	.01
Error		500	261		

INCARCERATION/RELEASE

Citing and releasing the offender, or turning the offender over to the jailer for booking each required about 10 to 12 minutes, on the average, on the part of the arresting officer. Booking required about 15 minutes more. Differences in processing times for these alternatives are presented in Table 17.

TABLE 17
AVERAGE PROCESSING TIMES FOR INCARCERATION/RELEASE

PROCEDURE		AVERAGE PROCESSING TIME(MINUTES)			
Release to Jailer for Booking		10.1			
Cite and Release		11.3			
Arresting Officer Books		24.6			
ANOVA SUMMARY		df	MS	F	p
Procedures		2	4322	35.14	.01
Error		502	123		

FACTORS INFLUENCING DWI ARREST RATE

Previous research has identified and assessed factors that influence DWI arrest rates. Findings of the present study add to this body of knowledge. In this section, results of previous research are summarized and findings of the current study are presented.

PREVIOUS RESEARCH

As suggested by previous findings, some factors that influence DWI arrest rates exist in the conditions under which police officers detect, apprehend, and arrest suspected drunk drivers. Others involve the knowledge and skills required to complete successfully the actions required for DWI enforcement. And still others stem from the attitudes toward DWI enforcement among law enforcement agencies, courts, and the general public. Stinson (1963) observed a reluctance to arrest drivers for DWI due to lack of knowledge among police officers of the role alcohol played in traffic accidents, and because of the inability of prosecutors to obtain convictions in court cases. Joscelyn and Jones (1970) cited the lengthy arrest processing time, the difficulty in obtaining court convictions, and the identification of police officers with drunk drivers as factors contributing to the lack of enforcement. Borkestein, Klette, Joiner, and Picton (1971), in interviewing police officers who had no specialized DWI training, found that the group lacked knowledge about the relationship between alcohol and highway safety and inferred that this lack of knowledge led to low DWI arrest rates.

Two recent studies performed under NHTSA contract investigated factors influencing DWI arrest rates. In one study (Oates, 1974), 267 patrolmen and 85 supervisors were interviewed and data were obtained on arrest rates in 11 different jurisdictions. Arrest rates were found to be higher for state agencies than for municipal agencies, possibly because state agencies devote a greater proportion of patrol effort to traffic-related offenses. Arrest rates were also found to be higher among agencies that had lower DWI arrest processing times. In the same study,

police patrol officers were classified into four groups as a function of the number of arrests made in the previous 12 months. The characteristics and attitudes of the groups were compared to see if there were any significant differences.

The other recent study (Arthur Young & Company, 1974) was a survey of attitudes of patrol officers and supervisors at ASAP sites. Each respondent was asked to indicate if each of a set of factors affected his decisions to arrest a suspect for DWI, as well as the degree and frequency with which it affected his decisions. Responses were not correlated with actual arrest rates, however. This significant procedural difference might have accounted for differences in findings between the two studies. The Oates study showed that arrest processing time, end of duty shift, attitude of supervisory personnel, and outcomes of previous court actions were likely to influence arrest rates. In contrast, the Arthur Young study showed that most respondents thought that these factors had no influence on the arrest decisions. A summary of factors influencing DWI arrests, based on the results of the two studies, is provided in Table 18.

Although the ASAP enforcement programs should have provided extensive data on factors influencing DWI arrests, they did not. Little systematic data collection or evaluation was conducted to identify or define influencing factors. Analyses of influencing factors were limited to reports based mainly on the opinions of ASAP program managers and evaluators. The most comprehensive of these reports (Hawkins et al., 1976) suggested that the most significant factor was the arrest processing time, and that reduction of processing time would be likely to increase the number of arrests within a jurisdiction. Other opinions included:

- Prearrest breath tests made the officer's decision more accurate than physical coordination tests.
- Use of an officer other than the arresting officer to perform the breath test, transportation, or booking increased the amount of patrol time available.
- Scheduling the officer's court appearances to fall on the same day increases the officer's morale level.

TABLE 18

NEGATIVE INFLUENCES IN DWI ARRESTS
COMPILED FROM OATES (1974) AND ARTHUR YOUNG AND COMPANY (1974)

POLICE OFFICER FACTORS

- Older and more experienced
- Personal use of alcohol
- Unconcerned about drunk drivers
- Unaware of the relationship between alcohol and highway safety
- Unconcerned about the deterrent value of enforcement
- Lack of DWI training
- No accident investigation experience
- Use of alternatives to arrest

DRIVER-RELATED FACTORS

- Cooperative suspect
- Low apparent intoxication
- Suspect known by arresting officer

OPERATIONAL FACTORS

- Lengthy, complex arrest procedure
- Close to end of duty shift

AGENCY FACTORS

- Low officer morale
- Supervisory support lacking

OTHER FACTORS

- Low court conviction rate

FINDINGS OF THE PRESENT STUDY

In the present study, analyses of the data collected from the field, from records, and from group interviews provided additional insights regarding factors that influence DWI arrest rates.

Impact of DWI Emphasis Patrols

Agencies that employed DWI emphasis patrols had a DWI arrest rate almost twice as great as agencies that did not. The four agencies that used only general criminal and/or traffic patrols averaged 3.5 DWI arrests per 100 patrol-unit hours

of nighttime traffic patrol for 1979. The four agencies that employed DWI emphasis patrols (three of the agencies also used general patrols) averaged 6.9 DWI arrests per 100 patrol-unit hours of nighttime traffic patrol during that year. This is further evidence that patrol emphasis significantly influences DWI arrest rates. DWI arrest-rate data for the eight agencies are summarized in Table 19.

TABLE 19
1979 DWI ARREST RATES

AGENCY	PATROL TYPE		NUMBER ARRESTS	PATROL UNIT-HOURS OF NIGHTTIME TRAFFIC PATROL	ARRESTS PER 100 PATROL- UNIT HOURS
	GENERAL	DWI			
AZ	•	•	1702	39420	4.2
EU	•		166	19272	0.9
HO	•	•	10345	168465	6.1
LI	•		1937	35302	5.5
RC	•		463	14196	3.3
SB	•	•	1309	10950	12.0
SC	•	•	706	18157	3.9
VT		•	207	3720	5.6

Factors Cited by Enforcement Teams

During group interviews, enforcement teams from the eight agencies mentioned five different types of factors that, in their opinion, influenced DWI arrest rate either positively or negatively in their agency: attitudes, procedures, staffing, adjudication, and public awareness. Within each category, specific factors were identified as being positive or negative in terms of their influence. These factors are listed in Table 20 along with symbols that reflect the consensus within each of the eight agencies regarding the influence exerted by the factor.

The only factor for which there was a positive consensus among agencies was that of the impact of agency attitudes toward DWI emphasis patrols. All four agencies that employed these patrols indicated positive agency attitudes toward the concept.

TABLE 20
 FACTORS INFLUENCING DWI ENFORCEMENT MENTIONED AS
 POSITIVE (●) OR NEGATIVE (O) BY ENFORCEMENT TEAMS
 FROM THE EIGHT PARTICIPATING AGENCIES

ATTITUDES	
Administration attitude toward DWI enforcement	● ● ● ● ○ ○ ○
General patrol attitude toward DWI enforcement	● ● ● ● ○ ○ ○
Agency attitudes toward DWI emphasis patrol	● ● ● ●
Peer attitude toward DWI enforcement	● ● ○
Empathy for drunk drivers	● ○
PROCEDURES	
Reporting requirements	● ○ ○ ○ ○ ○ ○
Processing time requirements	○ ○ ○ ○ ○ ○
Booking by arresting officer	○ ○ ○
Use of mobile test facility	○
Number/location of test facilities	○
ADJUDICATION	
Plea bargaining	○ ○ ○ ○ ○ ○
Judicial support for DWI	● ○ ○ ○ ○
License revocation processing time	○
STAFFING	
Amount of DWI enforcement training	● ● ● ○ ○
Patrol time allocated to DWI	○ ○ ○ ○
Number of chemical test operators	○
PUBLIC SUPPORT OF DWI ENFORCEMENT	
	● ● ○ ○ ○

Most of the agencies mentioned excessive processing time requirements and the use of plea bargaining during the adjudication process as influences that inhibit DWI arrests. In each case, the six agencies that mentioned each factor all considered them to have a negative impact.

Six of the eight agencies considered the reporting requirements to be a negative influence; however, one agency considered that their requirements and the information provided by them to be a positive influence.

Attitudinal factors varied with agencies. Administrator and patrol officer attitudes toward DWI enforcement were positive in some, negative in others, and

indifferent in the rest. These differences provided the basis for correlating the attitudinal factor with DWI arrest rate in a later analysis.

Correlation of Factors with DWI Arrest Rate

Three factors were found to be positively correlated with DWI arrest rates. This analysis was based on DWI arrest rates for the eight participating agencies for calendar year 1979, defined as the number of DWI arrests made per 100 patrol-unit hours of nighttime patrol. In most cases, agencies were ranked on DWI arrest rate and on the factor measure, and then rank-order correlations calculated. The results are summarized in order of the size of the correlation coefficients obtained.

- **Agency attitude.** A high statistically significant ($p < .05$) rank-order correlation of .73 was obtained between attitudes existing within agencies toward DWI enforcement and DWI arrest rate. For this analysis, agencies were rank ordered on the number of attitudinal positives and negatives mentioned in the group interviews.
- **BAC level of arrested suspect.** A high, statistically significant ($p < .05$) rank-order correlation of -.71 was obtained between average BAC level of arrested suspects and DWI arrest rates. That is, arrest rates were higher in agencies where arrested suspects had lower BAC levels.
- **DWI emphasis patrols.** A moderate, statistically significant ($p < .05$) bi-serial correlation of .57 was obtained between the use of DWI emphasis patrols and DWI arrest rates.

DWI arrest rate was **not** found to be related to the amount of processing time required, in the sample of eight agencies studied, in spite of the relatively large differences among agencies in arrest processing times. Although agencies with longer processing times tended to have lower DWI arrest rates, the negative correlation was low (-.29) and not statistically significant ($p > .05$). Also, DWI arrest rate was not found to be related to the rank ordering of agencies on number of different procedural complaints made by enforcement teams during the group interviews. The resulting rank-order correlation was low (-.38) and not statistically significant ($p > .05$).

Although not statistically significant ($p > .05$) because of the small sample of agencies, a moderately high rank-order correlation (-.58) was obtained between DWI arrest rate and a rank ordering of agencies on the number of different complaints expressed about adjudication support.

NEW TECHNIQUES FOR DWI ENFORCEMENT

In recent years, there have been notable improvements in both devices and methods to aid the DWI arrest process. Improved breath measurement instruments have been developed, both quantitative evidential devices and portable screening devices; videotape recorders (VTR) have been employed for evidential recording of the actions of a drunk driver; mobile test vans have been designed for conducting chemical tests at arrest sites; materials have been developed for DWI enforcement training; physical coordination tests have been evaluated and standardized; and DWI detection procedures have been developed. The majority of these programs have been a result of research and development efforts, and demonstration programs sponsored by NHTSA.

QUANTITATIVE EVIDENTIAL TEST DEVICES

Chemical test devices have been commercially available to law enforcement agencies for many years. Table 21 summarizes the different breath measurement instruments used by the 22 ASAP communities and by the sample of 12 agencies surveyed in this study; ASAP data were obtained from Planning and Human Systems (1975).

All breath-testing devices are accurate and reliable for measuring the amount of oxidant, although gas chromatographs are the only devices that specifically measure ethanol. The lack of specificity of the test devices has not been a significant problem, however. According to Dubowski (1975), the most significant problems involve obtaining an adequate sample of alveolar air; most devices give low readings compared to blood analysis due to mixing of expired with alveolar air (Noordzif, 1974). Other differences among devices exist in the presentation of results and the use of breath sample collectors. In the past, readout devices were analog meters and analog strip charts; now digital readouts and printers are provided. Several instruments include remote sample collectors. The most widely used has been the indium tube crimper with the GC Intoximeter and the Sober Meter SM7 sample collection unit used with the Alco Analyzer.

TABLE 21
 EVIDENTIAL BREATH TESTING DEVICES USED BY ASAP SITES
 AND THE STUDY SAMPLE

DEVICE	NUMBER OF AGENCIES	
	ASAP SITES	STUDY SAMPLE
EVIDENTIAL TESTERS		
● Alco-Analyzer (Gas Chromatograph)	2	—
● Breathalyzer (Chemical Oxidizer-photometry)	15	7
● Gas Chromatograph Intoximeter	4	3
● Photo-electric Intoximeter (Chemical Oxidizer-photometry)	2	—
● Intoxilyzer (Infrared Photometry)	—	2
BREATH SAMPLE COLLECTORS		
● Intoximeters Indium Tub Crimper (Used with GC Intoximeter)	2	1
● Sober Meter SM7 (Used with Alco Analyzer)	1	—

NHTSA and the Bureau of Standards (NHTSA, 1973) developed standards for quantitative evidential breath alcohol instruments and recommended stipulated performance requirements, as well as a monitoring and approval system, for breath-alcohol instruments to be used in traffic law enforcement.

PORTABLE BREATH SCREENING DEVICES

Over the past nine years, NHTSA has sponsored the development of portable breath screening devices. This sponsorship has stimulated industry to develop a number of prototype and production units. The devices currently available for use by enforcement agencies include the ALERT (an MOS gas sensing conductor), Alco-Sensor (a fuel cell oxidizer), Alveolar Air Breath-Alcohol System (a disposable length-of-stain indicator). Units used in the ASAP communities were the ALERT, Alco-Sensor, and the DOT prototype unit, ASD. In the three communities of the

current sample, the Alco-Sensor was used. These units were developed for screening purposes with an accuracy of 20 percent of the actual blood alcohol level; in practice the accuracy has been approximately 10 percent.

VIDEOTAPE RECORDING

The Planning and Human Systems (1975) evaluation reported that VTR equipment was purchased and used in 15 of the 22 ASAP's evaluated. VTR units were used in patrol vehicles, mobile test vans, and at the station houses. Their purpose was to video record actions of the offender during field sobriety tests or the evidential test procedures. These video records were to be used as courtroom evidence or in negotiation conferences with the defendants. At the time of the evaluation, only two of the sites still employed videotaping; VTR had been abandoned by the remaining 13 sites. Primary reasons given for no longer using VTR were the amount of time and cost required and the infrequent use of video records in adjudication proceedings.

MOBILE TESTING FACILITIES

Another technological development of the ASAP program was the utilization of mobile test vans. Vans were designed to bring evidential test equipment to the arrest site to reduce the amount of time the patrol officer was out-of-service (NHTSA, 1972). Seven of the 22 sites reported by Planning and Human Systems (1975) used mobile vans; five used the vehicles as mobile/stationary testing facilities. Either the van was brought to the scene of an arrest or was stationed at a central location during patrol hours. One site used the van for roadside breath testing and another site used it only as a public information and educational display. Evaluation of the effectiveness or the utility of the mobile test vans has not been reported. However, data and opinions obtained in the present study from the one agency using a mobile facility suggested that use of the mobile facility did not reduce processing time and was not positively regarded by patrol officers.

DWI DETECTION METHODS

A DWI detection guide was developed and field tested (Harris et al., 1979, 1980) in a two-phase NHTSA project. In the first phase, a set of conclusions were reached about DWI detection, and a prototype DWI detection guide was designed to facilitate the application of these findings to on-the-road detection of DWI.

In the second phase, a DWI Detection Guide and an explanatory booklet were developed and field tested. The Guide was a small white plastic card containing visual detection cues, cue conditional probabilities (probability of DWI given that the cue is observed), and a rule for adjusting the DWI probability when more than one cue is observed. Use of the Guide in a sample of 10 agencies located throughout the United States over a three-month period was accompanied by a statistically significant ($p < .01$) overall increase in DWI arrest rate of 12 percent, compared to a 12-month baseline period. In addition, the probability values contained in the Guide were verified by the more than 4,000 apprehensions made during the test period.

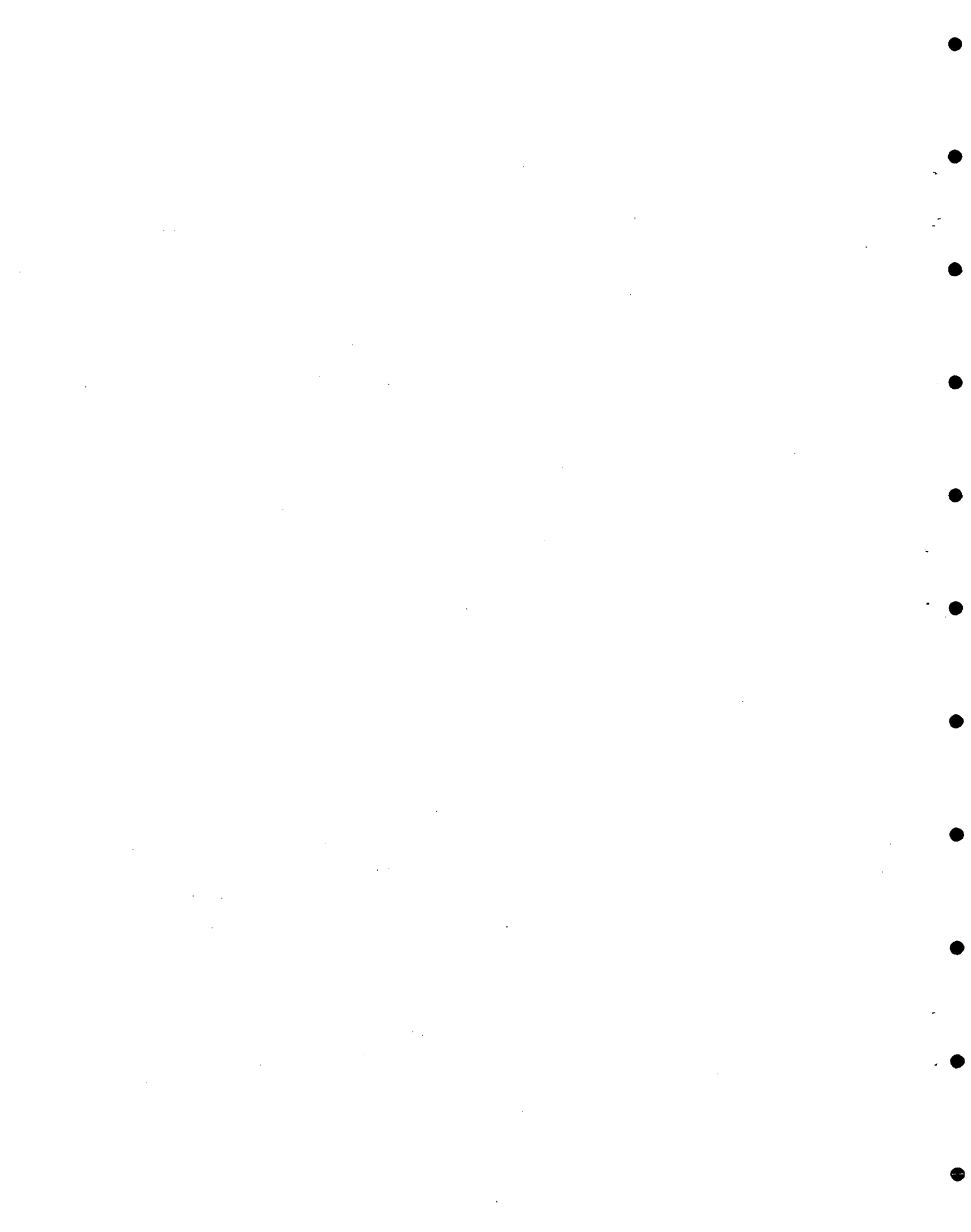
Although the Guide is useful mainly before the DWI arrest process begins, users of the Guide indicated they found it of value in preparing arrest reports and in supporting adjudication.

DWI TRAINING MANUALS

NHTSA has sponsored a number of studies to develop training materials for classroom instruction and workshops on DWI enforcement. These efforts have resulted in a DWI law enforcement training guide developed by Carnahan et al. (1974), and police management training packages for factors influencing DWI arrests developed by Nesbitt, McGill, and Lipecky (1976) and by Bishop (1975). These training materials were based on the influencing factors identified by Oates (1974) and Arthur Young and Company (1974). Abt Associates (1974) also prepared a workshop manual, the purpose of which was to make law enforcement officials more aware of the DWI problem.

PHYSICAL COORDINATION TESTS

Recently NHTSA sponsored studies on field sobriety tests and detection procedures. Burns and Moskowitz (1977) performed a laboratory evaluation of psychophysical sobriety tests used by law enforcement officials. Through comparative analysis, they arrived at three tests that, used in combination, provided the "best" discriminability between sober and intoxicated drivers: balance (one-leg stand), walking (walk-heel-to-toe-and-turn), and involuntary jerking movements of the eyes (alcohol gaze nystagmus). Currently, they are field testing the battery of tests under NHTSA Contract DOT-HS-8-01970.



CONCLUSIONS AND RECOMMENDED PROCEDURES

As reflected in the findings reported earlier, law enforcement agencies employ different DWI enforcement strategies and arrest procedures. These differences lead to variations in arrest processing times and workloads, attitudes toward DWI enforcement, and DWI arrest rates. Furthermore, these variables are intercorrelated. For example, the burden of DWI arrest processing negatively influences attitudes within agencies toward DWI enforcement. Negative attitudes, in turn, lower DWI arrest rates. Consequently, efforts to reduce the processing burden of DWI arrests are likely to enhance the effectiveness of DWI enforcement.

Model DWI arrest procedures are recommended in this section of the report to minimize the processing burden. Since the procedures cannot be separated from the DWI traffic laws from which they emanate, the recommended laws are presented first. In developing the recommendations, a preliminary set of laws and procedures were designed on the basis of research findings. These were then submitted to a review panel containing expertise in the law, law enforcement, and adjudication. Review results were considered in designing the DWI laws and procedures presented in this section.

RECOMMENDED DWI TRAFFIC LAWS

The model arrest procedures require an illegal per se law and an implied consent law with provision for prearrest breath testing. The illegal per se law provides that evidence of intoxication need be based only on the amount of alcohol in the body as measured by an approved chemical test. The law, thus, eliminates the requirement that the arresting officer collect and record behavioral evidence of intoxication. The recommended illegal per se provision is contained in Section 11-902(a) of the Uniform Vehicle Code (UVC); this section of the code is presented below.

(a) A person shall not drive or be in actual physical control of any vehicle while:

1. The alcohol concentration in his blood or breath is 0.10 or more based on the definition of blood and breath units in Section 11-902.1(a)(5); (NEW, 1971; REVISED, 1979.)
2. Under the influence of alcohol; (REVISED, 1971.)

3. Under the influence of any drug or combination of drugs to a degree which renders him incapable of safely driving; or (FORMERLY Section 11-902.1; REVISED, 1971 & 1979.)
4. Under the combined influence of alcohol and any drug or drugs to a degree which renders him incapable of safely driving. (NEW, 1971 & 1979.)

The implied consent law provides a basis for the arresting officer to require a chemical test of the blood, breath, or urine of a person suspected of driving while intoxicated. The recommended implied consent provision is contained in Section 6-205.1, presented below, of the UVC.

(a) Any person who operates a motor vehicle upon the highways of this State shall be deemed to have given consent, subject to the provisions of Section 11-902.1, to a test or tests of his blood, breath, or urine for the purpose of determining the alcoholic or drug concentration of his blood or breath if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of alcohol or any drug. The test or tests shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle upon the highways of this State while under the influence of alcohol or any drug. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered. (REVISED, 1971 & 1979.)

(b) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal, shall be deemed not to have withdrawn the consent provided by paragraph (a) of this section and the test or tests may be administered, subject to the provisions of Section 11-902.1. (REVISED, 1971.)

(c) A person requested to submit to a test as provided above shall be warned by the law enforcement officer requesting the test that a refusal to submit to the test will result in revocation of his license to operate a motor vehicle for six months. Following this warning, if a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the law enforcement agency as provided in paragraph (a) of this section, none shall be given, but the department, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle upon the highways of this State while under the influence of alcohol or any drug and that the person had refused to submit to the test upon the request of the law enforcement officer, shall revoke his license subject to review as hereinafter provided. (REVISED, 1971, 1975 & 1979.)

With the development of small, hand-held breath testers that have proven to be accurate and reliable, the arresting officer has a valid method for determining the BAC of an apprehended driver. It is recommended that the implied consent law be expanded to permit a preliminary breath analysis, by the addition of the following two paragraphs.

(d) When a police officer has reasonable grounds to believe that a person is driving or in actual physical control of any vehicle in this State while under the influence of alcohol, the police officer may require such person to submit to a preliminary breath analysis for the purpose of determining such person's blood alcohol content. Such breath analysis must be administered at the scene of the stop upon the police officer's formulation of the belief that the person is driving or in actual control of a vehicle while under the influence of alcohol. Any chemical breath analysis required under this section must be administered with an instrument and in a manner approved for that purpose. The results of a preliminary chemical breath analysis may be used for the purpose of guiding the officer in deciding whether an arrest should be made. When a driver is arrested following a preliminary breath analysis, another test may be taken.

(e) Any person who violates this section by refusing, upon a lawful request of a police officer to submit to a test under subsection (d) of this section, shall be subject to a fine of not more than \$50. However, it shall be a defense to a charge of refusing a validly requested preliminary breath analysis that the medical condition of a person precluded the giving of any such test.

MODEL DWI ARREST PROCEDURES

The model procedures are presented on the following pages, organized by arrest components and in the sequence illustrated previously in Figure 2. Within each component, the recommended procedure is presented and discussed. The procedures are described from the point of view of the arresting officer, and pertain only to the offense of driving under the influence of alcohol. Use of the model procedures would reduce the DWI arrest processing time by an estimated one-third in the sample of agencies studied, from an average of more than 90 minutes to an average of less than 60 minutes.

Apprehend Suspected Offender

Apprehension procedures were found to be similar among agencies. Furthermore, there were no alternatives that had much potential for reducing either processing time or workload. Consequently, the model procedures do not differ substantially from present procedures for apprehending a person suspected of DWI.

After detection, signal the suspected offender to pull to the side of the road. Park behind the suspect's vehicle so as to keep the suspect in sight. Communicate the stop to the dispatcher. Contact the suspect; inform the suspect of the reason for the stop; and request the suspect to step from the vehicle and present his driving license and vehicle registration.

Administer Field Sobriety Test

The use of prearrest breath screening minimizes the arresting officer's dependency on observation of the suspect's behavior or performance on physical coordination tests. The testing device provides an objective measure of the suspect's blood alcohol concentration. Consequently, its use has the potential for reducing processing time and increasing confidence in the arrest decision. Over the last nine years, NHTSA has sponsored the development of portable breath screening tests. Currently, there are several devices available for use by law enforcement agencies. These include the ALERT (an MOS gas-sensing conductor), the Alco-Sensor (a fuel cell oxidizer), the Alveolar Air Breath-Alcohol System (a disposable length-of-stain indicator), and the Sober Meter (a disposable length-of-stain indicator).

Inform the suspected offender of his rights under the implied consent law, including the preliminary breath test section to which the suspect has no right to counsel. If the suspect fails the test, arrest the suspect for DWI. If the suspect passes the test, release the suspect unless other evidence provides reasonable grounds to believe that the suspect is under the influence of intoxicants, in which case arrest the suspect. If the suspect refuses the prearrest breath test, arrest for DWI if there are reasonable grounds to believe the person has violated the DWI law. If not, then cite for refusing the prearrest breath test and release the suspect.

Arrest and Physically Restrain the Offender

The arrest and restraint procedures were found to be similar among agencies and to have little potential for increasing the efficiency of this component of the process, the model procedure is essentially the same as that currently in general usage.

Upon the decision to arrest the suspected offender, take the following actions: inform the offender, perform a pat-down frisk of the offender, handcuff the offender, and place the offender in the patrol vehicle.

Dispose of the Offender's Vehicle

The procedures employed to dispose of the offender's vehicle influence processing time, workload, and the convenience of both the arresting officer and offender. However, circumstances and potential agency liability also influence the procedures selected. The procedural alternatives are listed below in order of preference, in terms of processing time and workload.

1) If a responsible sober spouse, parent, son or daughter, co-owner, employer, employee, or co-employee is at the arrest site, release the offender's vehicle to that person.

2) Leave the vehicle at the stopped location or move it to the nearest, safe location. Secure the vehicle.

3) With a two-man patrol or backup patrol, assign disposal of the vehicle to the backup officer. With the offender's consent, the backup officer drives the vehicle to the police station, the offender's residence, or the impound area; or the backup officer requests, waits, and turns over the vehicle to a tow service.

4) Request tow service through the dispatcher, wait for the tow service, and release the vehicle to the tow service. The tow service transports the vehicle to the impound area.

Transport Offender

Two alternative procedures are provided based upon travel distances to the evidential test facility. If transport distances are short, the offender is transported to a chemical test facility located at the incarceration site. In rural areas

where transport distances are long, a breath sample collector is used at the arrest site. The offender is cited and released to a responsible person at the site or transported to the offender's residence or nearest lodging.

1) If the transport distance to a test facility is less than about 20 miles, transport the offender to the test-incarceration facility.

2) If the transport distance to a test facility is more than about 20 miles, obtain a breath sample from the offender, cite the offender for DWI, and either release the offender to a responsible sober person or transport the offender to the offender's residence, other lodging, or to an incarceration facility.

Administer Evidential Test

The arresting officer should have the option of selecting the type of evidential test. Normally a breath test would be employed. However, if the offender is unable to give a breath sample or the officer suspects drugs, the officer can request a blood test.

There are five commercially available breath test instruments that have been accepted by most courts for evidential analysis. These include the Breathalyzer and the Photoelectric Intoximeter which analyze by a chemical oxidizer plus color photometry, the Intoxilyzer which analyzes by infrared photometry, and the Alco Analyzer and the Gas Chromatograph Intoximeter which analyze by gas chromatography. The gas chromatographs are specific for ethyl alcohol; the remainder analyze for all oxidants in the breath including carbon monoxide and ketones.

Test operators are training and certified. Agencies either certify a limited number of officers as chemical test operators or certify all patrol officers. Certifying a small number of officers makes efficient use of manpower provided there is an operator always available. On the other hand, if court testimony is required, both the arresting officer and the chemical test officer would be called on to testify. Some agencies feel that having two officers testify strengthens the case. Certifying all officers eliminates the need for two officers to appear in court, since the arresting officer may also perform the breath test. The disadvantage is the cost of certifying all officers.

Some jurisdictions require the preservation of the offender's breath sample. In these cases, a breath sample collector is used. There are two breath sample collectors now available: the indium tube crimper used with the gas Chromatograph Intoximeter and the Sober Meter SM7 used with the Alco Analyzer.

Inform the offender of his rights under the implied consent law. If the offender refuses a test, complete and sign the implied consent refusal form. If the offender accepts, perform the breath test or obtain a breath sample. The breath sample is sent to a toxicology laboratory for analysis.

If the results of the breath test are below the legal intoxication level, release the offender unless other evidence provides reasonable grounds to believe that the offender is under the influence of intoxicants.

If the offender is unable to give a breath sample, transport the offender to a facility where a certified medical person is available to withdraw a blood sample. The blood sample is labeled and sent to a toxicology laboratory for subsequent analysis.

Interrogate Offender and Prepare Reports

The per se law can eliminate the requirement for interrogation since sufficient evidence is established by results of the chemical test. Redundancy in reporting can be eliminated and forms simplified so that the reports can be completed in less than 10 minutes, after the information is collected.

Complete the alcohol influence report, citation, and implied consent refusal form (if the offender refuses to submit to a test). The alcohol influence report contains the reason for the stop, evidence that the offender was operating the vehicle, and the results of the chemical test.

Cite and Release Offender

Processing time and workload would be reduced if the offender were cited and released rather than booked and incarcerated. The offender should be booked and incarcerated only if circumstances warrant. When an offender is formally booked, the arresting officer would put the offender in custody of the jailer, complete the arrest report, and return to patrol. The jailer would book and incarcerate the offender. With emphasis on citing and release, the model procedure is:

For misdemeanor DWI offenses, cite the offender, allow the offender to call a responsible party, and release the offender to the responsible sober party. If the physical condition of the offender would cause the offender to be a hazard, detain the offender until released to a responsible sober person or until the condition threatening safety is removed. If an offender is detained, release the offender to custody of the jailer. Complete the necessary reports and return to patrol.

ENFORCEMENT PARTICIPATION IN ADJUDICATION

In most jurisdictions, the adjudication process includes a preliminary hearing where charges are heard and the defendant is arraigned. If the defendant pleads not guilty, a court trial is set. The arresting officer is usually not involved in the preliminary hearing. If the defendant pleads not guilty, the officer might be required to review the charges with the prosecuting attorney, be requested to attend a plea negotiation conference between the prosecuting and defense attorneys, and be a prosecution witness at the court trial. The chemical test operator might also be required as a witness at the court trial.

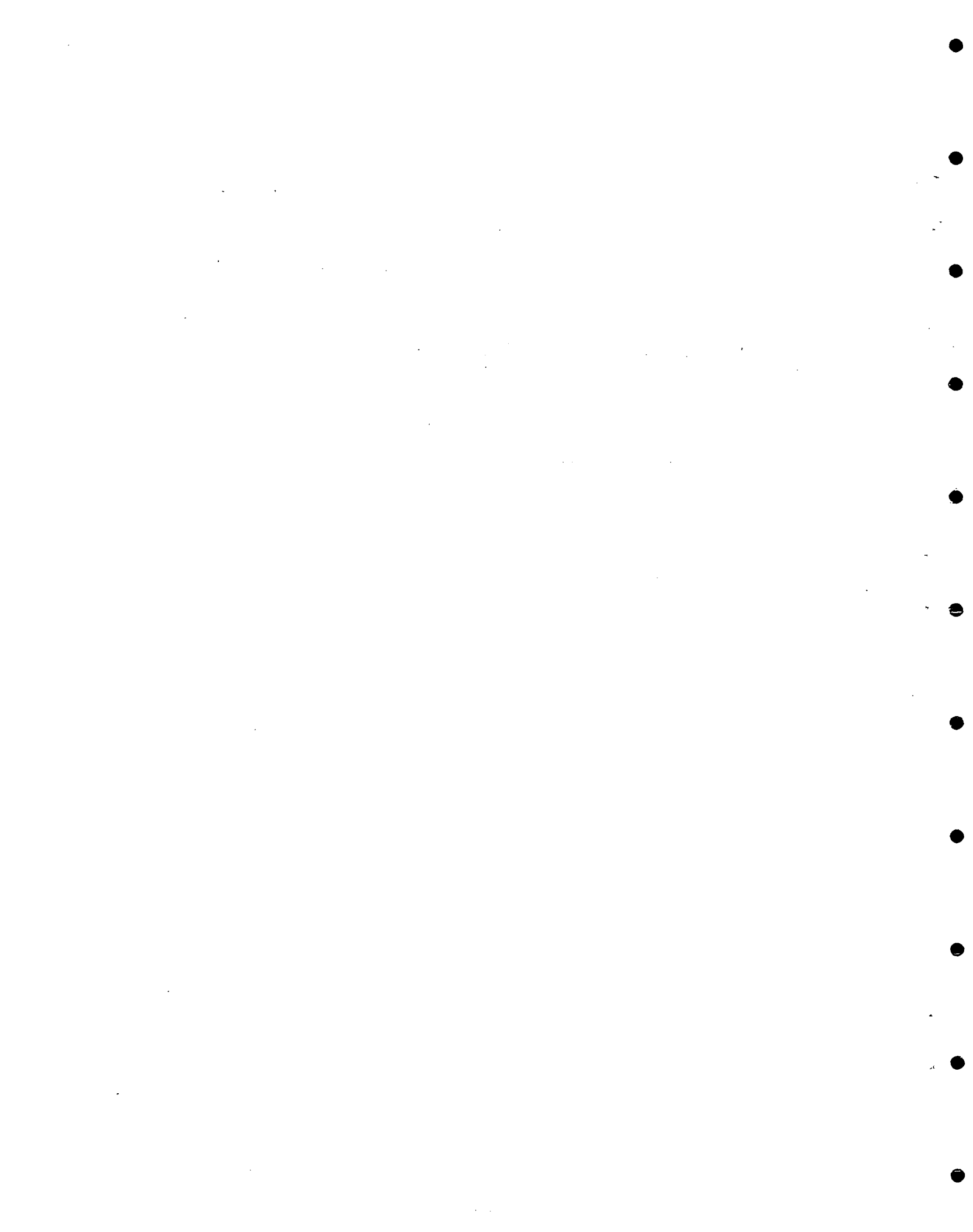
Although communication between the arresting officer and the prosecuting attorney is recommended, the arresting officer should not be involved in plea negotiations between the prosecuting attorney and the defense attorney. At the time of the arrest, the officer was convinced that the offender was guilty of a DWI offense. Consequently, involvement in plea negotiations acts as a negative influence on DWI enforcement.

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APPENDIX
PARTICIPATING LAW ENFORCEMENT AGENCIES

Description of the Jurisdiction

Applicable State Statutes

DWI Arrest Procedures Employed

Adjudication Procedures Used in the Jurisdiction

ARIZONA DEPARTMENT OF PUBLIC SAFETY

The Arizona Department of Public Safety has responsibility for enforcing laws relating to the state highways. Within Maricopa County area, which has a population of 2,000,000 and covers an area of 9,266 square miles, the Department has approximately 20 patrol units operating on both day and evening shifts and five patrol units operating on the night shift. The Department uses only one-man patrols. Approximately 90-95% of the patrol units' time is involved in traffic-related operations. The Department of Public Safety does not use special-emphasis patrols on a regular basis. During the holiday season, a DWI emphasis patrol operates on Friday, Saturday, and Sunday nights between the hours of 6:00 PM and 3:00 AM. The patrol units are given area assignments. The coverage within the assignment area is left to the patrol officer's discretion. The patrol strategy is linear patrol of the state highways within both the incorporated and unincorporated areas of the county.

All patrol officers receive 80 to 100 hours of classroom instruction on DWI enforcement at the State Police Academy. The Academy uses the course materials developed by the National Highway Traffic Safety Administration.

STATE STATUTES

The Arizona drunk driving statute states that a person driving or being in actual physical control of a vehicle while under the influence of an intoxicating liquor is in violation of the law. And, if there was, at the time of arrest, 0.10% or more by weight of alcohol in the defendant's blood, it shall be presumed that the defendant was under the influence of intoxicating liquor. The implied consent section of the statute reads, "Any person who operates a motor vehicle upon the public highways of this state shall be deemed to have given consent to a chemical test or tests of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle while under the influence of an intoxicating liquor. The test or tests shall be administered at the discretion of the law enforcement officer having reasonable grounds to believe the person to have been driving or in actual

physical control of a motor vehicle upon the public highways of the state while under the influence of intoxicating liquor. The law enforcement agency which such officer represents shall designate which of such tests shall be administered. However, only the breath test shall be administered in all cases except where circumstances preclude its use."

ARREST PROCEDURE

After the stop is made, the patrol officer requests a suspect to step out of his car and walk to the side of the patrol cruiser. The patrol officer observes the suspect for signs of intoxication: appearance, walk, speech, and odor of alcohol, while checking his license and registration. Based on these observations, the patrol officer will make a decision to request the suspect to perform the physical coordination tests. The tests usually performed are (1) walk-straight-line-and-turn, (2) one-leg-stand, (3) balance, and (4) finger-to-nose-with-eyes-closed. Depending upon the suspect's performance, the officer will make a decision to arrest the driver for DWI.

When the officer arrests a suspect, he informs the suspect that he is under arrest, gives him his Miranda Rights, searches him, handcuffs him with hands behind the back, and, in most cases, places him in the front seat of the patrol car. The officer interrogates the offender and fills in the alcohol influence report after the offender has answered all of the questions.

If a responsible non-intoxicated person is present, and with the driver's consent, the offender's vehicle may be released to that individual. Otherwise, a tow service is called and the offender's vehicle is towed and stored by the wrecker. If a tow service is called, the officer must wait until the tow service has arrived at the arrest scene.

The offender is transported by the arresting officer to the nearest Department of Public Safety office that has chemical test equipment. The offender is taken immediately to the chemical test lab and read his rights under the implied consent statute. If the offender refuses to take the test, the officer double checks that the offender understands the request and the consequences of refusal and fills out the implied consent refusal form. If the offender consents to a test, the

arresting officer, who is certified, performs the test. The officer fills out the operational checklist and notification of test results. The latter is given to the offender. At the present time, the Breathalyzer is used almost exclusively by the Arizona Department of Public Safety, except in one county which uses the Sober Meter and in another county that withdraws blood samples since no breath test equipment is available. (A recent court ruling may exclude the Breathalyzer test. If so, the agency plans to use the Intoxilyzer.)

If the offender's BAC level is below the presumptive level of 0.10% by body weight, but above 0.05%, he will still be booked for driving while under the influence of intoxicating liquor. If his blood alcohol level is below 0.05%, he is released or he may be charged with driving under the influence of drugs.

After completion of the breath test, the arresting officer books the suspect. This includes collection of valuables from the offender; fingerprinting; completion of the citation, the departmental report, the booking slip, and the property inventory form. The arresting officer may decide to release the offender on his own recognizance, but this is the exception, occurring in less than 40% of the cases, rather than the rule. Usually, the offender is transported to the County Jail and turned over to the jailer. The offender is held, after which he is allowed to post bond and be released. If he is unable to post bond, his is arraigned in court within 24 hours.

ADJUDICATION

The adjudication procedures and the existence of diversion programs vary between the different court jurisdictions. The City of Phoenix has a preconviction, first-offender "diversion" program whereupon if a defendant pleads guilty and successfully completes a DWI school, the charges are dropped. Thus, the majority of DWI cases are processed without a court trial. If the arresting officer is required to appear in court, the county attorney's office schedules the court dates for the arresting officer.

ATLANTA, GEORGIA, DEPARTMENT OF PUBLIC SAFETY

Atlanta, Georgia, has a population of 436,000 and a geographic area of 131 square miles. The Department of Public Safety has a staff of 800 uniformed police officers and, as of this year, Atlanta is using a team police concept where the City is divided into five precincts. Each patrol officer within a team has responsibility for all phases of law enforcement including traffic enforcement. It is estimated that less than 10% of the patrol officer's time is spent in traffic operations. The Department uses one-man patrol units. There are 47 to 48 patrol units during the day shift, 55-58 during the evening shift, and 40 units during the night shift. In addition, 35-40 motorcycle units are assigned to special detail; that is, traffic regulation at special events, etc. The department does not have or use any special DWI emphasis patrols. Under Atlanta's team patrol concept, the patrol officers are assigned to geographical beats. Patrol within a beat is left to the officer's discretion and normally they use a random patrol pattern. Saturation patrols are used occasionally in areas with high accident rates and/or violation rates.

Approximately 300 of Atlanta's uniformed officers have received special DWI classroom instruction. This instruction was a three-day course sponsored by the State and consisted of 24 hours of classroom participation in DWI apprehension and arrest procedures.

STATE STATUTES

The Georgia DWI statutes state that a person shall not drive or be in actual physical control of any moving vehicle on private as well as public property while under the influence of alcohol. Chemical tests of the driver's blood, breath, urine, or other bodily substances may be administered to determine whether the driver fits the statutory description of under the influence. If a suspect has 0.10% or more by weight of alcohol in his blood, it shall be presumed that the person is under the influence of alcohol. The implied consent portion of the statute states that a person has given his consent to a chemical test for the purpose of determining the alcoholic content of his blood if he is lawfully arrested for any offense allegedly committed while the person was driving or operating a vehicle under the influence of an intoxicating liquor. At the time that the officer advises the offender of his

right to refuse, he must advise this person of his right to have an additional chemical test by a qualified person of his own choosing. The statute does not state who has the option of selecting the chemical test.

ARREST PROCEDURE

After a suspect is apprehended in the normal manner, the officer approaches the driver and informs him of the reason for the stop. If the officer suspects that the driver is intoxicated, he requests the driver to step out of the vehicle. The officer decides to arrest the driver based upon the suspect's appearance, speech, odor of alcohol, balance, and demeanor. There is no Department policy to have the suspect perform physical coordination tests. Normally, the officer, at his own discretion, has the suspect perform one or more of the physical coordination tests. When the officer decides to arrest the suspect, he informs him. The suspect is given a pat-down search, physically secured, given his rights under the implied consent law and the Miranda ruling, and placed in the patrol vehicle.

The normal procedure is to impound the offender's vehicle. The officer will call for the tow service and the patrol wagon and wait until they arrive. If a sober, responsible party is present, and with the offender's permission, the offender's vehicle may be released to that party. In the meantime, the officer will interrogate the offender; secure the personal property in the vehicle; fill out the arrest report, the traffic citation, and the vehicle impound slip.

Normally (75-80% of the time), the arresting officer will call for the patrol wagon to transport the offender. If the patrol wagon picks up the offender, the arresting officer turns him over to the wagon officer. At this time, the arresting officer returns to his beat. Otherwise, the arresting officer will transport the offender in his own patrol vehicle.

The offender is transported to the central hospital and turned over to the detention officer. The offender remains with the detention officer until he is incarcerated. After reaching the hospital, the offender is given his choice of a blood or a breath test. The majority of the time, the offender selects the breath test. If the offender refuses to take a chemical test after being turned over from the arresting officer, the arresting officer must be called in to fill out the implied

consent refusal affidavit. After filling out this form, the arresting officer is free to return to his beat.

If the offender selects the breath test, the detention officer, if certified, or a certified test operator will perform the test using the GC Intoximeter. If the offender selects a blood test, the blood sample is withdrawn by medical personnel in the presence of the detention officer, the sample is labeled, and locked up in a refrigerated storage unit. The samples are collected once a day by an officer and transported to the State Crime Lab for analysis. A certified test operator of the State Crime Lab fills out the chemical test form.

If the offender's blood alcohol level is between 0.05% and 0.10% by weight, the detention officer's supervisor must authorize proceeding with the detention of the offender. Otherwise, the offender is released under his own recognizance, but he remains charged with the offense. If the offender's blood alcohol level is above 0.10%, the detention officer transports the offender to the city jail and turns him over to the jailer. The offender is formally booked; that is, searched, personal belongings inventoried, fingerprinted, and photographed. The offender is held for a minimum of four hours or longer before he is allowed to post bond. If the offender is unable to post bond, he is brought before the next Traffic Court and the judge makes a decision whether to release him on his own recognizance, reduce the amount of the bond, or let him remain incarcerated. DWI cases are heard in Traffic Court twice a week, on Tuesdays and Thursdays.

ADJUDICATION

All DWI cases are tried by the State Court. There is not an arraignment or a preliminary hearing. As a result, most of the DWI cases have a court trial. The arresting officer is required to appear at these trials and he arranges the court date and time to fit into his schedule. If it occurs in off-duty hours, he receives a small compensation. The court dates are set between 21 and 28 days after the arrest to allow time for the completion of the chemical test reports. The chemical test operator is not required to appear in court unless the case is contested.

The court system has no diversion program. However, the defendant may plead "nolo contendere" if he is a first offender; in which case, he is fined and the charges are dropped.

BUFFALO, NEW YORK, POLICE DEPARTMENT

The City of Buffalo has a population of 407,000 and covers an area of 42 square miles. Buffalo Police Department has a total complement of 980 uniformed officers. Seventy-nine of the uniformed officers are devoted to traffic operations; that is, radar patrol, point control, scooter patrol, motorcycle patrol, and accident investigation. The enforcement division performs regular patrol of geographical beats and approximately 30% of their time is devoted to traffic operations. Buffalo uses all two-man patrols except for special occasions. The number of patrol units deployed during the day and evening shifts are 45 to 50, and 40 to 45 are deployed during the night shift. The City is divided into precincts and the patrols are assigned to the precincts. Patrol within a precinct is at the officer's discretion and they usually use a random patrol pattern. However, selective traffic enforcement patrols are assigned to areas with high accident rates. Buffalo does not have any special DWI emphasis patrols.

All patrol officers receive 40 hours classroom instruction on DWI detection and arrest procedures. This instruction is given by the County Central Police Services.

STATE STATUTES

The New York DWI law states that no person shall operate a motor vehicle while: (1) his ability to operate such a motor vehicle is impaired by the consumption of alcohol, (2) he has 0.10% or more by weight of alcohol in his blood as shown by chemical analysis of his blood, breath, urine, or saliva, and (3) he is in an intoxicated condition. Violation of subdivisions two or three is a misdemeanor for the first conviction or a felony for the second conviction within 10 years. If there is 0.07%, but less than 0.10%, by weight of alcohol in his blood, it is presumed that the person is not intoxicated, but it is presumed that the person's ability is impaired by alcohol, and if there is 0.10% or more by weight of alcohol, the person is intoxicated "per se." The implied consent portion of the statute reads that any person who operates a motor vehicle in the State shall be deemed to have given his consent to a chemical test of his breath, blood, urine, or saliva for the

purpose of determining the alcoholic content of his blood, provided that such test is administered at the direction of a police officer having reasonable grounds to believe that such person had been driving while impaired by the consumption of alcohol.

New York has a preliminary breath test law which allows the officer to administer a breath test to a person operating a motor vehicle involved in an accident or a traffic violation.

ARREST PROCEDURE

After a suspect is apprehended, the officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial questioning. The officer will decide either to arrest the suspect or request him to perform physical coordination tests. The physical coordination tests requested are left to the officer's discretion. The usual ones are balance, walk-straight-line-and-turn, and finger-to-nose-with-eyes-closed. Based on these observations, the officer would decide to arrest or release the suspect. If the officer arrests the suspect, he advises him of his Miranda Rights and places him in the patrol car. Whether the suspect is searched or handcuffed is left to the discretion of the officer.

Either the assisting officer will drive the offender's vehicle to the station or the backup unit will be requested via the dispatcher to drive the offender's vehicle to the police station. If circumstances do not permit either of these alternatives, a tow service will be requested and the vehicle will be inventoried and impounded at the police garage. The arresting officer transports the offender to central headquarters.

Upon reaching headquarters, the offender is taken to central booking, where the arresting officer fills out the arrest sheet. The offender is then taken to the Breathalyzer unit where he is read and asked to read the implied consent rights. At this time, he is interrogated and the arresting officer begins to fill out the alcohol influence report. If the offender refuses the breath test, the arresting officer fills out the refusal form and finishes the reports. If the offender consents to the breath test, he is turned over to the Breathalyzer operator who administers the test. Only under special circumstances, for example if an accident

investigation officer arrests a driver, will the arresting officer administer the breath test. The Breathalyzer operator fills out the Breathalyzer checklist and Breathalyzer report. If the offender has a valid excuse for refusing the breath test or if he is unable to give a sample, a second test will be offered which may be blood, urine, or saliva, but is usually blood. If the offender's blood alcohol level is below 0.10% by weight, but above 0.07% by weight, he will be charged under the impaired section of the statute. If his blood alcohol level is below 0.07%, he is usually released.

At the completion of the breath test, the arresting officer completes the alcohol influence report and the uniform traffic summons. If the processing is completed on a weekday between the hours of 9:00 AM and 5:00 PM, the offender is brought to Traffic Court and arraigned. Otherwise, he is incarcerated for a minimum of four hours. After this minimum holding period, he may be released to a responsible individual or allowed to post bail and is released. Either way, he is arraigned in court on the next day.

ADJUDICATION

First offenders are tried for a misdemeanor by the Municipal Court. Second offenders within 10 years are tried for a felony by the County Court. The New York Courts have a postconviction diversion program for first offenders. If a first offender pleads guilty to the charge, the court gives him a conditional discharge. The conditional discharge is approved by the Department of Motor Vehicles and the offender is issued a restricted license and is required to attend a drunk driver program that is administered by the local colleges. Upon successful completion of this program, the offender's original license is reinstated, all fines are refunded, and any imprisonment is waived. The conviction remains on his record and it is imprinted on the offender's license for five years.

If the case goes to court trial, the prosecuting attorney schedules the dates of appearance for the arresting officer and the breath test operator. Both officers receive overtime compensation for their court appearance time.

EUCLID, OHIO, POLICE DEPARTMENT

Euclid has a population of 66,000 and covers an area of 11.5 square miles. Euclid is a suburb of Cleveland and has an interstate highway running east to west through the city. The Euclid City Police Department has a complement of 105 commissioned officers of which 90 are uniformed. The Department has 10 officers devoted to traffic operations. In addition, regular patrol officers perform traffic enforcement functions; however, the traffic functions occupy a small portion of their time. The Department employs five traffic patrols and 19 regular patrols during the day shift, five traffic patrols and 19 regular patrols during the evening shift, and 19 regular patrols during the night shift. During daylight hours, all traffic patrols are one-man patrols and all but four of the regular patrols are one-man patrols with the remainder being two-man patrols. After dark, all patrols are two-man patrols. The Department uses both a team policing concept where part of the regular patrols are assigned to permanent beats, and an area rotation concept where part of the regular patrols and the traffic patrols are rotated to different areas. Patrol within a beat or an area is left to the patrol officer's discretion. The Department does not use saturation patrols and it does not have any special DWI emphasis patrols.

Each officer receives DWI classroom instruction in basic training that is provided by the State Police Academy. This training includes about eight hours of instruction in DWI detection and arrest procedures.

STATE STATUTES

The Ohio DWI statute states that no person who is under the influence of alcohol shall operate any vehicle within the State. If there was at the time, a concentration of 0.10%, but less than 0.15% by weight of alcohol, it is presumed that the defendant is intoxicated, and if there is 0.15% by weight of alcohol, the person is intoxicated per se. The implied consent section states that any person who operates a motor vehicle upon the public highways of the State shall have given his consent to a chemical test or tests of his blood, breath, or urine for the purpose of determining the alcoholic content of his blood, if arrested for the

offense of driving while under the influence of alcohol. The tests will be administered at the direction of a police officer having reasonable grounds to believe the person to have been driving a motor vehicle upon the public highways in the State while under the influence of alcohol. The law enforcement agency by which such officer is employed shall designate which of the aforesaid tests shall be administered.

ARREST PROCEDURE

After a suspect is apprehended, the officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial interrogation. He will ask the suspect to step from the vehicle and will observe his balance and gait. Based on these observations, the officer will decide to arrest or release the suspect. When he arrests the suspect, he informs the suspect that he is under arrest, searches him, handcuffs him, and places him in the patrol car.

If the arresting officer is a one-man unit, he asks for a backup officer via the dispatcher. At the same time, he requests tow service. Either he waits for the tow service or, if the backup officer is available and arrives, the backup officer will wait for the tow service. The arresting officer transports the offender to the central station. When transport is initiated, the arresting officer notifies the dispatcher to have the test facility ready.

Upon entering the station, all procedures are videotaped. The implied consent rights are given to the offender and the offender's responses are recorded on videotape. If the offender refuses, a refusal form is completed by the arresting officer. If the offender consents to the breath test, he is turned over to the breath test operator who administers the test. A Breathalyzer is used and the test operator fills out the checklist and the test result form. After completion of the breath test, the offender is turned over to the arresting officer who performs the physical coordination tests which are recorded on videotape. The tests performed are: Walk-straight-line-and-turn, balance, and finger-to-nose-with-eyes-closed. The arresting officer interrogates the offender and completes the alcohol influence report and the arrest citation. The arresting officer must book the offender, place the offender in jail, and file the reports. At this time, the arresting officer is free to return to his patrol duty.

If the offender's BAC is below the legal limit, the decision to release the offender is left to the discretion of the arresting officer (very seldom is the offender released). The offender is held for a minimum of six to eight hours before he is allowed to post bond. If he is unable to post bond, he remains incarcerated until the next court date. (Traffic Court is held twice a week on Tuesday night and Friday morning.)

ADJUDICATION

DWI cases are tried by the Municipal Court. The court system does not have a diversion program and all cases go to either court trial or they are plea bargained. The prosecuting attorney uses the videotape during pretrial conference to obtain guilty pleas.

If the case goes to court trial, the court schedules the date of appearance for the arresting officer. The arresting officer receives compensation for his court appearance time if it occurs in off-duty hours.

HOUSTON, TEXAS, POLICE DEPARTMENT

The City of Houston has a population of 1,327,000 and covers a geographical area of 556 square miles. The Houston Police Department has a staff of 1,742 uniformed officers. Approximately 28% of the uniformed officers are involved in traffic operations. There are 94 traffic patrols employed during the day shift, 74 during the evening shift, and 11 during the night shift. Houston uses both one-and two-man patrols. During the evening shift, approximately 50% of the patrols are two-man and during the night shift, all the patrols are two-man. Houston divides the city into geographical beats. A patrol within a beat is left to the officers' discretion and they usually use a random patrol pattern. In addition, saturation patrols are used in areas with high accident rates and high fatality rates. Houston has a federally funded selective traffic enforcement program (STEP). The STEP Program consists of a radar speed enforcement program and a DWI emphasis patrol. The DWI emphasis patrol is composed of 10 to 14 two-man patrols. These DWI patrols are used on Thursday, Friday, and Saturday nights between the hours of 9:30 PM and 3:30 AM. The DWI patrols are assigned to areas with high accident rates on a rotation basis. (The STEP Program ended in October of 1979).

The patrol officers do not receive any special classroom instruction on DWI detection or apprehension procedures. All DWI training is on-the-job training by teaming inexperienced with experienced officers.

STATE STATUTES

The Texas DWI law states that it is unlawful for any person to drive or be in actual physical control of a motor vehicle while under the influence of intoxicating liquor and that by chemical analysis of a person's blood, breath, urine, or any other bodily substance, it can be shown that there was 0.10% or more by weight of alcohol in the person's blood, it shall be presumed that the person was under the influence of intoxicating liquor. The implied consent section of this statute assumes that any individual who operates a motor vehicle on the public highway has given his consent to a chemical test of his breath, if arrested for any offense arising out of acts alleged to have been committed while the person was under the influence of an intoxicating liquor. The test may be administered by an

enforcement officer having reasonable grounds to believe the person to have been driving while intoxicated. However, any person so arrested may consent to the taking of any other type of chemical tests or test to determine the alcoholic content of his blood.

ARREST PROCEDURE

After a suspect is apprehended, the officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial questioning. At his discretion, the officer may ask the suspect to step from the vehicle and perform physical coordination tests. The physical coordination tests include (1) walking a straight line, heel to toe, (2) turning, and (3) a balance test. Based on his observations, the officer will decide to arrest or release the suspect. When the officer decides to arrest the suspect, he immediately informs the suspect. A pat-down search and physically securing the suspect are performed at the officer's discretion. The suspect is placed in the arresting officer's patrol vehicle.

The procedure used to dispose of the offender's vehicle depends on whether the patrol is a one- or two-man unit. If it is a one-man unit, the arresting officer requests a backup unit through the dispatcher. The officer waits until the backup unit arrives and the backup unit transports the offender's vehicle to the station. If it is a two-man patrol, the assisting officer will drive the offender's vehicle to the station. If the offender's vehicle happens to be inoperable, the officer will request a tow service to dispose of the vehicle.

The arresting officer transports the offender either to the central station or one of the precinct stations which has a chemical test facility. While enroute to a station, the arresting officer will request that the dispatcher notify the accident division to prepare the Breathalyzer for testing the suspect. Upon arrival at the station, the arresting officer reports to the accident office. A background and records check is initiated on the offender. The offender is given the Miranda Rights, implied consent rights, and the opportunity to refuse a breath test. If the offender refuses, a breath test refusal form is filled out. The offender is taken to the assembly room, questioned by the arresting officer, and may be requested to perform physical coordination tests for court evidence. The arresting officer fills out the police blotter and the alcohol influence report.

If the offender submits to a breath test, he is taken to the certified test officer who performs the breath test. The arresting officer must witness the process. Only one breath sample is analyzed. The test officer fills out the Breathalyzer operational checklist, the Breathalyzer report, and the Breathalyzer log. After the completion of the breath test, the offender is turned over to the arresting officer.

If the offender's BAC reading is below 0.10% alcohol by body weight, he is usually released. However, if the reading is between 0.08% and 0.09% and there was a significant delay between the time of the traffic incident that led to his arrest and the time the BAC test was given, a second test will be given to determine if he was on the ascending BAC curve or on the descending BAC curve. If he is on the descending curve or if the officer suspects drug involvement, he may still be processed.

After completion of the evidential test, the arresting officer completes the remainder of the reports. These reports include the central intaking screening report, the defendant's descriptor report, and an offense report. After completion of the reports, the arresting officer brings the offender before a supervisor. The supervisor signs the police blotter. The offender is visually observed to determine if he needs any special attention. Otherwise, the arresting officer turns the offender over to the jailer and turns over the arrest file to the accident officer. The arresting officer is free to return to patrol.

The jailer books the defendant. Normally the offender is searched, fingerprinted, and photographed. The offender is always held for a minimum period of four hours. After the four-hour period, the offender may post bond and be released. If he is unable to post bond, he will appear before the court magistrate within 48 hours.

ADJUDICATION

The DWI cases are handled by the county court system and the court schedules the cases and the arresting officer's appearance at the court's convenience. The breath test operator is also required to appear in court. The court system does not have a specific diversion program for DWI offenders.

LINCOLN, NEBRASKA, POLICE DEPARTMENT

The City of Lincoln has a population of 180,000 and encompasses an area of 54 square miles. The Police Department currently has a complement of 230 sworn officers, 170 of whom are assigned to uniformed patrol duties. The City is divided into five geographic areas which are patrolled by one of the five police teams operating under the "team policing" concept. The Department, on the average, has 34 patrol units during the day shift, 27 during the evening shift, and 19 during the night shift. Patrol strategy is random within the team area, but may be directive by the team commander in response to unusual situations. There are no DWI emphasis patrols at this point; however, the Department is seeking a STEP grant for ten additional officers for selective traffic patrols.

The Department has licensed and certified 65 police officers as chemical test operators. These officers have attended a basic 40-hour course on DWI apprehension, arrest, chemical testing, and courtroom procedures. In addition, the certified officers and potential chemical test officers have attended a three-day mini course on chemical testing procedures. The certified officers are required to be re-certified every year and receive two to three days of training biannually.

STATE STATUTES

The Nebraska DWI law states that it is unlawful for a driver to operate or be in physical control of a motor vehicle on a state highway while he is under the influence of an intoxicant and if a person's blood contains 0.10% or more by weight of alcohol, as shown by chemical analysis of his body fluids, he is intoxicated per se. The Nebraska implied consent statute provides that any person who operates or has physical control of a motor vehicle consents to a preliminary breath test and a chemical test of breath, blood, or urine if a law enforcement officer believes that alcohol was a factor contributing to a violation or accident. It provides for the arrest of a driver who refuses a preliminary breath test or fails the test. The choice of the evidential test is at the officer's discretion. However, if the officer directs the test to be blood or urine, the defendant may choose whether the test shall be blood or urine. In addition, the statute provides that the suspect may have a physician of his choice and at his expense evaluate his condition and perform

whatever test he, the physician, deems appropriate following the evidentiary test directed by the law enforcement officer. The Lincoln Police Department uses municipal DWI ordinances which parallel the State statutes verbatim. Refusal of the preliminary test is also a violation of the ordinances and subjects the driver to a citation for refusal and a fine.

ARREST PROCEDURE

Once the officer apprehends the suspect, he observes the driver's eyes, speech, and breath for any indications of potential DWI and alcohol involvement. If he feels that further investigation is necessary, he will request the driver to submit to a preliminary breath test. If the arresting officer is certified, he will perform the preliminary breath test. Otherwise, he will request a chemical test officer via the dispatcher and will wait until the test officer arrives at the arrest scene. The chemical test officer performs the preliminary breath test. The Police Department uses the Alco-Sensor II roadside breath test unit and they are calibrated to indicate a fail at 0.12% blood alcohol content. If the suspect fails the preliminary breath test or refuses to take a preliminary breath test, he is placed under arrest.

When a suspect is placed under arrest, he is informed, searched, handcuffed at the discretion of the officer, and placed in the chemical test officer's patrol vehicle. The arresting officer gives the offender several options regarding the disposition of his vehicle. These options are (1) release the vehicle to a responsible individual, (2) allow the officer to move, park, and secure the vehicle off the roadway in a safe location, or (3) request a wrecker and tow the vehicle. The area under the immediate control of the driver is searched and if the vehicle is towed, it is inventoried and the property recorded. If the arresting officer is not the test officer, he will issue a citation for DWI, note who assisted in the arrest, and turn the offender over to the chemical test officer.

The chemical test officer transports the offender to headquarters or to the jail. If extenuating circumstances warrant, the commanding officer in charge may view the defendant at headquarters, otherwise the driver is escorted to the evidential test facility. The offender is read the implied consent form and the advisement of the defendant's privilege to consult with an attorney. The defendant

may seek legal advice from an attorney on whether to take the test or refuse and has 30 minutes to make his decision. The process may continue immediately or may be delayed, but under no circumstances will it be delayed more than the prescribed 30 minutes. Further delays constitute a refusal and are treated accordingly. If he refuses the chemical test, the officer issues a citation for refusal, completes the DMV implied consent refusal form for an administrative hearing, and continues the processing of the offender as a DWI. If the offender consents to the chemical test, the officer usually administers a breath test. In the event that the officer administers a blood or urine test, the choice is left to the defendant's option. If a breath test is performed, the Intoximeter's GCI Mark IV is used by the certified test officer. If the offender selects a blood test, the sample is withdrawn by a qualified medical person. In the event that blood or urine samples are obtained, the specimens are analyzed at one of two labs, the City-County Building or at police headquarters. If the offender's blood alcohol level is below 0.10% by weight, he may be released immediately or processed as a DWI if drugs are suspected. If his blood alcohol level is above 0.10% by weight, the offender is interrogated and the chemical test officer completes the reports. The chemical test officer is required to complete the following reports: a pretest request form, an implied consent form, a city attorney advisement form, a gas chromatograph checklist, a DWI supplemental report form, a body fluid analysis form, an arrest record form, a file card for the countermeasure squad, an implied consent refusal form if applicable, and a citation for refusal if applicable.

Upon completion of the processing procedure, the offender will be returned to the uniformed commanding officer for a pre-release interview. Depending on this interview, the offender may be released, in which case he may call an attorney or a responsible party and be placed into the holding room until the responsible party arrives. When the party arrives, the booking officer will fill out a release to responsible party form and have the party involved sign it. Offenders not eligible for immediate release are booked, photographed, and fingerprinted immediately and held in jail until arraignment.

ADJUDICATION

All DWI arrests are arraigned the next scheduled court date. The officer does not have to appear at that time and the court schedules the trial date, at which time both the arresting officer and the chemical test officer have to appear. Both officers are compensated if they appear in off-duty time. Approximately 75% of the DWI arrests plead to the charge, or a lesser offense, without going to trial. If the blood alcohol concentration of the defendant is between 0.10% and 0.11% by weight of alcohol, circumstances usually determine the charge and the subsequent plea. There is no diversion program operating in Lincoln, Nebraska.

PARK RIDGE, ILLINOIS, DEPARTMENT OF PUBLIC SAFETY

Park Ridge, Illinois, has a population of 45,000, covers an area of nine square miles, and is bounded by Des Plaines, Niles, Rosemont, and O'Hare International Airport. The Police Department is a division of the Department of Public Safety and has a staff of 48 sworn officers of which approximately 40 are uniformed officers. The Department employs six to seven patrol units on the day shift, eight units on the evening shift, and four to five units on the midnight watch. All patrol units are involved in general patrol duty, and traffic operations are allocated as needed. Park Ridge utilizes a random patrol within an assigned beat area. Patrol units are responsible for all activity and service calls within that area. The City uses on-man patrol units to act as primary and backup units. There is no special-emphasis traffic program or enforcement effort.

Nine of the sworn officers of the Department have been certified as Breathalyzer operators and have attended a 40-hour training session conducted at the local training academy. This is the extent of the DWI training for the Police Department.

STATE STATUTES

The Illinois DWI statutes state that no person who is under the influence of intoxicating liquor may drive or be in actual physical control of any vehicle within the State, and if there was, at the time of the act, 0.10% or more by weight of alcohol in the person's blood, it shall be presumed that the person was intoxicated. The implied consent portion of the statute states that a person has given his consent to a chemical analysis of his breath when made as an incident to and following his lawful arrest. A test consists of two breath analyses taken not less than 15 minutes apart. The person has a right to consult with an attorney within 90 minutes prior to taking the test and he may secure additional tests at his own expense.

ARREST PROCEDURES

After a suspect is apprehended, the officer notifies the dispatcher of the stop and observes the suspect's appearance, speech, odor of alcohol, and demeanor

during the initial interrogation of the suspect. Based on these observations, he will make a decision to arrest the suspect.

When the officer arrests the suspect, he informs the suspect that he is under arrest, searches, usually handcuffs, and places the suspect in the patrol car. He advises the suspect of his implied consent rights and his Miranda Rights. The offender's vehicle is towed to the station where it is impounded until it is released to the owner. On rare occasions, it is turned over to a responsible individual or secured at the scene. The offender is transported to headquarters in the arresting officer's vehicle unless the officer is required to remain at the scene of an accident or felony stop, in which case the driver will be transported in a marked squad car.

At police headquarters, the offender is offered only the breath test. If he refuses the breath test, a refusal form is completed by the officer and forwarded to the Department of Motor Vehicles for administrative action. The offender is interrogated and requested to perform the physical coordination test. If the offender agrees to take the test, one of the qualified chemical test operators administers the test using the Breathalyzer. If a qualified operator is not on duty, a request for an operator will be made to the Rosemont Police Department who will provide a certified operator. This is a reciprocal arrangement between the two Departments. Two Breathalyzer tests are conducted. If an offender requests a different test, that test will usually be granted at his expense. If the offender's blood alcohol level is below 0.10% by weight of alcohol, he is released. If his blood alcohol level is above 0.10% by weight, he is interrogated and requested to perform the physical coordination tests. The physical coordination tests usually performed are walk-straight-line-heel-to-toe-and-turn, one-leg-stand, finger-to-nose-with-eyes-closed, and the pick-up-coins tests. Upon the completion of the physical coordination tests, the offender is cited by a traffic ticket on the City DWI ordinance and the arresting officer completes the visual test report.

At the completion of this process, the offender is turned over to the Watch Commander where he will be released immediately if he is able to post a \$100 cash bail. If he is unable to post bail, he is held in the police jail until the first available court date, at which time he is arraigned and released pending trial.

ADJUDICATION

The court system has no diversion program and all DWI defendants must appear in court. The arresting officer sets the court appearance date on the citation and the defendant has to appear on that date for a trial.

PIERCE COUNTY, WASHINGTON, SHERIFF'S DEPARTMENT

Pierce County, Washington, has a population of 220,000 in the unincorporated area and covers an area of 1,687 square miles. The largest city in the County is Tacoma, with a population of 180,000; the next largest city is Puyallup, with a population of 25,000. Most of the population is in the western portion of the County. The Sheriff's Department has responsibility for law enforcement within the unincorporated portions of the County. The Department has a staff of 180 commissioned officers, of which 125 are uniformed. Traffic Operations has a staff of 10 officers composed of one sergeant, three accident investigators, and six enforcement officers. The Department uses one-man patrol units. Traffic Operations deploys two accident investigators and four enforcement officers during the day shift, one accident investigator and two enforcement officers during the evening shift, and there are no traffic operations during the night shift. However, on Friday and Saturday nights, two enforcement officers are deployed on a variable shift that operates between the hours of 6:00 PM and 2:00 AM. Traffic patrol deployment is in the western, populated, portion of the county. Patrol within this area is left to the discretion of the patrol officer. However, the Traffic Operations Sergeant does advise a patrol unit on the high accident rate sites and saturation patrols are used from time to time at these sites.

All officers receive 24 hours of classroom instruction in a three-day course on DWI detection and arrest procedures given by the State Patrol Academy. This is part of the basic enforcement training package.

STATE STATUTES

The Washington drunk driving statute states that it is unlawful for any person who is under the influence of or affected by the use of intoxicating liquor or of any drug to drive or be in actual physical control of the vehicle within the State; and if there was, at that time, 0.10% or more by weight of alcohol in the person's blood, it shall be presumed that he was under the influence of intoxicating liquor. The implied consent statute states that any person who operates a motor vehicle upon the public highways of the State shall be deemed to have given his consent to a chemical test or tests of his breath or blood for the purpose of determining the

alcoholic content of his blood if arrested for any offense where, at the time of arrest, the arresting officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle while under the influence of an intoxicating liquor. The tests shall be administered at the direction of the law enforcement officer having reasonable grounds to believe the person to have been driving while under the influence of intoxicating liquor. Unless the person to be tested is unconscious, the chemical test administered shall be of his breath only.

ARREST PROCEDURES

After a suspect is apprehended, the officer will observe the driver's appearance, demeanor, speech, and the odor of alcohol while checking the driver's license and vehicle registration. If the officer continues to suspect that the individual is intoxicated, he will request the suspect to step from the car and bring him to the right side of the police cruiser. At the officer's discretion, he will ask the suspect to perform the physical coordination tests. The tests usually performed are: the one-leg-stand, the finger-to-nose-with-eyes-closed, the walk-straight-line-heel-to-toe-and-turn, the recite-the-alphabet, and pickup-coins tests. Based on the results of these tests, he will make the decision to arrest the driver.

The officer informs the suspect that he is under arrest. A pat-down search and handcuffing of the driver is left up to the discretion of the patrol officer. He places the offender in the patrol cruiser and informs him of his Miranda Rights and implied consent rights. If it is safe to do so, and with the consent of the offender, the offender's vehicle may be secured at the site. Otherwise, a tow service is called and the officer must wait until it arrives. (The majority of the time, the vehicle is secured at the arrest site.)

The arresting officer transports the offender to either of two locations which have a Breathalyzer: the County Jail or the West Precinct. After the offender is brought into the facility, the officer, using his own discretion, will decide to *videorecord* the evidential testing process. The offender is given the right to refuse a chemical test and he signs an implied consent form indicating he was given a choice. If he refuses to take a breath test, a notice of refusal is filled

out by the arresting officer. Normally, the arresting officer who is certified will perform the Breathalyzer test and fill out a Breathalyzer report sheet.

If the offender's BAC is below the legal limit, but above 0.05% by weight, he will remain under arrest and processed. After completion of the chemical test, the arresting officer will have the offender perform the physical coordination tests which may be videorecorded. The officer will question the offender and complete the alcohol influence report, the general report (i.e., a narrative report of the officer's activity), and the traffic citation.

The offender may call a responsible individual, i.e., his wife, an attorney, or clergyman, to pick him up, in which case he is released immediately on his own recognizance. Transients are turned over to the jailer and booked. However, if they can post bond, they will be released immediately. If an offender is booked and unable to post bond, he will be arraigned in court on the following day.

ADJUDICATION

The district court has a preconviction "diversion" program. If an offender pleads guilty to the charge, he is placed on probation for one year. If he completes the alcohol driving school and pays for the court costs, the charges are reduced to being in physical control of the vehicle. For repeated offenders, the offender's attorney petitions the court that the defendant has an alcohol-related problem. The case is continued until the defendant is evaluated at a treatment center. The court trial date is set at the County Jail when the offender is released. The arraignment date is within seven days. Only a small portion of the cases actually go to court trial. The majority of cases go through the diversion program where they are plea bargained to a lesser charge. The videorecords are used by the prosecuting attorney in pretrial conferences with the defendant and his attorney. The videorecords are hardly ever used in court trials.

The arresting officer and the breath testing operator both appear at the court trial. If the offender refuses a breath test, both officers are required to appear at an implied consent hearing held by the State's Department of Licenses. They receive overtime compensation if the court appearance is in off-duty hours.

ROCK COUNTY, WISCONSIN, SHERIFF'S DEPARTMENT

Rock County, Wisconsin, has a population of 180,000 and covers an area of 720 square miles. There are two moderately sized cities within the County: Beloit, population of 36,000 and Janesville, population of 49,000. The Sheriff's Department has a staff of 70 Deputy Sheriffs. The Department uses one-man patrol units and approximately 50% of the patrol units' time is involved in traffic operations. The Department does not have or use any special-emphasis patrols. There are four patrol units during the day shift, six to eight during the evening shift, and five to six during the night shift. The officers are assigned to geographical beats. Patrol within a beat is left to the discretion of the patrol officer.

Nearly all the officers have attended a special DWI training class given at the local Department level. This instruction was on the recent changes in Wisconsin's DWI laws; that is, the prearrest breath test law and the illegal blood alcohol level "per se" statute. Some of the officers have attended a special DWI course conducted by the State Patrol Academy. This was a five-day course with a total of 24 hours of instruction.

STATE STATUTES

The Wisconsin drunk driving statute specifically states that no person may drive or operate a motor vehicle while under the influence of an intoxicant or controlled substance, and that a person whose blood contains 0.10% or more by weight of alcohol is under the influence of an intoxicant per se. The implied consent portion of this statute states that any person who drives or operates a motor vehicle upon the public highways of the State has given his or her consent to tests of his or her breath, blood, or urine for the purpose of determining the presence or quantity in his or her blood of alcohol or controlled substances when requested to do so by a law enforcement officer. The enforcement agency must be prepared to administer two out of the three tests and may designate which of the tests shall be administered first. In addition, if the law enforcement officer has probable cause to believe that a person was drunk driving, he may request the person prior to arrest or issuance of a citation to take a preliminary breath test to

determine if the person was intoxicated. A person may refuse to take the breath test without being subject to license revocation and neither the results of the preliminary breath test nor the fact that it was administered shall be admissible as courtroom evidence.

ARREST PROCEDURE

After a suspect is apprehended, the officer notifies the dispatcher that a DWI stop has been made and the dispatcher sends a backup officer to the scene. The apprehending officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial questioning of the suspect. Based on these observations, he will ask the suspect to step from the vehicle and perform the physical coordination tests. The tests usually performed are: (1) the balance, (2) the walk-a-straight-line-heel-to-toe-and-turn, and (3) the finger-to-nose-with-eyes-closed. Depending upon the results of these tests, the officer will make a decision to arrest, perform a preliminary breath test, or release the suspect. If the officer decides to perform a preliminary breath test, he will request the suspect to take a test and inform the suspect that he has a right to refuse the test without a penalty. Intoximeters, Inc., Alco-Sensor II, is the portable unit utilized for these tests. The officer will fill out the notice of result form and, based on the results of the preliminary tests, the officer will decide to arrest the suspect. (It is estimated that approximately 50% of the suspects arrested had received a preliminary breath test.)

When the officer arrests a suspect, he informs the suspect that he is under arrest, searches, handcuffs, and places the suspect in the patrol car. He immediately writes out a citation and gives it to the offender. If it is safe to do so, and with the offender's consent, the offender's vehicle is secured at the site. Otherwise, a tow service is called and the backup officer waits at the site until the tow service arrives. (It is estimated that the proportion of times that the vehicle is secured versus towing is approximately 50-50.)

The arresting officer transports the offender to the Sheriff's Station. At the station, the offender is given his rights to refuse an evidential chemical test. If he refuses, an intent to revoke form is filled out and the booking process is continued.

If the offender agrees to take the test, the test offered is a breath test performed by a certified test officer using the Breathalyzer. The operator will fill out the operational checklist and notice of result form. The arresting officer may be certified, in which case he may perform the breath test. However, only about a third of the time does the arresting officer actually perform the test. Usually the arresting officer fills out the arrest report forms while a test officer performs the breath test. After completion of the breath test, the offender may request a second test which is either a urine or blood test. If the offender requests a blood test, it is provided at the offender's expense.

If the offender's blood alcohol level is borderline, he may still be processed for driving under the influence, depending upon the circumstances. However, if it is definitely below the border, he is cited for a lesser traffic violation or he is released.

After completion of the evidential test, the arresting officer gives the offender his Miranda Rights, questions the offender, and completes the remainder of the report forms: informing the accused (of his implied consent rights), alcohol influence report, and the Miranda Rights form. After completion of the reports, the arresting officer turns the offender over to the jailer. At this time, the arresting officer's involvement is complete and he may return to his regular duty.

The jailer allows the offender to call a responsible individual to pick him up and the offender may wait in a holding area until that individual arrives. If no one is available or the offender refuses to call anybody, he is booked and held for a minimum of four hours. Unless the offender is a non-resident driver, he is released on his own recognizance. Otherwise, he must post bail or remain incarcerated until he can be arraigned.

ADJUDICATION

Wisconsin has a post-conviction "diversion" program. If a first offender pleads guilty to the charge, he is sent to group dynamics and, upon successful completion of the course, other sanctions are withheld. For second offenders, a pre-sentence report is made and the convicted offender is recommended to one of the alternative programs that are conducted by the Probation Department. If a

driving while under the influence case ends up in a court trial, both the arresting officer and the certified breath test officer are subpoenaed. The court appearance dates are scheduled by the court clerk. The officers receive compensation if their court appearance dates fall outside of their regular work schedule.

SANTA BARBARA, CALIFORNIA, POLICE DEPARTMENT

Santa Barbara, California, has a population of 75,000 and it covers an area of 18.4 square miles. The Police Department has a staff of 80 uniformed officers and the Department uses a team policing concept where the patrols are assigned to different geographic beats. Each officer within a team has responsibility for all phases of law enforcement including traffic operations. There are seven patrol units during the day shift, seven patrol units during the evening shift, and six patrol units during the night shift. Two motorcycle officers are employed during the day and evening shifts for traffic operations. The evening and night patrols overlap during the hours of 9:00 PM and 2:00 AM. In addition, Santa Barbara has a DWI emphasis patrol provided by State and municipal funds. The emphasis patrol, called the Drunk Driver Team (DDT), employs five officers and operates a mobile test van and two patrol units five days a week: Thursday through Monday, during the hours of 7:00 PM and 5:00 AM. The Department uses one-man patrol units and patrol within a beat is left to the discretion of the patrol officer. The DDT operates the mobile test van with two men and has two one-man patrol units. The DDT operates on a random basis throughout the city and provides saturation patrols in areas with high alcohol-related accident rates and DWI arrest rates.

STATE STATUTES

The California DWI statute states that it is unlawful for any person who is under the influence of an intoxicating liquor or under the combined influence of an intoxicating liquor and any drug to drive a vehicle within the State. If there was at the time of arrest 0.10% by weight of alcohol in the person's blood, it is presumed that the person was under the influence of intoxicating liquor. The implied consent portion of the statute states that any person who drives a motor vehicle upon a highway shall be deemed to have given his consent to a chemical test of his blood, breath, or urine for the purpose of determining the alcohol content of his blood, if lawfully arrested for any offense allegedly committed while the person was driving a motor vehicle under the influence of intoxicating liquor. The test shall be incidental to a **lawful** arrest and administered at the direction of a peace officer having reasonable cause to believe such a person was driving a motor vehicle upon

a highway while under the influence of intoxicating liquor. The person arrested shall have the choice of whether the test shall be of his blood, breath, or urine, and he shall be advised by the officer that he has such a choice. In addition, the person shall be also advised by the officer that he does not have the right to have an attorney present before stating whether he will submit to a test or deciding which test to take.

ARREST PROCEDURE

If a suspect is apprehended by the DDT, the officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial interrogation of the suspect. Based on these conversations, he asks the suspect to step from the vehicle and perform the physical coordination tests. The officer requests the suspect to perform three preliminary tests, which are counting 1 to 10, standing at attention, and slapping his hands while alternating top and bottom between his right and left hands. Based upon these preliminary tests, the officer requests the suspect to perform additional physical coordination tests consisting of walk-straight-line-and-turn, balance, finger-to-nose-with-eyes-closed, and recitation-of-the-alphabet tests. Based upon the results of these tests, the officer makes the decision to arrest the suspect.

If a regular patrol apprehends a suspect, the officer uses the same procedure but, at his discretion, uses his own set of physical coordination tests. The regular patrol has the discretion to arrest the suspect or call the mobile van and turn the suspect over to the DDT.

When the officer arrests a suspect, he informs the suspect that he is under arrest, searches, handcuffs, and places the suspect in the patrol car. He gives the offender his rights under the implied consent law, and requests the suspect to select a breath, blood, or urine test. The officer secures the offender's vehicle at the site and, depending on the defendant's response, proceeds with the following alternatives: if the offender refuses to take a test, he is transported to the county jail where an implied consent refusal form is filled out and the offender is booked. If the offender selects a breath test, the availability of the DDT's mobile unit is determined and either the unit comes to the arrest scene, the arresting officer

transports the offender to the location of the unit, or the arresting officer transports the offender to the county jail for the evidential test. The mobile van has a VTR and the arresting officer, at his discretion, may request of the offender permission to videorecord the arrest process. When the mobile unit arrives at the arrest site, the breath test officer administers the test using the Intoxilyzer. Two tests are administered with a two-minute separation. If the offender's BAC level is below 0.10% by weight, he is usually released. If he is above 0.10%, he is held in the test van which transports him to the county jail. The arresting officer follows the van to the county jail in order to complete the booking process. If the offender selects a blood test, the arresting officer transports the offender to a hospital where a qualified medical person withdraws the sample, labels it, and gives it to the officer. The officer then transports the offender to the county jail and deposits the blood sample at the county jail. The blood sample is picked up the next day by the chemical test lab and the results are available within 72 hours. If the offender selects a urine test, he is transported to the county jail, a sample is collected under supervision and labeled. It is picked up the next day by the chemical lab, processed, and the results are available in 72 hours.

In the mobile van, or upon arrival at the county jail, the offender is given his Miranda Rights, interrogated, and the arresting officer completes an intoxication report and a booking form. The arresting officer either turns the offender over to the jailer to complete the booking process or completes the booking process himself. Booking includes collection of valuables, photographing, and fingerprinting, and the completion of a booking and property record form and a background investigation form. Under normal circumstances, the offender is held for a minimum of four hours, after which he is released on his own recognizance. If he is not released on his own recognizance, he may post bond or be arraigned within 48 hours.

ADJUDICATION

Santa Barbara County has a second offender post-conviction diversion program. If a second offender pleads guilty to the charge, he is given a sentence, fined, and placed into a rehabilitation program operated by the Probation

Department. Upon successful completion of the rehabilitation program, the license suspension is waived. If a DWI case ends up in court trial, both the arresting officer and the certified test officer must appear. Their court appearance dates are scheduled by the court clerk and they receive compensation if their court dates are outside of their regular work schedule.

SIOUX CITY, IOWA, POLICE DEPARTMENT

Sioux City, Iowa, has a population of 86,000 and covers a geographic area of 57 square miles. The Police Department has a staff of 113 officers of which 68 are uniformed, and four additional officers are assigned to DWI emphasis patrol. Traffic operations are provided by the regular patrol officers and approximately 16% of their time is devoted to traffic operations. Six to eight patrols are deployed during the day shift, and eight to ten patrols are deployed during the evening and the night shifts. In addition, three patrols are deployed during the hours of 7:00 PM and 3:00 AM. The DWI emphasis patrols or ASAP squad are deployed during the hours of 8:00 PM and 4:00 AM on Tuesday through Saturday nights. The ASAP squad is partially State funded. All patrols are one-man units. The patrols are assigned to geographical beats and patrol within a beat is left to the discretion of the officer. The ASAP squad assists the regular patrol officers in processing DWI arrests and patrols different geographical beats on a random basis.

All officers in the Department receive 40 hours of classroom instruction on DWI detection and apprehension procedures. This instruction is given in cooperation with the State Police Academy.

STATE STATUTES

The Iowa DWI law states that it is unlawful for a person to operate a motor vehicle on the public highways of the State while under the influence of an alcoholic beverage. Evidence that there was at the time more than 0.10% by weight of alcohol in his blood, shall be admitted as presumptive evidence that the defendant was under the influence of an alcoholic beverage. The implied consent statute reads that any person who operates a motor vehicle upon a public highway shall be deemed to have given his consent to the withdrawal from his body, specimens of his blood, breath, saliva, or urine, for a chemical test or tests thereof, for the purpose of determining the alcoholic content of his blood. The tests shall be administered at the written request of the police officer having reasonable grounds to believe that the person was operating a motor vehicle upon a public highway while under the influence of alcohol, and only after the peace officer has placed such person under arrest. The peace officer shall determine

which of the four substances shall be tested. In addition, Iowa has a preliminary breath screening statute that allows the police officer to request a suspect to take a screening test to determine if the person is intoxicated, without any penalty for refusal.

ARREST PROCEDURES

After a suspect is apprehended, the officer observes the suspect's appearance, speech, odor of alcohol, and demeanor during the initial questioning period. If the officer suspects intoxication, he will request the suspect to step from the vehicle and ask him to perform the physical coordination tests. The choice of tests is left to the officer's discretion. The most likely tests are: walk-straight-line-and-turn test, the balance test, and the finger-to-nose-with-eyes-closed test. After completion of the physical coordination tests, the officer will decide either to arrest the suspect, perform a preliminary breath screening test, or release the suspect. If he decides to perform a breath test, he asks the suspect if he is willing to take the test. If the suspect refuses, there is no penalty. If the suspect consents, the officer administers the test using Intoximeter's Alco-Sensor with a digital readout. (A preliminary breath screening test is given to approximately 50% of the suspects who are arrested.)

If a regular patrol officer decides to arrest a suspect, he places the suspect in the squad car and calls for an ASAP squad via the dispatcher. When the ASAP officer arrives, the ASAP officer places the suspect under arrest, transports, and processes the offender. The regular patrol officer may wait for the tow truck to dispose of the offender's vehicle, otherwise he is free to return to his regular patrol.

After the ASAP officer arrives, or if the ASAP officer initially apprehends the suspect, he informs the suspect that he is under arrest, performs the pat-down search, handcuffs the offender, informs him of his rights, and places him in the patrol car. The officer will request a wrecker via the dispatch to tow the offender's vehicle and waits for the wrecker to arrive. Occasionally, it may be released to a responsible, sober passenger at the request of the offender. The offender is transported to the central station for evidential testing.

When they arrive at the central station, the offender is allowed to call his attorney before any evidential testing. The offender is given his implied consent rights and asked if he is willing to take a breath test. The offender is requested to sign the implied consent affidavit indicating if he consents or refuses the test. The offender is questioned at this time and the officer fills in the alcohol influence report. After completion of the questioning, the arresting officer performs the breath test. The Intoxilizer unit is used. All officers are certified to perform the breath analysis. If the chemical test reading is below the legal limit, 0.10% BAC, the offender is charged with reckless driving and released.

At the completion of the chemical test, the offender is requested to perform the physical coordination tests: walk-straight-line, and finger-to-nose-with-eyes-closed. These tests are videotaped. During this period, the arresting officer finishes his reports; that is, the alcohol influence report and the minutes for the prosecuting attorney.

If a responsible person is available, such as an attorney or minister, the offender is released to that individual on his own recognizance. Otherwise, he is booked into the county jail. There is a minimum holding period of four hours, thereafter the offender may be released if he can post bond. If he is unable to post bond, he is arraigned in court on the next day.

ADJUDICATION

Iowa has a pre-conviction diversion program. On a one-time basis, if the offender pleads guilty and is willing to attend an alcohol safety school, the charges are deferred for a year. After successful completion of the course, and provided that there are no other violations, the charges are dropped.

For those cases that go to court, the court schedules the date for the arresting officer's appearance. The officers receive compensation for attending court in their off-duty hours.

PROJECT CRASH, VERMONT

The State of Vermont has a total population of 450,000 and a geographical area of 9,600 square miles. Project CRASH is a Statewide program that provides Federal 403 funds for financing DWI special-emphasis patrols. The project operates four to five patrols, using seven to eight officers on 35 weekends out of the year. These patrols operate on Friday and Saturday nights between the hours of 4:00 PM and 3:00 AM. The patrols operate out of the State Police, Sheriff, and City Police Departments, and the project compensates these agencies for performing the DWI emphasis patrols. Selection and rotation of the localities and the agencies involved are scheduled by Project CRASH. The schedule is based on the accident rates of different localities and the amount of DWI activity in various localities. Patrol within the area of assignment is left to the discretion of the individual patrol officers. Patrol deployment is both one- and two-man. The purpose of the two-man patrols is to provide team training.

Each officer in Vermont receives 12 hours of classroom instruction on DWI enforcement in its basic law enforcement training. He has no other classroom training in DWI activity.

STATE STATUTES

Vermont drunk driving statutes state that a person may not operate, attempt to operate, or be in actual physical control of any vehicle on a highway while there is 0.10% or more by weight of alcohol in his blood or under the influence of intoxicating liquor. The implied consent statutes state that any person who operates, attempts to operate, or is in actual physical control of any vehicle is deemed to have given his consent to the taking of a sample of his breath, and if breath test equipment is not available, it is deemed he has consented to a sample of his blood. A sample shall be taken whenever an officer has reasonable grounds to believe the person was driving under the influence of alcohol. The law does not state that the person has to be arrested prior to giving his consent.

ARREST PROCEDURES

After the officer apprehends a suspect and asks for his license and registration, he observes the suspect for possible signs of intoxication: odor on breath, physical appearance, demeanor, and speech. If the officer still suspects intoxication, he requests the suspect to step from the vehicle and brings him back to the right side of the patrol car. The officer, using his discretion, will request the suspect to perform physical coordination tests. The tests usually performed are: walk-straight-line-and-turn, and finger-to-nose-with-eyes-closed. Based on these observations, the officer will decide to cite for DWI or release the suspect.

If he cites the driver, he places him in the patrol car and gives him his Miranda Rights and his implied consent rights. He proceeds to interrogate the offender and fills out the alcohol influence report. The officer asks the offender if he is willing to have a breath sample collected. If the offender refuses, the officer fills out the refusal form. If the offender consents, the officer collects the breath sample with Intoximeter's crimper box. The samples are sealed in an envelope, labeled, and mailed by registered mail to the State's Toxicology Laboratory. The Laboratory analyzes two samples with Intoximeter's GC Intoximeter. The third sample is retained by the State Laboratory for 90 days for purposes of allowing the defendant to have an independent analysis. If the offender's intoxication is obvious, the officer sets a court date on the citation. If the officer is in doubt, he tells the offender he will be notified by the court as to the results of the test and the court date.

The offender's vehicle may be secured at the arrest site if it is safe to do so, driven to a safe place and secured by an assisting officer (if it is a one-man patrol, a backup officer is called via the dispatcher), or it may be released to a sober, responsible individual. The offender is either released to a sober, responsible individual, driven home, or if from out of town, he may be put up in a motel. Only if the offender appears to be harmful to others will he be transported to one of the State's detoxification centers. Since the offender is only cited, he is not required to post bond. If the chemical analysis shows that the offender's blood alcohol level was below 0.10%, the charges are reduced to either careless negligence, or the moving violation that led to his apprehension.

ADJUDICATION

Vermont has an informal "diversion" program. If the defendant is willing to attend an alcohol education program, the prosecutor will lower the charge to careless negligence. Approximately 22% of the cases are handled this way. For the remaining arrests, 98% are convicted of the original charge and only 2% go to court trial.

Court appearance dates are scheduled by the court. Both the arresting officer and the toxicologist are required to appear in court. The arresting officer receives compensation if his appearance occurs in off-duty time.

