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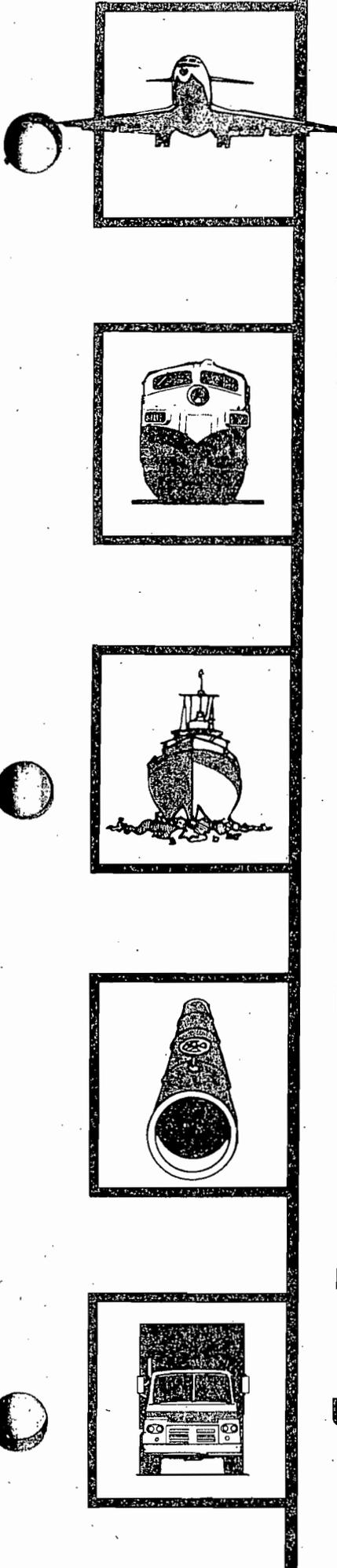
WASHINGTON, D.C. 20594

SAFETY STUDY

DEFICIENCIES IN ENFORCEMENT,
JUDICIAL, AND TREATMENT PROGRAMS
RELATED TO REPEAT OFFENDER
DRUNK DRIVERS

NTSB/SS-84/04

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16. Abstract In 1983, 42,600 Americans died in 38,000 fatal motor vehicle crashes. Alcohol abuse was involved in 53 percent of these accidents. Of the approximately 773,000 drunk driving convictions each year, an estimated 30 percent are of "repeat offenders." The National Transportation Safety Board here documents a variety of weaknesses in the law enforcement, judicial, and treatment systems which contribute to the persistence of the "repeat offender" drunk driver problem, and recommends steps to be taken by States, judicial training organizations, the Veterans Administration, and the National Highway Traffic Safety Administration. Fifty-one detailed case histories of repeat offenders are presented.					
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Adopted: September 18, 1984

DEFICIENCIES IN ENFORCEMENT, JUDICIAL, AND
TREATMENT PROGRAMS RELATED TO REPEAT OFFENDER DRUNK DRIVERS

INTRODUCTION

On August 22, 1982, about 5:50 p.m., a 1969 GMC pickup truck traveling about 60 mph eastbound on State Highway 58, near Oakridge, Oregon, failed to negotiate a right-hand curve, crossed the centerline into the opposing lane, and hit a 1978 Volkswagen van, right front to right front. Both vehicles were destroyed. The right front passenger in the van was killed; the van driver and right rear passenger sustained major, disabling injuries; the left rear passenger, a 14-month-old child, properly restrained in a child safety seat, was uninjured. The driver of the pickup sustained minor injuries.

The 41-year-old male pickup driver had a blood alcohol concentration (BAC) of 0.15 percent, was driving on a revoked Oregon driver's license, and had been convicted of 22 alcohol-related offenses since 1958. Nine of these convictions were for driving while intoxicated (three times while driving on a suspended license); four of the offenses involved accidents. He had been convicted 12 times of disorderly conduct involving alcohol. (Case No. 1.) ^{1/}

On February 17, 1984, about 5:00 p.m., a 1971 Oldsmobile was westbound on Beechmont Avenue in Cincinnati, Ohio, traveling the wrong way in a reversible lane; the Oldsmobile struck a 1979 Renault head-on. The 42-year-old Renault driver was ejected and was killed. The driver of the Oldsmobile had a BAC of 0.24 percent and was driving on a suspended license.

The 41-year-old driver's record indicated 52 contacts with law enforcement officials for driving violations; 32 had led to convictions for drunk driving, reckless driving, or driving with a suspended license. As a result of the February 1984 accident, he was convicted of aggravated vehicular homicide, involuntary manslaughter while intoxicated, and involuntary manslaughter while driving under suspension. He was sentenced to 13 to 25 years in prison, and his driving privileges were suspended for life. ^{2/}(Case No. 2.)

^{1/} Summaries of the accidents investigated for the study appear in appendix A of this report.

^{2/} Information supplied by the Office of the Ohio Governor's Highway Safety Representative.

These cases dramatically illustrate one of the most difficult aspects of this country's drunk driving highway safety problem: the repeat offender drunk driver. 3/ In 1983, there were about 38,000 fatal accidents, which killed 42,600 persons. A National Highway Traffic Safety Administration (NHTSA) study indicates that the alcohol involvement in these fatal accidents was 53 percent. 4/ Highway safety professionals have been concerned for decades about highway fatalities and injuries due to drunk driving. Recently, grassroots organizations such as Mothers Against Drunk Driving (MADD), Remove Intoxicated Drivers (RID), and Students Against Drunk Driving (SADD) have heightened public attention to the problem. Many Governors have appointed task forces on drunk driving, and in 1982, President Ronald Reagan appointed a Commission on Drunk Driving to examine the problem. The Commission held hearings on drunk driving issues and, in November 1983, issued a final report to the President. 5/ The Surface Transportation Assistance Act of 1982 provided for incentive grants to the States to encourage improvements in traffic safety programs directed at drunk driving. 6/

NHTSA has estimated that 30 percent of the 773,000 drunk driving convictions each year are of "repeat offenders." 7/ In 1983, the National Transportation Safety Board began a Safety Study to document and highlight the flaws in the enforcement, judicial, and treatment systems which contribute to the persistence of this problem. The Safety Board investigated 51 accidents involving drunk drivers as a part of this study. Of these, 45 were fatal accidents, involving 73 fatalities. The 56 drunk drivers in these accidents had accumulated 164 arrests for offenses involving alcohol, including 131 for DWI; they also had at least 124 convictions for alcohol-related offenses, including at least 93 for drunk driving.

This report presents the findings and recommendations of the Safety Board's study on "repeat offender" drunk drivers. The report recommends steps that Federal, State, and local governments and other institutions should take to enhance the effectiveness of the enforcement, judicial, and treatment practices in reducing recidivism.

The report is organized in the chronological order of events which could be encountered by a drunk driver being processed through the several systems. Many of the system deficiencies are exemplified by drunk driving cases investigated by the Safety Board and interviews of repeat drunk driving offenders.

Methodology

The Safety Board began this Safety Study in September 1983. It is based on a literature search, research, and accident investigations conducted by the Safety Board's Atlanta, Chicago, Denver, Fort Worth, Los Angeles, and Kansas City field offices.

3/ For the purpose of this report, "repeat offender" refers to a person arrested more than once for drunk driving.

4/ James Fell, "Alcohol Involvement in United States Traffic Accidents: Where It Is Changing," in, Proceedings, Ninth International Conference on Alcohol, Drugs, and Traffic Safety, San Juan Puerto Rico, November 1983. The NHTSA criteria for an "alcohol-involved" crash are a crash in which: (1) a driver or a pedestrian had a tested BAC greater than 0.01 percent, or (2) a driver was cited for DWI absent a BAC test, or (3) there was any police indication of "had been drinking" or "alcohol involvement."

5/ The recommendations made by the Presidential Commission on Drunk Driving appear in appendix B.

6/ A list of the criteria for incentive grant funding appear in appendix C.

7/ NHTSA, "Rehabilitation/Treatment of DWI Offenders," internal document, 1983.

NTSB investigators reviewed State alcohol education and treatment systems in 10 States. 8/ Local enforcement systems 9/ and local judicial systems 10/ were probed in selected counties and four cities within these States. In addition, the statewide enforcement system for two of these States 11/ and the State judicial system in one State 12/ were reviewed.

Thirty-eight of the accidents investigated by the Board involved known repeat offenders. Five other accidents involved at least one driver with a history of alcohol or drug abuse, and eight more involved juvenile drivers with no documented history of drunk driving. These investigations provided information to determine the probable causes of the accidents, as well as to develop a profile of each drunk driver, based on in-depth exploration of previous driving while intoxicated (DWI) arrests, convictions, and sentences. 13/ The Board also interviewed accident witnesses, family members, police officers, attorneys, and judges in the conduct of these investigations.

Finally, the Safety Board interviewed 40 convicted drunk drivers with previous alcohol-related convictions, seeking their views on what events might have been handled differently at the time of their first encounter with an alcohol-related offense to influence their behavior and perhaps prevent additional offenses. The interviews were conducted while offenders were in treatment, on probation, in jail, or after the sentence was completed.

FIRST STOP OR ARREST FOR DRIVING WHILE INTOXICATED

Detection

On October 14, 1983, about 10:00 p.m., a Chevrolet pickup truck traveling northbound on U.S. 24 near Reno, Kansas, ran off the left side of the road and struck a sign post and a guardrail before coming to rest at the bottom of an embankment. The 22-year-old male driver's BAC was 0.208 percent. He had been arrested and convicted of DWI in 1980 and sentenced to attend a "DWI school" two nights per week for four weeks. When asked why he drank and drove after having been arrested and convicted before, he stated that "he didn't think he'd get caught and drove carefully." He further stated that he thought a person can drink and drive without getting caught because of the many miles of rural roads and the low number of police patrols on those roads. (Case No. 3.)

8/ California, Colorado, Georgia, Illinois, Kansas, Missouri, North Carolina, Utah, Washington, and West Virginia.

9/ Adams County, Colorado; Hermosa Beach, Los Angeles, and Manhattan Beach, California; Gwinnett County, Georgia; Kanawha County, West Virginia; Kansas City, Missouri; King County, Washington; Raleigh, North Carolina; and Salt Lake City, Utah.

10/ Dupage County, Illinois, Gwinnett County, Georgia; Johnson County, Kansas; Kanawha County, West Virginia; Kansas City, Missouri; King County, Washington; Los Angeles, California; Raleigh, North Carolina; and Salt Lake City, Utah.

11/ Illinois and Kansas.

12/ Colorado.

13/ A variety of terms are used in laws concerning drinking and driving, such as "driving while intoxicated" (DWI), "driving while alcohol-impaired" (DWAI), "driving under the influence" (DUI), and others. The distinctions among these terms are based primarily on the level of BAC at the time of the offense. Some State laws use only one term, some use several. Because the fine distinctions are not pertinent in the context of this report, and for the sake of simplicity, this study report uses only DWI.

Many highway safety experts agree that many drunk drivers persist in their behavior because they believe there is a low risk of arrest and penalty. In a recent nationwide telephone survey, between one-quarter and one-third of those interviewed who drink alcohol said they believe that the chances of being caught and punished for drinking and driving are not great enough to deter them from driving after drinking too much. 14/ Even though DWI arrests nationwide have increased steadily (from 561,000 in 1969 to more than 1,300,000 in 1981), 15/ the probability of arrest remains relatively low, with estimates ranging between 1 in 200 16/ drunk drivers to 1 in 2,000. 17/

In an attempt to increase the real risk of detection and arrest, and drivers' perception of that risk, the Safety Board recommended on September 9, 1983, that the Governors of the States and the Mayor of the District of Columbia:

Implement a citizen awareness and citizen drunk driver reporting program such as the [Report Every Drunk Driver Immediately--REDDI] programs now used by Colorado, Maryland, Nebraska, Utah, and Washington. (Class II, Priority Action) (H-82-35)

REDDI programs provide direct assistance to law enforcement efforts to detect and apprehend drunk drivers. With the aid of the motoring public who report drivers who appear to be driving while intoxicated, the detection capabilities of police have been expanded and the deterrent effect of DWI enforcement programs has been increased. Since the Safety Board made these recommendations, 12 States have adopted such programs. As of June 1, 1984, 32 States had established some type of citizen reporting program. (See appendix D.) Thirteen States that keep records of calls received report receiving 63,055 citizen calls, resulting in 15,947 contacts with motorists, and leading to 10,120 DWI arrests (63.5 percent of the contacts).

The International Association of Chiefs of Police and the National Safety Council maintain systems of gathering information and disseminating it to both State and local law enforcement agencies. Therefore, the National Transportation Safety Board recommended that the International Association of Chiefs of Police and the National Safety Council:

Collaborate and act as focal points for gathering information on REDDI-type programs and provide information and assistance to the interested States and local communities. (Class II, Priority Action) (H-82-36)

In an effort to determine what more could be done to increase the risk of detection and the drunk driver's perception of the risk of detection, the Safety Board undertook a study of drunk driving deterrence measures and adopted a report on April 13, 1984. 18/ One major finding was that sobriety checkpoints had the potential to be an

14/ R. Compton and R. Engle, "Safety Checkpoints for DWI Enforcement," National Highway Traffic Safety Administration, July 1983.

15/ John Volpe, Chairman, Presidential Commission on Drunk Driving, Statement Before the Subcommittee on Alcoholism and Drug Abuse, Senate Committee on Labor and Human Resources, August 5, 1982.

16/ G.A. Beitel, M.C. Sharp, and W.D. Glauz, "Probability of Arrest While Driving Under The Influence of Alcohol," Journal of Studies on Alcohol (1975), p. 36.

17/ R.F. Borkenstein, "Efficacy of Law Enforcement Procedures," Modern Problems in Pharmacopsychology (1976), p. 11.

18/ Safety Study: "Deterrence of Drunk Driving: The Role of Sobriety Checkpoints and Administrative License Revocations," NTSB/SS-84/01, April 3, 1984.

effective means to achieve these goals. During a 1978 sobriety checkpoint campaign in Melbourne, Australia, significant decreases in nighttime fatal and injury crashes involving drivers with illegal blood alcohol concentrations were attained. In the United States, Delaware reported a 32-percent drop in alcohol-related injury accidents during an 8 1/2-month period from December 4, 1982, to August 13, 1983 when sobriety checkpoints were in use. The study found that sobriety checkpoints currently are in use or under consideration in 21 jurisdictions and in at least 5 foreign countries. The Board's study concluded that sobriety checkpoints should be an integral part of a State's comprehensive alcohol and highway safety program. On April 23, 1984, the Board recommended to the Governors of 20 States and 3 Territories that they:

Institute use of sobriety checkpoints on a periodic and continuing basis by the appropriate enforcement agencies under your jurisdiction as part of a comprehensive Driving While Intoxicated enforcement program. These checkpoints should be conducted according to accepted procedures and constitutional safeguards. (Class II, Priority Action) (H-84-11)

Encourage local law enforcement agencies within your State to institute sobriety checkpoints on a similar basis. (Class II, Priority Action) (H-84-12)

In addition, in order to provide all States and localities with current information on the effectiveness of sobriety checkpoints and other potential countermeasures, the Board recommended that the National Highway Traffic Safety Administration evaluate their effectiveness. (Safety Recommendation H-84-25.) As of September 1, 1984, sobriety checkpoints were in use by some police agencies in approximately 36 States (see appendix D).

Drivers Stopped While Intoxicated But Not Arrested

On June 4, 1983, about 2:25 a.m., a 1975 Mercedes Benz sedan travelling northbound on I-5 in Newhall, California, entered a right curve, ran off the left edge of the roadway, down a grass median, and into the southbound lanes, where it collided with a southbound Chevrolet occupied by six persons. The 23-year-old male Chevrolet driver and four passengers were killed; the 26-year-old female Mercedes driver and a Chevrolet passenger were injured. The Mercedes driver's BAC was 0.25 percent; the Chevrolet driver's BAC was 0.14 percent.

The Chevrolet driver had been stopped by the police about 1 hour before the accident. Open containers of beer had been found in his car, and the driver had been given a field sobriety test. The test included at least the driver's saying the alphabet, walking a line, and clapping his hands. The officer decided that the driver was not legally impaired and that he had successfully passed the test. He was released at the scene. The surviving occupant of the Chevrolet said that the driver had consumed no alcohol since first joining them 5 hours before the accident. If this is correct, the driver would have had an estimated BAC of about 0.21 percent when he joined them and an estimated 0.16 percent BAC when he was stopped and given the sobriety test. (Case No. 4.)

A study conducted recently by the Southern California Research Institute on a new standardized field sobriety test battery reinforced earlier studies which showed the inaccuracy of psychomotor (physical) tests in detecting drivers at legally intoxicating

blood alcohol levels. 19/ Prior to training on the new test battery, the officers studied arrested only 69.2 percent of stopped drivers who had BAC levels greater than 0.10 percent. A new test, called "Horizontal Gaze Nystagmus," however, could significantly increase the probability of detecting lower BAC levels in the field. Van K. Tharp of the Southern California Research Institute describes the test:

[Its name] refers to a jerking of the eyes as they deviate to the side. The jerking has a slow and a fast phase, with the fast phase being in the direction of the gaze. The eyes of 50-60% of all individuals will show horizontal gaze nystagmus if they move to the lateral extremes of from 45 to 65 degrees, measured from the center of the nose. However, after a person has consumed alcohol, the onset of the gaze nystagmus occurs at a much smaller angle, depending upon the blood alcohol concentration (BAC). The relationship between the angle of onset of horizontal gaze nystagmus and the BAC is so precise that a properly trained police officer can estimate a driver's BAC at roadside within \pm 0.02 percent of chemical test readings. 20/

The NHTSA has recognized the value of the gaze nystagmus test and, in January 1984, issued a report, Improved Field Sobriety Testing, which recommends a three-part field sobriety test. The test consists of horizontal gaze nystagmus, walk and turn, and one-leg stand.

Another valuable tool for the police officer is the Preliminary or Pre-arrest Breath Test (PBT). PBTs can establish the BAC to within 0.01 percent. The tests enable an officer in the field to determine easily, quickly, and accurately whether a person is under the influence of alcohol in marginal cases and whether an arrest is justified. The Presidential Commission on Drunk Driving views PBTs as a reasonable use of police authority when the officer has a reasonable suspicion that DWI laws have been violated. The Safety Board believes that methods to improve the accuracy of field testing should be made available to police officers to increase the likelihood an arrest will be made where warranted.

Drivers Not Arrested After Being in Accident While Drunk

The case of a 27-year-old man who had been involved in a fatal head-on collision on March 20, 1983, came to the attention of Board investigators. The passenger in his car (his girlfriend) and the other driver were killed. Although in this case it was the other driver who was at fault in the crash, the subject's blood was tested and revealed a BAC of 0.13 percent, yet he was not charged with DWI. He had been convicted previously of a DWI offense in 1981, which resulted in a fine and license suspension.

In this case, the investigating officer's failure to arrest the driver may have arisen out of sympathy for the man's loss of his girlfriend, especially since he did not cause the accident. However, it would have been his second arrest for drunk driving; if this man is involved in future DWI cases, his record will show only one previous DWI conviction. Furthermore, given his two DWI involvements, he is a good candidate for treatment -- an opportunity for intervention in which the system was ineffectual.

19/ Van K. Tharp, Marcelline Burns, and Herbert Moskowitz, "Limited Field Testing of a Standardized Sobriety Test Battery," 25th Proceedings, American Association for Automotive Medicine, 1981.

20/ Van K. Tharp, "Gaze Nystagmus as a Roadside Sobriety Test," Abstracts and Reviews in Alcohol and Driving, Vol. II, No. 2, UCLA Alcohol Research Center, February 1981.

Safety Board investigators interviewed an 18-year-old woman who said that she was 11 when she started drinking. At age 16, she first drove while drunk. That year, in her first drunk driving accident, she drove her vehicle into the rear end of another vehicle. The police did not arrest her or notify her parents. At age 17, while driving drunk, she drove across the centerline, into the opposing lane, and off the road into a ditch bordering the opposing lane. She was injured in the accident and the police took her to a friend's home, but did not notify her parents. No "alcohol" entries were made on either of the two accident reports. Before she turned 18, the woman was involved in a third drunk driving accident. She lost control of her vehicle, ran off the road, and struck a curb and a post. Afraid of being arrested for DWI, she drove her damaged car home. After this accident, she voluntarily placed herself in an alcohol-abuse treatment center.

The failure of several police officers to arrest the young woman was not unusual. Many law enforcement officers apparently are reluctant to arrest young drivers, especially females. 21/ Furthermore, enforcement officers sometimes view drunk drivers' injuries as sufficient punishment for their offense and, therefore do not arrest them. 22/

A 30-year-old man interviewed during the Board investigation said that he began using drugs at age 12 and began drinking alcohol at 14. He said that he had been under the influence of alcohol and drugs every day, but was never arrested until he was involved in an accident at age 29. He said that he had been involved in two previous accidents while under the influence of drugs and alcohol and was not arrested either time.

Evidentiary Problems

The results of breath tests can be introduced as evidence of illegal BAC. However, when a driver suspected of DWI is seriously injured in a crash, breath tests may not be possible. In those cases, it is sometimes difficult to obtain evidence for a DWI arrest, as the following case illustrates.

On November 18, 1983, about 10:00 p.m., in Harvey, Illinois, a Ford pickup speeding north on Myrtle Street crashed into the left side of a Ford sedan travelling westbound on 152 Street and pushed it about 125 feet from the point of impact. The sedan driver and one of the sedan passengers were killed. The other passenger in the sedan, the pickup's driver, and a passenger in the pickup were seriously injured. The 27-year-old pickup driver was charged with reckless homicide and DWI. The passenger in the pickup stated that he and the driver had been drinking beer. At the time of this accident, the pickup driver was awaiting trial on charges of DWI and reckless homicide, resulting from a fatal accident 9 months earlier in which three persons were killed and 11 were injured.

Because of the severity of the November accident, the police officers remained at the accident scene. Not until about 3 hours after the accident were they able to appear at the hospital, where they learned that blood had been drawn from the pickup driver and laboratory tests had been run. Because the rules of evidence in Illinois required the presence of a police officer at the drawing of the blood to verify the correspondence of the drawn blood to the offender, it was necessary for the prosecution to subpoena the hospital technician who drew blood to provide that verification. (Case No. 5.)

21/ NHTSA, Factors Influencing Alcohol Safety Action Project Police Officers' DWI Arrests (June 1974).

22/ Herman Goldstein and Charles E. Susmilch, The Drinking Driver in Madison: A Study of the Problem and the Community's Response, University of Wisconsin at Madison, Law School, July 1982.

The drawing of blood for DWI evidentiary purposes generally occurs only at the direction and in the presence of a police officer. State health regulations designate those professionals (physicians, nurses, physician's assistants, paramedics, etc.) allowed to draw blood. In order to meet important legal and scientific requirements, blood samples must be drawn and stored appropriately (e.g., skin cleaned with non-alcohol swabs; blood stored in sterile, tightly sealed vials, etc.); have a documented chain of custody; and be analyzed by State or State-approved laboratories, using specified analytic techniques. In many instances, police report that hospitals and physicians have refused to perform such tests, fearing legal liability or involvement in lengthy court litigation.

Where blood alcohol tests are performed on injured drivers for medical (rather than forensic) purposes, hospitals and physicians also commonly refuse to submit BAC test results without a court order (often citing the doctor-patient confidential relationship). Blood alcohol tests are, however, not universally performed on all injured drivers, even for medical purposes.

These requirements often have the effect of precluding the gathering of evidence necessary to convict drunk drivers. In those States in which these sorts of evidentiary requirements exist, there is a need to examine whether they can be better structured to facilitate the efficient collection of DWI evidence.

When the primary evidence of a defendant's BAC level consists solely of the results of a "breathalyzer" test performed at the time of the arrest, defense attorneys have often argued that the Constitutional guarantees of a right to a fair trial and due process require the preservation of the breath sample for independent testing. Most breathalyzers destroy the sample; even with those that do not, it is difficult to preserve a breath sample through the period between arrest and an opportunity for the defense to have it tested.

On June 11, 1984, the U.S. Supreme Court held that the due process clause of the 14th Amendment does not require preservation of breath samples. 23/ In most States at this time, this means that breath samples need not be preserved and breath test evidence cannot be excluded from the trial on the grounds that a sample was not preserved for testing by the defense. However, the Supreme Court noted that State courts and legislatures are free to adopt more rigorous rules on the admissibility of scientific evidence than those imposed by the U. S. Constitution. Vermont and Oklahoma statutes require preservation of breath samples. The Alaska State Supreme Court has held that the due process clause of the Alaska Constitution requires such preservation. 24/ Other States may adopt similar statutes or interpret their Constitutions similarly.

Drivers Arrested, Then Released

On September 1, 1983, at 3:08 p.m., the 19-year-old driver of a Ford vehicle was stopped by a Wyoming Highway Patrolman in Sweetwater County, Wyoming, and arrested for DWI and driving with a suspended license. A breath test administered at 4:04 p.m. showed a BAC of 0.16 percent. The driver was lodged in the Rock Springs city jail at 4:30 p.m. and released to a bondsman an hour later. Six hours after his release, the Sweetwater County Sheriff's Office was notified of another accident involving this man; this time he was driving a Honda motorcycle northbound on County Road 4-58 near the intersection of Fire Lane 1 County Road. The motorcycle skidded 60 feet, vaulted

23/ California v. Trombetta, 104 S. Ct. 2528; 52 U.S.L.W. 4744 (June 11, 1984).

24/ Municipality of Anchorage v. Serrano, 649P.2d 256 (Alaska App. 1982).

28 feet, landed on its side, then rolled 107 feet before it came to rest. The helmetless driver was found dead 10 feet from the motorcycle. The autopsy report revealed a BAC of 0.11 percent at 1:30 a.m. According to Wyoming officials, the motorcycle was stolen. The driver's record revealed a DWI conviction in 1981; his driver's license had been suspended at that time.

The Rock Springs city jail has a policy of either holding for 4 hours a person arrested for an alcohol-related offense or releasing him or her to a responsible adult. If a vehicle is involved, it is held in the police lot for 4 hours or released to a responsible relative of the driver. It would have taken at least 4 hours for this man's BAC level at 4:04 p.m. (0.16 percent) to drop to 0.10 percent. It would have taken 10 hours 40 minutes for it to drop to 0.00 percent. Thus, even if the jail officials had followed the 4-hour policy, the man's BAC would have been barely legal at the time of his release. (Case No. 6.)

Many city and county jails have holding policies similar to those of the Rock Springs city jail. Some large city jails have shorter holding periods: for example, Kansas City, Missouri, and Seattle, Washington, city jails release after 1 hour. Most detoxification centers hold an individual until his or her BAC drops to near 0.00 percent, but even this may not be long enough. A report by Sweden's National Road and Traffic Research Institute states that a person's ability to carry out complex driving maneuvers is reduced for at least 3 hours after the blood alcohol concentration reaches zero. Those with hangovers show a "marked inability to subjectively determine if they are fit to drive at all." The report suggests that the dizzy, queasy feeling often accompanying a hangover may diminish driving ability by as much as 20 percent, even when the blood alcohol concentration is zero. ^{25/}

The Safety Board believes that as a minimum to reduce the chance that a driver affected by alcohol will resume driving after release, a person arrested for drunk driving should not be released until his or her BAC is below the lowest level specified in State law as indicating alcohol impairment.

COURT PROCEEDINGS

Delays Between Arrest and Adjudication

In case No. 5, a drunk driver crashed his pickup into the side of a sedan, killing two sedan occupants and seriously injuring himself, his passenger, and another sedan passenger. At the time of his November fatal crash, the pickup driver was free on bond awaiting trial on charges of DWI and reckless homicide stemming from a fatal crash 9 months earlier. After the earlier crash and arrest, he had appeared in court three times on bond hearings, but his trial had been repeatedly delayed by continuances. Trial finally had been set for November 21, but his second fatal drunk driving crash occurred 3 days before that date. The State's Attorney told Safety Board investigators that it was not unusual for adjudication of a case of this type to take 6 to 9 months, not including appeals. The major problem encountered by the prosecution was obtaining coroner's reports. The coroner's office was moving to a new facility and the disruption created a typing backlog. The last two continuances occurred because the defense attorney was involved in other cases at the same time.

^{25/} H. Laurell and J. Tornros, Hang-over Effects of Alcohol on Driver Performance, National Road and Traffic Research Institute, Linkoping, Sweden (1982).

Continuances and crowded dockets are but two of many reasons for delays between arrest and trial. In drunk driving cases, one result of these delays may be that an offender awaiting trial is arrested for DWI again before the first case is tried. In these cases, both charges may be combined and the defendant may be viewed by the court to be a first offender.

One countermeasure that is receiving increased attention, and that may mitigate some of the negative effects of delays between arrest and trial, is administrative license revocation. In its study of drunk driving deterrence measures, ^{26/}the Safety Board found that although motor vehicle department administrators typically have statutory authority to suspend or even revoke drivers' licenses, this authority rarely has been exercised in the past against drivers who violate drunk driving laws without a court notice of the driver's conviction on these charges. Given the often long delays between the drivers' arrest and court conviction, a reluctance on the part of motor vehicle administrators to suspend or revoke on their own authority, permits the offenders to continue to drive on a legal license for long periods of time before trial. Furthermore, even drivers whose BAC levels were over the legal limit often succeed in having the charges reduced, so that their conviction did not result in a traditional license suspension or revocation. The Safety Board recommended that administrative license revocation be made an integral part of each State's comprehensive alcohol safety program. (Safety Recommendation H-84-13 and -17.) As of September 1, 1984, administrative license revocation procedures had been adopted in 23 States. (See appendix D.)

Generally, in a State which has administrative license revocation laws, a police officer with probable cause to arrest a driver for a drinking/driving offense may ask the driver to submit to a breath test. The driver is warned that the law provides that his or her license will be revoked for refusal to take the test or if the test results evidence a BAC level above the legal limit. In either case, the police officer will take physical possession of the license, and give the driver a written notice that the driver has the right to request both an administrative and a judicial review of the revocation. The driver is then held in custody for a specific period or released to a sober driver. (The written notice also serves as a temporary driving permit, valid for up to 30 days, depending on the State.)

Since most repeat offenders are problem drinkers or alcoholics, they may be less influenced by administrative license revocation than non-repeat offenders. Characteristic of problem drivers is a relative lack of regard for legal sanctions and social norms; certainly, repeat offenders have, by definition, demonstrated a certain immunity to the influence of laws and sanctions. Thus, administrative license revocation is likely to be a more effective deterrent against those who are not "hard-core" repeat offenders, that is, against those who are more likely to take license revocation seriously, who may be deterred from driving after drinking by fear of arrest and immediate revocation, or who may at least forego driving (particularly driving after drinking) if their license is administratively revoked. However, it also has some advantages even in the case of the sorts of drivers this study addresses. At the very least, administrative revocation at the time of arrest makes it illegal for the driver to continue using his or her license during most of the long delay until the hearing or trial and any subsequent drunk driving offenses are not committed while the driver is legally licensed by the State. Furthermore, even some habitual drunk drivers may be influenced to drive less, or drive sober, during the revocation period. ^{27/} Finally, if a second offense is committed after administrative

^{26/} National Transportation Safety Board, *op. cit.*, p. 10.

^{27/} See, for example, R. E. Hagen, "The Efficacy of License Controls as a Countermeasure for Multiple DUI Offenders," *Journal of Safety Research*, Vol. 10 (1978).

revocation, it will be much more difficult to present the second offense as a first offense, even if the first offense was plea bargained down and does not appear on the record as a drunk driving offense.

Administrative license revocation is essentially a variation of traditional license suspension or revocation. Because these license actions are known to be effective in reducing both crashes and violations, it is reasonable to believe that administrative revocation likewise will be effective. Furthermore, it meets all three criteria for effective sanctions postulated by drunk driving deterrence theory: 28/ it is viewed by drivers as a severe sanction, 29/ it can be invoked with certainty, and it goes into effect shortly after arrest. It also has the advantage of being a less costly sanction for society than other countermeasures such as jail sentences. 30/

Plea Bargaining

On July 20, 1983, about 10:45 p.m., a Chevrolet pickup travelling eastbound on East 120th Avenue in Northglenn, Colorado, veered across the yellow double centerline and collided head-on with a westbound Ford sedan occupied by a 23-year-old driver and two passengers. The Ford driver was killed; the 26-year-old Chevrolet driver and the two Ford passengers were seriously injured. The Chevrolet driver's BAC was 0.22 percent; the Ford driver's BAC was 0.12 percent.

The Chevrolet driver was charged with vehicular homicide, but this charge was plea bargained down to vehicular assault. He had been arrested less than 2 years earlier for DWI (September 25, 1981), but the charge had been reduced to "driving while alcohol-impaired," to which he pled guilty on February 10, 1982. He had been sentenced to attend an alcohol education program. (Case No. 7.)

On October 28, 1983, about 8:30 p.m., a 1971 Oldsmobile Cutlass was travelling westbound at high speed on Riverfront Road at Olive Street, in Kansas City, Missouri. The vehicle failed to negotiate a gradual left curve and struck a guardrail and a utility pole. The vehicle continued westbound, struck a light pole, rolled over, and slid on its roof to final rest. Gasoline spilled from the vehicle and ignited, and fire engulfed the vehicle. The 22-year-old driver escaped from the vehicle; the passenger did not and perished in the fire. The driver had minor injuries and refused a breath test. Police on the scene reported that the driver showed overt signs of intoxication. The breathalyzer operator reported that the effects of alcohol were obvious, and his ability to drive was impaired by alcohol. The driver was charged with involuntary manslaughter.

The driver had been issued a driver's license at age 16 in 1977. In May 1979, his license had been suspended because of his traffic offense conviction record. Subsequently, he had been arrested and convicted three times for driving with a suspended license. In November 1980, his license had been revoked. On July 20, 1982, he had been arrested by the Kansas City police at the scene of an accident; he was charged with DWI, driving with a revoked license, and possession of a stolen vehicle. His complete driving

28/ H.L. Ross, Deterring the Drinking Driver: Legal Policy and Social Control (Lexington, 1982).

29/ F. Lowery, Minnesota's Double-Barrelled Implied Consent Law (draft), Minnesota Department of Public Safety (1983).

30/ For further discussion of these points, see a paper by Patricia F. Waller, Licensing and Other Controls of the Drinking Driver, prepared for the North American Conference on Alcohol and Highway Safety, The John Hopkins University School of Medicine, Baltimore, MD (1984).

record was available to the sentencing judge, who fined him \$100. Plea bargaining reduced the DWI charge to careless and imprudent driving; the revoked license and stolen vehicle charges were dismissed. On April 11, 1983, he had been granted a temporary hardship driving privilege license, with which he could drive only to and from work and only between 6:30 a.m. and 6:30 p.m.; the license was extended 5 months later to March 24, 1984. (Case No. 8.)

The message sent to the drunk drivers in the two foregoing cases -- and many others like them -- is clear: even very serious drunk driving charges do not result in severe penalties.

Plea bargaining not only reduces the sanctions on the drunk driver; it also distorts his or her offense record, particularly when an alcohol-related charge is reduced to a nonalcohol-related charge. When this happens, there is no record of the arrest involving alcohol, so that the next time the offender is arrested, his or her records lead the court to believe they are first-time offenders. Some States have taken steps to deal with this result. For example, the Colorado Revised Statutes require the Division of Motor Vehicles to record all dismissals of DWI charges on a driver's record. They further require that the record show if a DWI charge is amended to a lesser charge. Colorado law also places restrictions on plea bargaining in DWI cases to prevent reduction of DWI charges to nonalcohol-related charges. 31/

Prosecutors plea bargain for various reasons -- to avoid the difficulties of jury trials, to clear overcrowded dockets, or in many cases, because they do not give DWI cases a high priority. The Presidential Commission on Drunk Driving reported:

The public prosecutor is responsible for, among many other things, evaluating, charging and trying [DWI] cases. Historically, prosecutors have not given [DWI] cases a high priority; consequently, they frequently engage in plea bargaining the [DWI] case. This results in reduced or minimal sanctions and reinforces the social acceptability of drinking and driving.

Prosecutors have largely failed to recognize or appreciate the impact, good and bad, that their attitudes and policies can have on the problem of the drinking driver. It is time for the prosecutor to assume a leadership role in dealing with the problem. 32/

SENTENCING PROCESS

Judicial Training

Those familiar with the State and local court systems agree that many judges lack the training necessary to permit them to adjudicate drunk driving cases in a way that helps to reduce this problem and to do justice to the interests of both the offender and the public. The Presidential Commission on Drunk Driving commented in its final report:

31/ Colorado Revised Statutes 42-2-188 and -1202.

32/ Presidential Commission on Drunk Driving, Final Report, 1983, p. 16.

It should be kept in mind that the public, and not only the defendant, has certain rights. Thus, the judiciary plays a vital role in discouraging driving under the influence. There are about 21,000 judges hearing traffic cases in the nation's 17,000 courts. ^{33/} [DWI] cases constitute a substantial portion of their caseload. Nonetheless, most of these judges have had little formal training in either the adjudication of these cases or in alcohol use and traffic safety. All too often, the judiciary fails to view driving under the influence as a serious offense meriting certain, swift, and appropriate punishment. ^{34/}

The Commission noted that "new judges . . . are generally assigned to the trial of DWI cases. They should receive entry level and annual in-service training in the trial of such cases, and in alcohol abuse and in its relation to highway safety." ^{35/}

Most State judges are afforded judicial training at the State level, and training is available at a national level. However, there are a number of obstacles that stand in the way of assuring that judges actually receive adequate training. Our court systems are generally so overburdened by their case backlogs that it is difficult for a judge to take a significant amount of time away from his or her courtroom for training. If a judge does find time for training, he or she is faced with the need to make an election from an enormous range of subjects, since most courts are of general jurisdiction, and not limited to a particular type of offense, such as traffic offenses. Even in courts of limited jurisdiction, such as traffic courts, a judge must have a wide range of legal expertise in order to perform well. Many courts are further hampered by inadequate funds to pay for thorough training programs, especially at the national level. In those jurisdictions which have courts of limited jurisdiction, there often is a problem with turnover, since most judges prefer to handle a broader variety of cases.

A 1981 survey found that only 2 States require some form of mandatory training for new judges, 17 States hold annual mandatory judicial conferences, and 26 States have mandatory judicial continuing education programs. ^{36/} Each State sets its own standards; however, the American Bar Association (ABA) adopted Standards for Education and Training of State Trial Judges at its 1982 annual meeting. These standards address the goal setting, planning, development, administration, curriculum, faculty selection, and other aspects of training programs appropriate for adoption by the States. Among the areas of emphasis which the standards recommend are:

- Comprehensive educational training for new judges covering major legal subjects and skills for everyday use on the trial bench;
- Periodic evaluation and training for all judges on the substantive procedural and evidentiary laws of the State;

^{33/} The American Bar Association estimates that about 6,000 judges handle the bulk of these cases. However, given the relatively high rate of turnover among these judges, ensuring that they are appropriately trained in DWI adjudication is a fairly formidable task.

^{34/} Presidential Commission on Drunk Driving, *op. cit.*

^{35/} *Ibid.*

^{36/} American University Criminal Courts Technical Assistance Project, Survey of State Mandatory Judicial Education Requirements, cited in American Bar Association, National Conference of State Trial Judges, Standards for Judicial Education, August 1982.

- Advanced or specialized programs, attended by judges not less frequently than every three years, which stress detailed examination of specific judicial concerns;
- Continuing education and programs directed to new developments, both procedural and technological; and
- Independent learning opportunities for judges. 37/

The National Advisory Commission on Justice Standards and Goals also has proposed a standard on judicial education. Although less specific than the ABA standard, it calls for every State to create and maintain a comprehensive program of continuing mandatory judicial education. Education on alcohol-related issues or DWI adjudication is not specifically mentioned in either of these standards. However, the standards do call for specialized subject matter programs which might include DWI adjudications.

Virtually every State court system has a judicial education administrator who is a part of the administrative office of the court. These officials are responsible for carrying out the education of a State's judges. In addition, there are State judicial organizations and professional associations which sponsor annual judicial conferences, often a significant source of judicial education. Traffic safety issues are only one of many competing topics which must be covered in the training, and therefore, often do not receive in-depth attention. The Safety Board identified only one State, Florida, with a judicial education program directed specifically at traffic courts. It is the Safety Board's view that the States and judicial and professional organizations within the States should give greater attention to the provision of alcohol-related and DWI adjudication training for judges, including the handling of the more difficult repeat offender cases, since in many courts DWI cases make up a large and growing portion of the docket.

In addition to the programs in individual States, there are training resources available to judges on a national basis. The National Judicial College offers an intensive week-long seminar on alcohol and drugs which addresses the handling of substance abusers in the judicial system, from initial identification through referral, monitoring, and followup. However, this workshop has been attended by only 600 judges to date.

The American Academy of Judicial Education (Academy), in conjunction with the NHTSA, has developed a model traffic law adjudication curriculum for use by judges and judicial educators. The curriculum includes training in alcohol pharmacology; DWI trials and sentencing; habitual, suspended, and revoked offenders; traffic case information and proof requirements; and other legal and technical issues related to traffic law adjudication. According to the NHTSA and the Academy, 2,050 judges in about 45 jurisdictions have received training in this curriculum between 1980 and 1983.

In order to reach a larger number of judges, the NHTSA is developing a self-taught home study course on DWI adjudication for both judges and prosecutors. It is hoped that this will enable judges who are now bound by time and resource constraints to receive some training. In addition, it hopes to prepare a bench book which can serve as a reference tool for judges during the course of a DWI trial. These measures also will help to address the problems caused by the high rate of turnover among judges who hear traffic cases. Constraints imposed by the set schedule of outside training courses are avoided by the home study approach, and jurisdictions will be able to avoid expending major resources on judges who might be on the bench for only a short time before moving on to other types of cases.

37/ ABA, op. cit., Standard 3.B.

The NHTSA also has provided two forms of support to address the resource problems which States face in providing DWI-related training to judges. The first involves a technical assistance grant to the Academy which enables it to organize and administer training programs in the States and to tailor the traffic law adjudication curriculum to a particular State's laws and procedures. The second involves providing Federal highway safety funds to finance judicial education programs at the State level and to pay for training such as that offered by the National Judicial College. However, while helpful, this support will not totally alleviate the problems faced by the States in assuring adequate training for their judges.

One Colorado judge interviewed by Safety Board investigators said, "It serves very little purpose to have effective police agencies, training programs for law enforcement personnel, effective probation, and post-adjudicatory processes if judicial officers do not understand or are unable to effectively deal with either pre-trial or post-trial matters, due to lack of judicial education." The Safety Board agrees. Judges hold key powers in the complex network of persons and systems who interact with drunk drivers. Their willingness and ability to play a strongly constructive role in that network is crucial to the entire system's degree of success in reducing the number of drunk drivers who appear before them over and over again. The Safety Board believes a greater commitment of State resources to making judicial training on DWI matters available to many more judges, and a greater commitment by the judicial organizations to promoting the value of such training to their members, would produce substantial improvement in the system's overall handling of these cases.

SANCTIONS

Diversion/Supervision Programs

In many States, alcohol education or treatment programs can be substituted for court-ordered punitive sanctions for DWI offenses, typically at the option of the offender. For example, in Kansas, New Mexico, and Oregon, programs used in this way are called "diversion," and are completed by the offender before the trial. In Illinois, on the other hand, they are called "supervision" (or "court supervision"), and are completed by offenders who plead guilty and ask for supervision.

The use of diversion/supervision programs is not universally regarded as an effective means of reducing alcohol-related offenses. These programs are attractive to the judicial system because they are a means of handling the increasing numbers of alcohol-related traffic offenses outside the already overloaded court system. It is true also that diversion/supervision programs can be one means to promote participation by alcohol offenders in alcohol education or treatment programs, a desirable goal. On the other hand, they are often used to supplant certain punitive sanctions which are known to have at least a temporary effect in reducing subsequent crashes by alcohol offenders. Furthermore, these programs can result in major distortions in individual and collective records on alcohol-related traffic violations and convictions, since all or part of the judicial process may be bypassed. The particular ways in which diversion/supervision programs are structured and administered are thus important in their overall effects on traffic safety.

For example, in Illinois (as in most States with these programs), supervision is supposed to be available only to first-time DWI offenders. Under supervision, Illinois DWI offenders are typically required to complete a "DWI school," perhaps a period of community service, and have no moving violations for at least 1 year. The following case, however, is an example of an inappropriate use of the Illinois supervision program.

On September 4, 1983, about 12:30 a.m., a Chevrolet sedan was traveling eastbound on I-55 near First Avenue in Chicago, when the driver drove onto the left shoulder and hit and killed a pedestrian standing in front of her disabled car. The Chevrolet driver left the accident scene, exited the expressway, and stopped when his vehicle became disabled. His BAC was tested at 0.17 percent. As a result of this hit-and-run accident, the driver was charged with DWI and reckless homicide.

Safety Board investigation of his previous driving record disclosed that, since 1973, he had been arrested for DWI at least three times, twice more for driving with an open liquor container, six times for speeding, and once each for obstructing police, attempting to elude police, and improper passing. The most severe sanction he had received for these offenses was 12 days in jail and 1 year's probation (sentenced to this twice); his fines ranged from \$15 (for one of the speeding convictions) to \$110 (for one of the DWI convictions). His license had been revoked twice for DWI offenses.

In September 1982, he had been arrested for DWI and speeding; his BAC level was tested at 0.228 percent. The judge at his trial 7 months later knew of the BAC level and knew of at least two of the man's previous DWI arrests and convictions. Nevertheless, when the man requested permission to attend an alcohol treatment program under the Illinois court supervision program, in lieu of a punitive sanction, the judge granted the request. Three months later, while still in the supervision program, he was involved in the Chicago pedestrian killing described above. (Case No. 9.)

At one time, the Illinois supervision program did not require that DWI arrests or convictions appear on the records of those who completed supervision programs. Since January 1, 1984, Illinois law has required that supervision for DWI offenses be recorded on the driver license abstract that is available to all law enforcement and judicial agencies. Although several States recently have amended their laws in this way, in some States it is still true that DWI charges are dismissed when a diversion/supervision program is completed, and no record of the DWI arrest is retained on the driver's DMV record. When this happens, it is easy for an offender to be arrested repeatedly for DWI and treated every time as a first offender.

First-time DWI offenders who apply for the Kansas diversion program are referred to an alcohol rehabilitation program for an evaluation, on the basis of which the offender is granted or denied diversion. If denied, the offender's case continues through the court system. If accepted for a diversion program, the offender signs an agreement with the prosecutor's office, which is transmitted to the Driver License Division. The Division codes the offender's driver record to show that he or she has entered a diversion program. By State law, the offender is thereafter considered as having a DWI conviction; if he or she is again arrested for DWI, he or she will not be eligible for diversion. If convicted of this subsequent charge, the offender must be sentenced as a repeat offender.

In August 1981, Oregon enacted legislation which included a diversion program option for DWI offenders who have not, within 10 years, been arrested for a DWI offense, been in a diversion program, been convicted of a felony resulting from the operation of a motor vehicle, and have no reportable accident associated with the current charge. Such an offender may agree with the court to be evaluated by an alcohol and drug evaluation specialist and to participate in an education and/or treatment program. Successful completion of the program and compliance with other conditions of the diversion agreement result in the charge of DWI being dismissed. However, an entry is made on the

driving record and is maintained there for 10 years. From the beginning of this new program on November 1, 1981, to June 30, 1982, 5,550 Oregonians chose the diversion option -- 80 to 90 percent of the eligible first offenders. 38/

Under the program, a first offender is evaluated and determined to be either a social or a problem drinker. This is accomplished through a series of standardized tests, examination of the offender's criminal and driving histories, consideration of the BAC level and police report at the time of arrest, and a structured interview with the individual. Those classified as social drinkers are referred to a level I program, which is primarily alcohol education, such as short film/lecture programs. Those classified as having more severe drinking problems are referred to a level II program, which includes therapeutically-oriented education (group or individual), residential or outpatient therapy, Antabuse, or various combinations of these. Certainly diversion programs which try to match appropriate levels of treatment to the seriousness of the participant's alcohol abuse are improvements on those in which all participants are automatically sent to an alcohol education school. Research findings by the U.S. Department of Transportation indicate that lecture-oriented "DWI schools" alone do not affect the behavior of problem drinkers and should not be used for these persons. 39/

Diversion/supervision programs are not the only, nor even the best, way to get alcohol offenders into treatment programs. Although these programs do help to reduce court caseloads, they may produce net disbenefits to traffic safety when their structure permits expungement of offense records and precludes the implementation of other laws which depend on the existence of a conviction of DWI. Equally important, if they are structured so as to supplant the imposition of punitive sanctions with known loss reduction effectiveness, they are undesirable. As the Presidential Commission on Drunk Driving noted:

Rehabilitation and education programs . . . should be provided as a supplement to other sanctions, and not as a replacement for those sanctions. . . . Education and treatment programs are not substitutes for appropriate penalties to be assessed upon those who violate the law. Rather, they should be looked upon as adjuncts to legal and administrative sanctions, intended to address the knowledge, attitude, and behavioral problems that may underlie driving under the influence. 40/

One of the sanctions with known crash reduction effectiveness which is often supplanted by diversion/supervision programs is license suspension/revocation, discussed in the following section.

License Suspension/Revocation

All 50 States and the District of Columbia have statutes that permit driver's license actions (suspension or revocation) to be imposed for first and/or subsequent

38/ Office of Programs for Alcohol and Drug Problems, Profile and Results of Clients Served Chapter 803 Oregon Laws 1981, prepared for the 62d Oregon Legislative Assembly, November 26, 1982.

39/ U. S. DOT, Summary of National Alcohol Safety Action Projects, August 1979.

40/ Presidential Commission on Drunk Driving, op. cit., p. 22.

offenses. 41/ In 26 States, these actions are mandatory; in 24 of these States, license actions are mandatory for first and subsequent offenses; in two, they are mandatory for second and subsequent offenses. 42/

There is evidence that persons whose licenses have been suspended or revoked continue to drive. A 1980 California study found that, of drivers with a suspended or revoked license, two-thirds admitted to driving despite the license action. 43/ Several cases reviewed by the Safety Board for this study illustrate this, including the following:

On September 15, 1983, about 3:30 p.m., a 1979 Dodge pickup traveling north on I-285 in DeKalb County, Georgia, ran off the road, hit a concrete median barrier, traveled back onto the roadway, and hit a 1974 Ford pickup. The Ford pickup driver was not injured. The fatally injured 27-year-old Dodge pickup driver's BAC was 0.20 percent. An investigation of his driving record revealed that he had been arrested twice in 1979 for driving without a license; that within 2 months of obtaining a license, it was suspended, and within 2 months of the suspension, he was arrested again for driving with a suspended license. In 1982, he was arrested again for driving with a suspended license. (In addition, he was arrested several times during this same period for DWI, speeding, failure to maintain lane, property damage accident, and public drunkenness. His September 1983 fatal accident occurred within 9 months of the DWI property damage accident, (committed while driving with a suspended license.) (Case No. 10.)

Despite the tendency of many drivers to continue driving with suspended or revoked licenses, some highway safety experts consider it to be the most cost-effective countermeasure known at this time for reducing crashes by drunk driving offenders. 44/ A 1974 study in Oregon found that 50 percent of the drivers whose licenses had been suspended or revoked stated that during revocation they drove less, and more carefully. 45/ A 1978 California study found that repeat offenders whose licenses were suspended (12 months) or revoked (36 months), in addition to the usual fines and/or jail terms, subsequently had 30 percent fewer crashes and convictions (DWI, reckless driving, speeding, hit/run, etc.) than repeat offenders who merely were fined and/or jailed. These results persisted past the expiration of the suspension/revocation period. 46/ Studies

41/ The basic differences between "suspension" and "revocation" lie in the different procedures an offender must follow in order to regain his or her full driving privileges. Typically, restoration of a suspended license is accomplished by the automatic return of the license (if it was confiscated) or an administrative action by the DMV to update their records. However, the restoration following revocation is more complex and requires the offender to submit an application, pay a fee, and, in some cases, complete an alcohol evaluation and/or treatment.

42/ National Highway Traffic Safety Administration, DWI Sanction: The Law and the Practice (DOT-HS-806-417), June 1983.

43/ R. E. Hagen et al., Suspension and Revocation Effects on the DUI Offender, California Department of Motor Vehicles, 1980.

44/ See, Waller, op. cit.

45/ N. Kaestner and L. Speight, Oregon Study of Driver License Suspension, Oregon Department of Transportation, 1974. Cited in Waller, op. cit.

46/ R. E. Hagen, "The Efficacy of Licensing Controls as a Countermeasure for Multiple DUI Offenders," Journal of Safety Research, Vol. 10, pp. 115-122 (1978). Cited in Waller, op. cit. A subsequent study, "The Long-Term Traffic Safety Impact of a Pilot Alcohol Abuse Treatment as an Alternative to License Suspensions," by Daniel D. Sadler and M. W. Perrine (California Department of Motor Vehicles, April 1984), found similar results.

comparing the effectiveness of license suspension with that of treatment programs do not indicate that treatment is superior to the less costly license actions. 47/ Current thinking is that DWI offenders should receive both treatment and license action. 48/

The maximum effectiveness of any general deterrence countermeasure is achieved by drivers perceiving an unacceptably high risk of being apprehended and a certainty of being swiftly subjected to a sanction severe enough to be unacceptable to them. 49/ These requirements also are true of attempts to deter motorists from driving with a suspended or revoked license. Although it may be difficult to devise ways to increase a driver's risk of being apprehended for driving with a suspended or revoked license, there are steps that could be taken to increase the swiftness and certainty of severe sanction for this crime, once apprehended. One method being tried is impoundment of the offender's vehicle. A recent Washington law authorizes impoundment and sale at public auction of vehicles whose drivers are caught driving in violation of a license suspension or revocation. Wisconsin recently amended its laws to include a combination of fine, jail term, and an additional 6-month license suspension for such offenders and, for offenders who own their vehicles, the court may order the vehicle's indefinite impoundment.

Ways to increase the effectiveness of license actions as a drunk driving deterrent should be explored further. One of the ways in which States now can gain credit toward obtaining supplemental Federal highway safety funds is by making impoundment of license plates mandatory if a person whose license has been suspended or revoked for a drunk driving offense is caught driving. Only one State has so far adopted such a provision; it is not yet known whether it is effective in increasing the deterrence benefits of license actions against DWI offenders.

TREATMENT AND REHABILITATION

The sanctions discussed so far largely have been punitive in nature. Since the early 1970's, highway safety experts have focused increasing attention on trying to find effective ways to change the behavior of the DWI offender. Incarceration keeps the DWI repeat offender off the street for a time, but if his or her alcohol abuse problem has not been resolved (at least to some extent), that offender is likely to repeat the offense sooner or later, after release. Even license actions, known to be effective in reducing repeat offenders' subsequent accidents for a period of time, are, in the last analysis, a temporary remedy. At some point after license reinstatement, some, perhaps most, problem drinkers are likely to repeat their offense, unless they have had treatment for alcohol dependency.

47/ R. E. Hagen et al., "The Traffic Safety Impact of Alcohol Abuse Treatment as an Alternative to Mandatory Licensing Controls," Accident Analysis Prevention, Vol. XI, pp. 272-291 (1979); C.L. Popkin, L.K. Li, J.H. Lacey, J. R. Stewart, and P. F. Waller, An Initial Evaluation of the North Carolina Alcohol and Drug Education Traffic Schools (Technical Report, Vol. I), University of North Carolina Highway Safety Research Center (1983); P.M. Salzberg, R. Hauser, and C.L. Klingberg, License Revocation and Alcoholism Treatment Programs for Habitual Traffic Offenders, Washington State Department of Licensing (1981). Cited in Waller, op. cit.

48/ Presidential Commission on Drunk Driving, op. cit.

49/ See, Ross, op. cit.

Perhaps this will be the case even with alcohol treatment. Although court-based referral programs have become quite common and accepted by the treatment community as an appropriate source for identifying persons with alcohol problems, it has been difficult to evaluate the effectiveness of these programs, either in terms of highway safety or overall social benefits. One recent assessment of alcoholism treatment could only conclude:

There is some evidence to support the hypothesis that alcoholism treatment is cost-beneficial. The benefits of alcoholism treatment, even if they fall short of what may be claimed, seemed to be in excess of the costs of providing such treatment. 50/

Nevertheless, however poorly we understand why people abuse alcohol and what to do to prevent or cure this social ill, there seems to be little alternative at this time to continuing research and evaluation of treatment methods.

Evaluation and Referral

Early identification of a drinking problem improves chances for successful treatment and therefore reduces the incidence of recidivism. 51/ Only after a person's drinking problem has been identified can appropriate treatment and rehabilitation efforts be brought to bear to assist the driver to change the behavior pattern that results in driving while intoxicated.

It is generally accepted that persons arrested for driving while intoxicated fall into one of two categories: social drinkers who drink occasionally and have not suffered undue consequences prior to the first arrest for DWI, and problem drinkers who have lost control of their drinking and suffer severe social, physical, or psychological consequences. 52/

The drinking patterns and related problems of drivers vary on a continuum from complete abstention at one end to advanced stages of alcoholism at the other. There is no precise demarcation between the commonly used terms "social drinking," "problem drinking," and "alcoholism." In fact, there are literally hundreds of definitions of the term "alcoholism" alone.

In the context of court-ordered treatment, however, only two categories are now typically used to classify drunk drivers: "social drinkers" and "problem drinkers." These two categories evolved principally as a result of the Federal Alcohol Safety Action Program (ASAP) in the 1970's. The term "social drinker" is used to refer to those offenders whose patterns of alcohol consumption are still within their control. Blood alcohol concentrations of DWI offenders so classified are typically less than 0.15 percent. The term "problem drinkers" includes those who have developed patterns of excessive drinking that are at least partially out of their control. It includes those who have developed varying patterns of psychological and physiological addiction to alcohol. Persons who are in the various stages of alcoholism are, therefore, included within this broad term.

50/ Leonard Saxe et al., The Effectiveness and Costs of Alcoholism Treatment, Office of Technology Assessment (a research arm of the U.S. Congress) (March 1983), p. 66. Herein after cited as O.T.A.

51/ DOT, op. cit.

52/ U.S. General Accounting Office, Prison Mental Health Care Can Be Improved By Better Management and More Effective Federal Aid, November 3, 1979, p. 2.

These definitions allow courts to categorize offenders so that an appropriate treatment referral can be made among the limited facilities available in a community. A more precise "clinical" assessment of an individual's drinking problem is generally left to the treatment provider.

In those court systems which attempt to determine the level of a drunk driver's alcohol abuse, the process conducted by court probation personnel is usually called a "pre-sentence investigation," which can take place any time between arrest and sentencing. In some cases, the determination process in the form of an in-depth alcohol evaluation may also be carried out at the beginning of treatment, rather than by the court.

According to the NHTSA, the diagnostic criteria found in the Alcohol Safety Action Projects to be most successful in quickly distinguishing social drinkers from problem drinkers are (1) a prior alcohol-related arrest, (2) an approved, structured, written diagnostic test, (i.e., Mortimer-Filkins or MAST) and (3) an arrest BAC of 0.15 percent or greater.^{53/} In many circumstances, a minimal screening or pre-sentence investigation is sufficient. For example, a NHTSA study found that a prior DWI offense is a reliable indicator, by itself, of a problem drinker.^{54/} However, many jurisdictions continue to sentence offenders without the benefit of a pre-sentence investigation report.^{55/}

The consequences of inadequate screening or inappropriate referral and treatment can be serious. Treatment is almost doomed to fail if its nature and level of intensity are not appropriate to the seriousness of the client's alcohol problem. Safety Board investigators interviewed a 25-year-old woman in Kansas City, Missouri, who had been stopped for DWI 10 times, and arrested and convicted 7 times, between December 1979 and December 1982. The BAC levels at her arrests had ranged from 0.14 to 0.18 percent. She received a variety of sentences, including fines, license suspensions, probation, and court-ordered attendance at treatment programs.

Most of the treatment programs she was ordered to attend, however, were not likely to be effective for a person with a mounting record of DWI arrests. On four occasions she was sent to the National Safety Council's drunk driving school, (a 4-hour program of films and lectures); once to a local alcohol center (a 7-week, 1 hour/week program); and twice to the local Community Alcohol Program (CAP). The CAP program ultimately appears to have had some effectiveness in dealing with her problem; the program is certified by the State Mental Health Department and provides individual counseling and therapy in a 16-week (or even longer) program. However, the first time she attended the CAP program, she was assigned to a male counselor, with whom she said she had a difficult time interacting.^{56/} Her second time through the CAP program appears to have been successful in helping her identify her problems with alcohol and initiating her recovery.

^{53/} NHTSA, Results of National Alcohol Safety Action Projects, May 1979, p. 40. Hereinafter cited as ASAP, 1979.

^{54/} ASAP, 1979, p. 26.

^{55/} Presidential Commission on Drunk Driving, *op. cit.*, p. 19.

^{56/} Several of the women interviewed by the Board during this study expressed similar difficulties. As in other kinds of therapy, counselors' effectiveness in assisting a person of the opposite sex who has an alcohol problem can sometimes be hindered by unfamiliarity with the problems felt by the client as more or less unique to his or her gender.

General Principles of Alcoholism Treatment

There are diverse views among researchers as to the cause of alcoholism. The debate has led to three major theories as to alcoholism's cause: medical, psychological, and sociocultural. The medical perspective focuses on biological, chemical, and genetic factors. The psychological perspective views alcoholism as arising from motivational and emotional dysfunctions in individuals. The sociocultural perspective sees alcoholism as the product of living in a particular social and cultural environment. Each of these approaches has received some empirical support, leading some experts to propose multiple causes for alcoholism. 57/

Not surprisingly, the disagreement over the causes of alcoholism has led to disagreement over the most effective treatment techniques. Empirical research has provided little definitive evidence that any particular treatment or setting is any better than any other. 58/ The major treatments for alcoholism can be divided into three general approaches which parallel the causal perspectives:

- o Medical approaches start with detoxification (which is not actually a treatment itself), mood-altering drug therapy, and use of sensitizing agents, such as disulfiram (Antabuse).
- o Psychological treatments include a variety of behavioral approaches, non-behavioral psychotherapy, and systems approaches, such as family therapy.
- o Sociocultural treatment relies on the assumption that successful treatment requires changing the social environment in which the alcoholic functions. 59/

Although hundreds of studies on alcoholism treatment have been conducted, conclusions about the impact of treatment are limited. The large number of complex variables affecting treatment, including the setting, provider, duration, and intensity of treatment, and the individual being treated, makes evaluation of specific techniques extremely difficult. 60/

A literature review conducted for the Office of Technology Assessment found few principles of alcoholism treatment upon which researchers agree. For example, several studies finding out-patient care to be more effective than in-patient settings were cited. However, other studies found that the observed variations in effectiveness virtually disappeared when there was a control for client characteristics. Methodological limitations were noted in many of these studies. 61/ Likewise, the findings of studies designed to test particular types of treatment have been inconclusive. This led the authors of the OTA study to conclude merely that "treatment seems better than no treatment," but that "methodological problems render it difficult to conclude that any specific treatment is more effective than any other." 62/

57/ O.T.A., pp. 11-14.

58/ O.T.A., p. 4.

59/ O.T.A., pp. 23-27.

60/ O.T.A., p. 35.

61/ O.T.A., pp. 47-49.

62/ O.T.A., p. 53.

As a result, attempts to draft standards for alcohol treatment programs have led to only general statements. Repeat offenders are likely to require more extensive treatment since they probably suffer from a serious alcohol problem. Most States have adopted licensing standards for alcoholism treatment programs and practitioners in the context of their health regulations. Usually, these standards are of a general nature, without detail as to program content, intensity, duration, or other factors which may determine a program's effectiveness. The American Medical Association has published a Manual of Alcoholism with an extensive discussion of treatment principles, their options, and the resources typically available to a physician.^{63/} In contrast to most State standards, this manual discusses treatment techniques in some detail.

Level I treatment programs are for the social drinker and are primarily educational.^{64/} One measure of the degree to which court-ordered treatment of the level I type has become common practice is a 1983 survey by the National Association of State Alcoholism and Drug Abuse Directors on intoxicated driver programs. The 45 jurisdictions (44 States and the District of Columbia) which reported, found 1,514 programs operating. Thirty-nine of these jurisdictions (38 and the District of Columbia) "guesstimated" that 532,000 persons were served in 1983.^{65/} The survey made no attempt to measure the impact of these programs on their participants.

Educational-type programs have grown largely from NHTSA's ASAP experiment in the 1970's. Most States and jurisdictions do not license or set minimum standards for these programs, since they are educational, not treatment, programs. In the long term, there may be a need to establish criteria for educational programs to assure that they are having a positive impact on DWI offenders, and to promote consistency among jurisdictions. Level II programs are designed for problem drinkers, a majority of those arrested for DWI, in at least some States. In Oregon, for instance, during 8 months of evaluation of the Oregon diversion program, about 66 percent of the program clients were found to have a problem beyond social drinking and were referred to a level II program. According to a review of the program prepared for the Oregon legislature:

The data refute the common misconception that first offense DWI clients are "unlucky" social drinkers. Of the clients referred to Level II, 36 percent are reported to have an alcohol problem of serious abuse to chronic addiction. That amounts to 24 percent of the clients that chose the diversion program, or 19 to 22 percent of the people in Oregon arrested during the evaluation period that were eligible (i.e., first time offenders) for the program ^{66/} (Emphasis in original.)

Level II programs, provided for problem drinkers, are treatment-oriented and generally include more intensive education, counseling, group and individual therapy, and in some cases, referral to a medical facility. Treatment approaches vary widely. However, level II programs often provide group counseling, led by a trained counselor. A study of treatment techniques used on DWI offenders in Sacramento found that properly designed group counseling treatment substantially reduced DWI recidivism compared to

^{63/} American Medical Association, Manual on Alcoholism (1977), pp. 41-98.

^{64/} ASAP, 1979, p. 57.

^{65/} William Butynski, State Resources and Services Related to Alcohol and Drug Abuse Problems: An Analysis of State Alcoholism and Drug Abuse Profile Data, National Association of State Alcohol and Drug Abuse Directors (1984), pp. 48-50.

^{66/} Oregon, Office of Programs for Alcohol and Drug Problems, op. cit.

recidivism among repeat offenders who received no treatment, provided that the programs continued for a sufficient period of time. ^{67/} The study suggested that a "sufficient period" is at least 6 months, more likely as long as a year.

Treatment While Incarcerated

Many jail and prison inmates have alcohol problems and many of their crimes involved alcohol. Colorado officials report that "almost three of every four inmates in Colorado prisons suffer from alcoholism." Officials of the Massachusetts Department of Corrections indicate that 80 percent of State prison inmates have an alcohol or drug problem or were under the influence at the time of arrest. Kansas reports 60 percent of its felons having committed the crime under the influence of alcohol. A Justice Department report of a study conducted in 1979, in which 1,200 State prison inmates were interviewed, revealed that one-third said they had drunk "very heavily" just before committing the crime for which they were imprisoned; 20 percent of those interviewed said they drank "very heavily" every day the entire year before their imprisonment. ^{68/}

There has been little progress during the last 10 years in the development of alcoholism treatment programs for inmates of correctional facilities. A recent General Accounting Office (GAO) report criticized the level of treatment available to inmates with acute and chronic alcohol problems in all settings within the corrections system (jails and Federal and State prisons). ^{69/} At the State level, the GAO found little systematic identification and treatment of alcoholics. The report was also critical of Federal agencies' failure to require the States to improve treatment for alcoholic inmates in State prisons.

The problems of providing effective alcoholism treatment to repeat DWI offenders are compounded in correctional facilities. Although incarceration offers the advantage of maintaining greater control over the offender, this is more than counterbalanced by the generally short terms served by DWI offenders and the limitations of the programs in the correctional institutions.

The Presidential Commission on Drunk Driving recommended, and Congress has enacted legislation encouraging, the States to adopt minimum jail sentences of 10 days for a third or subsequent offense. ^{70/} In light of the previously cited findings that treatment programs must continue for at least 6 months and more probably a year to have a chance of success, it seems unlikely that repeat DWI offenders in jails will be incarcerated long enough to receive adequate treatment. Instead, jails can only expect to initiate treatment and hope that it will be continued after release.

Since most DWI offenders who are incarcerated serve terms of less than a year, they generally are confined in jails, ^{71/} where services and programs of all types are limited because of the short terms served by most inmates. This is recognized by the American Corrections Association and the Commission on Accreditation for Correction

^{67/} NHTSA, The Findings of the Comprehensive Driving Under the Influence of Alcohol Offender Treatment Demonstration Project, (June 1982), pp. 6-7.

^{68/} U. S. Department of Justice, Bureau of Justice Statistics, Bulletin: Prisoners and Alcohol (1983).

^{69/} U. S. General Accounting Office, op. cit.

^{70/} Presidential Commission on Drunk Driving, op. cit., p. 18; Public Law 98-363, Sec. 7, 23 U.S.C. 408.

^{71/} Jails are generally distinguished from prisons because they house offenders serving shorter sentences (less than one year), while prisons house those whose incarceration is usually far longer than one year.

(ACA/CAC) in their standards for local detention facilities which merely state, "The facility provides counseling and program services for inmates with drug and alcohol addiction problems." ^{72/} There is no discussion as to what the programs should contain.

For jail inmates, available alcohol treatment programs often are limited to those provided on a voluntary basis by outside groups. Comprehensive rehabilitation programs are rare.

In Kansas, for example, only persons convicted of misdemeanors may be placed in county jails. The county jails have no entrance diagnostic programs, but all of the 105 jails in Kansas allow prisoners to attend Alcoholics Anonymous and other alcohol treatment meetings provided by local church and civic organizations. These meetings are held in the jail and are attended voluntarily at no cost to the institution. These prisoners can be transferred to a State hospital, if necessary. If the pre-sentence investigation indicates that the persons should attend an alcohol education/rehabilitation program, mandatory attendance at the convict's expense is part of the sentence; the requirement is normally fulfilled after completion of the jail term.

Given the short time in which jail programs can provide treatment to an inmate with an alcohol problem, followup treatment and rehabilitation programs are essential to achieve a successful recovery. Without some form of followup, a repeat offender is all too likely to lapse into his or her former drinking and driving habits. Rather than relying on the self-motivation of repeat offenders to continue treatment following incarceration, courts must find a mechanism to assure that treatment continues. One way this can be done is by using a conditional probation based on the successful completion of a treatment program. Current court sentences of probation usually are not longer than a year or two, but this should be a sufficient time to complete a comprehensive treatment program.

The Safety Board believes that every arrest for DWI should be followed by a systematic evaluation and appropriate treatment and followup of the defendant. Before sentencing, the court should obtain and consider a pre-sentence investigation report, detailing the defendant's driving and criminal record and, where possible, an alcohol assessment report. The sentence should be based on that evaluation, taking into account the treatment needs of the individual. In all cases, an alcohol problem assessment report should be completed by qualified personnel before selecting the education or treatment plan.

Unless effective rehabilitative programs are provided in conjunction with jail sentences for repeat DWI offenders, the punitive sanctions may have only a short-term traffic safety impact. Because repeat offenders generally suffer from alcohol dependency, the threat of sanctions probably will not remove the underlying cause of their drunk driving behavior. Without a comprehensive treatment and followup program, repeat offenders are not likely to be rehabilitated to the extent that their drunk driving will be eliminated. Effective treatment programs do not now exist generally in our jails and prisons. This is due, in part, to the lack of definitive answers to questions regarding alcohol treatment, which makes it difficult to determine what treatment is effective. Perhaps more important, however, is the lack of resources available to the corrections system, which has led to overcrowding and inadequate staffing.

^{72/} American Correctional Association, Standards for Adult Local Detention Facilities, 2d ed., Standard 2-5371. In addition, there are standards calling for a health appraisal, including investigation into alcohol abuse (Standards 2-5273 and 2-5274). However, it is clear that the standards for detention facilities are less specific than those for correctional facilities.

The Safety Board believes that these conditions must be changed in order to deal effectively with repeat offenders. States and local jurisdictions, which handle most drunk driving offenders, must provide adequate resources to assure that all offenders receive adequate assessment, sanctions, and treatment services. Additionally, jurisdictions must assure that DWI offenders participate in appropriate community-based programs for followup services upon completion of their incarceration. Without these actions, the likelihood of another DWI arrest or alcohol-related accident has not been significantly reduced.

Veterans Administration Hospitals As Treatment Providers

Because the drivers in several of the accidents investigated for this study were veterans and had previously sought treatment at Veterans Administration (VA) hospitals, Safety Board investigators reviewed the VA alcoholism treatment programs available at several hospitals and the relationship between these hospitals and local courts. According to the U.S. Department of Health and Human Services, the VA is the largest single provider of direct alcoholism treatment services. ^{73/} The Alcohol Dependence Treatment Programs (ADTPs) of the VA are part of the agency's Specialized Medical Service, designed to provide psychiatric care, rehabilitation, drug and alcohol dependence treatment, and readjustment-assistance to veterans. Alcoholism-related disorders are the second largest category of diagnosis among patients discharged from VA hospitals, next to heart disease. About one of every four hospitalized veterans in 1980 was defined as an alcoholic or problem drinker, an increase from one in five in 1970. ^{74/}

The extent of cooperative interaction between the 102 VA hospitals with ADTP programs and the local courts seems to depend largely on the particular hospital administrators and court officials. Among the several VA hospitals reviewed by Safety Board investigators, this interaction ranged from virtually none to 90 percent of the treatment clients being in the program in response to court action. Officials at one VA hospital told the Safety Board that a counselor spends considerable time in court reporting the progress of various patients' treatment. The courts in Salt Lake City have been referring veterans to the local VA hospital alcohol treatment program for 10 years, and a large percentage of the program's clients are there in response to court action in connection with traffic and other violations. About 90 percent of the patients in the Pittsburgh hospital's ADTP unit are court referrals. However, in some areas there are virtually no such referrals.

Administrators of some VA hospitals argue that the facilities operate solely to serve and assist veterans, and not for use by a public agency for punishment, probation, or alternative sentencing of veterans. At these hospitals, only those veterans who voluntarily admit to a drinking problem and specifically ask for the assistance of the VA hospital system are accepted into the facility. Veterans must, at the initial stage of court appearance, request release to the VA hospital for treatment or, at sentencing, request that the sentence or probation terms include voluntary commitment to the hospital.

^{73/} U.S. Department of Health and Human Services, Alcohol and Health, Fourth Special Report to Congress, January 1981.

^{74/} Veterans Administration, Office of Reports and Statistics, A Statistical Analysis of VA Hospital Patients (supplement to Alcoholism and Problem Drinking, 1970-1975), 1980.

Administrators of the Brentwood, California, VA hospital told Safety Board investigators they do not want any mandatory referrals from the courts. It is, in their opinion, only the self-motivated patient who can benefit at all from the treatment program, and patients there for reasons other than self-motivation will influence negatively the other patients. 75/

Local court officials interviewed in Ventura County, which uses Brentwood's facility, told the Safety Board that a convicted drunk driver is referred to the Brentwood VA hospital only as a condition of probation, not as an alternative sentence, and only at the request of the patient, with the full cooperation and consent of the court. However, no formal reporting is requested or required from the hospital by the court. 76/

Veterans are referred to the Dallas VA hospital ADTP unit from several sources, including local courts. Hospital officials told the Safety Board that they cooperate with court officers as much as possible, but this cooperation is limited by a requirement that patients must consent to release of information before any communication can take place between the VA hospital and the court. All treatment is voluntary and cannot be court-directed; the patients are free to leave the treatment program whenever they wish. 77/

At least some veterans seem to request VA alcohol treatment programs because they are covered by their veterans' benefits, whereas other programs charge a fee. In West Virginia, completion of an alcohol treatment program is part of the requirements for reinstatement of a license suspended for a DWI offense. In Charleston, veterans who must comply with this requirement are permitted to substitute the ADTP program at the local VA hospital for the DWI Safety and Treatment Program offered by the community mental health center under the auspices of the State DMV. A representative of the community center's program told Safety Board investigators that many veterans do take advantage of this opportunity, apparently because of the fee charged by the community center's program.

VA hospitals are rarely aware of the court sanction origins of veterans' entrance to the ADTP program until after the treatment has been completed. Only when the veteran asks for a satisfactory completion statement from the hospital, addressed to the court and/or the probation officer, does the hospital find out there has been any court involvement. Only if the veteran waives his or her right to confidentiality and permits the hospital to talk to the probation officer will periodic verbal confirmations of performance be exchanged.

One drawback to using the VA treatment programs in DWI sanctions is that because these programs are voluntary, there is no requirement that patients complete them, nor is there a system by which courts are made aware of noncompletion. As has been noted, there is no charge to the veteran for ADTP services, and some alcohol treatment experts believe that monetary investment by the patient in his or her treatment tends to increase its effectiveness.

75/ Phone conversation, April 27, 1984, with the Coordinator of the Alcohol Dependence Treatment Program of the Brentwood VA hospital.

76/ Phone conversation, April 27, 1984, with the Chief Criminal District Attorney of Ventura County, California.

77/ Phone conversation, April 30, 1984, with Case Coordinator, Dallas, Texas, VA hospital.

The Safety Board is encouraged by the degree of cooperation between VA hospital ADTP units and local courts in some jurisdictions and, despite the flaws mentioned above, believes that such interaction should be increased in those areas where it is not taking place.

RECORDS: COURT, DEPARTMENT OF MOTOR VEHICLES, AND CRIMINAL

For a repeat offender to be properly processed through the judicial system, he or she first must be identified as a repeat offender. As the U.S. Department of Justice put it in a recent study on drunk driving:

Every jurisdiction concerned with drunk driving provides more severe sanctions for second and repeat offenders. However, criminal justice personnel are not always aware of the offender's drinking and driving arrest history. Consequently, special attention needs to be given to the prior drunk driving records of the offenders. Responsive record-keeping procedures are essential for increasing criminal justice access to this type of information. 78/

However, a wide variety of problems in court and motor vehicle license record systems allow offenders to pass through the system repeatedly as first offenders. Sometimes deficient procedures in handling court records result in incomplete and inaccurate driving records.

Court Records

On July 23, 1983, about 2:00 p.m., a Chevrolet sedan traveling westbound on Alessandro Boulevard near Riverside, California, drove into the eastbound lane to pass another vehicle and collided head-on with a Volkswagen with six occupants. The Volkswagen driver and a 1-year-old passenger were killed; the Chevrolet driver and four Volkswagen passengers were injured. The 31-year-old male Chevrolet driver's BAC was 0.23 percent. A thorough investigation of his driving records revealed that, since September 1975 and including his July 1983 DWI arrest, he had been arrested for DWI eight times. He had pled guilty or no contest to all of the DWI charges.

However, four of the eight cases were not listed on the DMV records provided to the Safety Board. Only one of the missing cases antedated the five-year limit for case retention in the DMV files; one other missing case possibly had been dismissed or incorporated with another DWI violation. The two other missing cases should have appeared on the DMV record. These omissions probably were due to the court's not sending the conviction record to the DMV; two of the three courts which were involved were not able to locate case files and other pertinent case data, such as a sentence sheet. (Case No. 11.)

Even though the forwarding of notices of DWI convictions to State DMV authorities is required by law, it is not uncommon to find that judges in many States fail to do so. In some cases, judges withhold notice as an incentive to DWI offenders to comply with the court's conditions of probation. Recently, after the death of a local judge in New York, authorities discovered hundreds of conviction records in his desk

78/ U.S. Department of Justice, National Institute of Justice Mandatory Confinement for Drunk Driving: Impacts on the Criminal Justice System, September 1983, p. 9.

as they cleared his office. 79/ Whether out of sympathy for an offender or as an extra incentive to increase compliance, such practices clearly distort control of the drunk driver problem. Prosecutors in most jurisdictions rely on DMV driver information records to introduce the fact of prior convictions. If courts fail to notify the DMV of DWI convictions, subsequent arrests for DWI are likely to be prosecuted as first offenses.

In some of the court records reviewed by the Safety Board, it was difficult to determine what sentence the defendant actually served or if he or she had complied with the directions of the court at all. Sentence sheets often did not refer to files on earlier appearances in other courts.

Department of Motor Vehicles Records--Multiple Licenses

On October 29, 1983, about 11:15 p.m., on Campbell's Creek Drive near Charleston, West Virginia, a westbound 1979 Mercury sedan traveling at an excessive speed, drove into the eastbound lane, apparently to pass a Pontiac sedan. Before the Mercury passed the Pontiac, however, the Pontiac turned left and was struck in the left side by the Mercury. The 23-year-old male Pontiac driver was killed and the 27-year-old female Mercury driver and a Pontiac passenger were injured. The Mercury driver's BAC was 0.19 percent.

When this crash occurred, the Mercury driver was on probation and driving on a suspended license; her license had been suspended earlier in the month for points, because she had accumulated three tickets for speeding and one for failure to obey a traffic signal, within 8 months. However, it was discovered that she also had two earlier arrests, one in 1977 for DWI and one in 1979 for hit and run, both on an entirely different West Virginia license under a different name. Her license had been suspended after the December 1977 DWI arrest; she had been fined after the October 1979 hit and run arrest. At some point between then and her February 1983 arrest for speeding, she had obtained the new license under a different name. (Case No. 12.)

On December 1, 1982, about 10:30 p.m., a 1978 Chrysler sedan was traveling north on U.S. 71 in Kansas City, Missouri, at high speed. The 35-year-old male driver lost control of the car and it sideslipped across the inside lane to the shoulder, struck the concrete median divider, overrode the divider for 100 feet, crossed into the opposing lanes of traffic, struck a 1977 Saab head-on, and proceeded farther to strike a 1976 Chevrolet. The 35-year-old female driver of the Saab was killed. The 18-month-old passenger restrained in a child safety seat received minor injuries. The driver and passenger in the Chevrolet were uninjured. The Chrysler driver's BAC was 0.11 percent.

Between November 1964 and his December 1982 crash, the Chrysler driver had accumulated at least 19 moving violations in six States, including a charge of involuntary manslaughter involving alcohol and another charge of driving on a suspended license. At the time of the December 1982 crash, he held four valid driver's licenses from Idaho, Missouri, Nevada, and Arkansas.

From February 1974 through January 1975, he had driven a truck interstate for a company in Idaho. His application for that job showed only two moving violations; at that time, he had at least eight such violations, including the involuntary manslaughter charge involving alcohol. In November 1981, he went to work driving interstate for an

79/ Personal communication from Clarence Mosher, Director, Alcohol and Highway Safety Office, New York Department of Motor Vehicles.

Arkansas trucking firm. At that time, he had at least two driver's licenses (Arkansas and Nevada). His application said that he had never had his license suspended and noted only two of his then at least 12 moving violations (he noted the two speeding violations that occurred in Nevada). After his hiring, he obtained at least three additional licenses (California, Missouri, and Illinois); in applying for the Missouri license, however, he had to surrender the Illinois license. During the first year of this interstate truck driving job, he added at least four more violations to his record. Two were in California; he showed his Arkansas license to the police officers. (California sent notice of these violations to Arkansas, but his Arkansas records do not indicate these California violations. They show only a November 1982 speeding violation issued in Arkansas.) The truckdriver did not notify his employer of any of these four traffic violations, as required by Federal interstate trucking regulations. (Case No. 13.)

Cases such as these could be prevented by better implementation of the "one license/one record" concept, through the Driver License Compact. The purpose of the "one license/one record" concept is to prevent abuse of the driving privilege by a driver who, upon suspension (or revocation) of the driving privilege by one State, simply crosses State lines to obtain a license from another State and continues driving as irresponsibly as before. It is also directed at curtailing the holding of more than one license at a time.

On July 30, 1973, and again on June 7, 1978, the Safety Board recommended to all Governors that they revise their State's driver licensing policies to ensure that they conform to the one-license concept (Safety Recommendations H-73-29 and H-78-45). Twenty-three States responded to the Safety Board. Most States acknowledged the problems associated with multiple licenses and supported, in general, the one license concept. Some States did indicate that there were some difficulties which needed to be resolved to implement the concept. On March 5, 1980, the Board recommended to the U. S. Department of Transportation that it develop an incentive to States to encourage them to implement the one-license concept. (On this date, the Board also reiterated its 1978 recommendation to the States on the one-license concept.) In a series of responses over the next 2 years (June 1980 to July 1982), the DOT reported that the Council of State Governments was studying the difficulties some States were having with implementation of the concept; that in any case, the DOT did not have authority to provide positive implementation incentives; and that nevertheless, implementation had been a "priority objective" of the NHTSA since 1977. In its most recent letter on the subject (July 1, 1982), the NHTSA said it was studying the multiple license problem and planning a "major effort" over the next 2 years to encourage States to adopt the one-license concept.

The one-license concept is endorsed in four other important documents: the Uniform Vehicle Code (a model system of traffic laws recommended to the States by the National Committee on Uniform Traffic Laws and Ordinances); the DOT-issued Highway Safety Program Standards (whose Standard No. 5, "Driver Licensing," requires that States adhere to the one-license concept to qualify for Federal highway safety funds); the Driver License Compact (an agreement signed by 30 States concerning the means by which the member States will implement the one-license concept);^{80/} and the Surface Transportation Assistance Act of 1982 (whose criteria for supplemental safety funds include participation in the Driver License Compact and implementation of the one-license concept.)

^{80/} The Compact also provides that a member State in which a nonresident driver is convicted of a traffic violation shall notify the driver's State of license, and that State shall give certain convictions in other member States the same effect as convictions in its own courts.

Currently, 46 States request the surrender of any valid driver license when issuing new licenses. (See appendix D.) Data on the number of States which have fully implemented the one-license concept was not available from the NHTSA and did not appear to be available elsewhere. The Safety Board believes that full implementation of the one license concept must be the goal of all States.

Another mechanism to thwart the ability of drivers to use multiple licenses to hide multiple offenses (such as repeat DWI offenses or license suspension/revocation for DWI) is the National Driver Register. This is a central listing of persons whose driving privilege has been withdrawn or denied by any State because of a serious traffic violation or series of violations. The purpose of the NDR is to assist the States in preventing the inadvertent issuance of a driver license to a person whose driving privilege has been withdrawn or denied by another State. The NDR is administered by the NHTSA; States can participate voluntarily by notifying the NDR when a person's driving privilege is denied, withdrawn, or reinstated, and by requesting NDR checks on license applicants.

In 1980, the Safety Board released a study of the particular hazards presented by unsafe commercial drivers (truck and bus), who obtain several driver's licenses and use them to avoid detection of multiple offenses (such as the driver in Case No. 13, above). ^{81/} The information presented in this repeat offender study reinforces the findings of the Safety Board's 1980 study. In many cases, the repeat offender drunk driver is also a "problem" commercial driver, often with several driver's licenses. In its 1980 study, the Safety Board urged Congress to amend the laws governing the operation of the National Driver Register to permit "motor carrier access to the NDR, through State driver licensing authorities, for the purpose of screening the driver records of both applicant and employed commercial drivers." (In fact, in 1972 and again in 1973, the Board had recommended to the NHTSA that access to the NDR be expanded to include motor carriers seeking information about applicant or currently employed drivers. Safety Recommendations H-73-43 and H-73-28.) The Board also recommended that the Federal Highway Administration (FHWA) revise its Federal Motor Carrier Safety Regulations so that driving offenses that disqualify an applicant for a commercial driving license will be disqualifying without regard to the type of vehicle driven at the time of the offense or whether the driver was on or off duty (Safety Recommendation H-80-16.)

On September 27, 1982, the FHWA issued an Advance Notice of Proposed Rulemaking on this and other commercial driver qualification issues. No further rulemaking action has taken place since.

DMV and Criminal Records

On May 21, 1983, about 1:00 p.m., on State Route 88 near Minden, Nevada, a southbound Mercury sedan drove across a solid double yellow centerline into the northbound lane and collided head-on with an AMC station wagon with six occupants. Both drivers and two AMC passengers were killed; three AMC passengers were seriously injured. The 32-year-old male Mercury driver's BAC was 0.24 percent.

^{81/} "Safety Effectiveness Evaluation of Detection and Control of Unsafe Interstate Commercial Drivers" (NTSB-SEE-80-1), available through the National Technical Information Service, Springfield, VA 22151 (PB80-162969).

Because the intoxicated Mercury driver was driving on a California driver's license, Safety Board investigators contacted the California Department of Motor Vehicles to determine his driving history. No prior traffic offenses were found in a search of the DMV records. A check of California Bureau of Criminal Information and Identification (CII) records, however, revealed five prior DWI convictions--two in California and three in Nevada--and one other DWI arrest the disposition of which was not recorded. Discussions with DMV officials disclosed a number of complex reasons why the DMV records did not show any of these arrests and convictions, having largely to do with the fact that the Mercury driver had used several names and birthdates on his California and Nevada driver's licenses. (A description of some of these reasons is included at Appendix A. Case No. 14.)

The Mercury driver's history of DWI offenses and convictions was available through the CII because this system does not depend solely on such identifiers as name, birthdate, or Social Security number, but has a second system of identification by fingerprint. However, if this man's offenses and convictions had occurred at a point later than 1978, his traffic offense history would not have been obtainable at all, because since that time (due to budget constraints), the CII system no longer has incorporated misdemeanor DWI arrests or convictions. This is unfortunate, because it is probably better, in the long run, to have complete criminal records (including DWI crimes and convictions) maintained in a standard recordkeeping and information processing system and accessible to both the DMV and the criminal justice personnel. ^{82/} Furthermore, since the proper disposition of DWI arrests and convictions depends at least in part on having a complete and accurate history of previous DWI offenses, it is important that record systems be impervious to use of false names, birthdates, or other evasions. Fingerprint identification systems may be the best means of providing this certainty.

The Safety Board is not alone in finding problems with driving records. The Kansas Legislative Division of Post Audit, when evaluating the new Kansas DWI law, found that major problems in the records systems made it difficult to evaluate the effectiveness of the new law. ^{83/} For instance, they found cases in which the Division of Vehicles had forwarded court documents to the home State of an out-of-State defendant, but had maintained no records of the arrest. If these persons were to apply for a Kansas driver's license, there would be no Kansas record of the Kansas DWI arrest (or conviction).

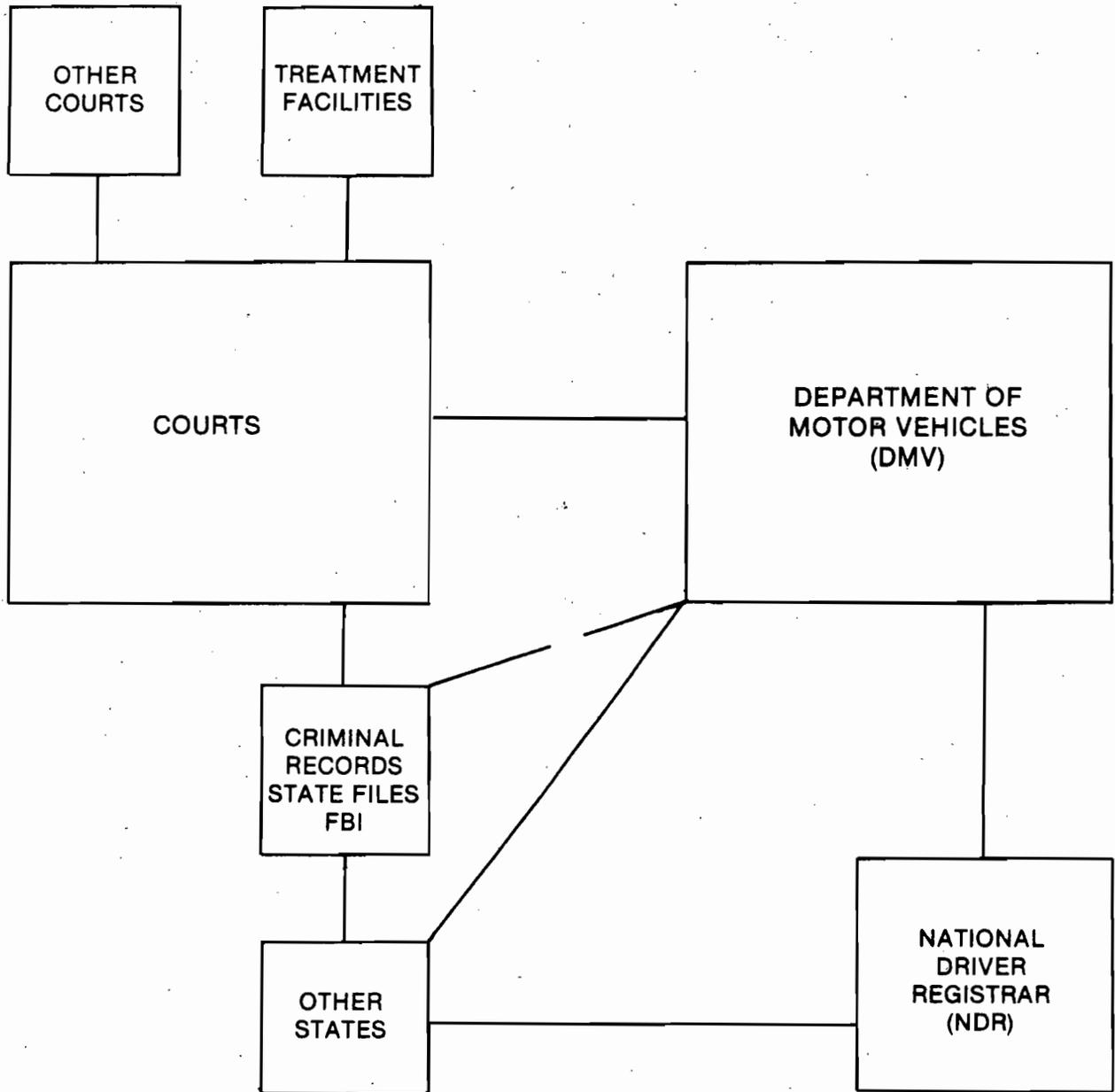
The Presidential Commission on Drunk Driving recommended improved tracking and reporting systems and stated in its report that such improvements have been recommended since 1957 by the National Conference of Commissioners on Uniform State Laws and since 1963 by the International Association of Chiefs of Police. ^{84/}

Accurate, complete, and timely data retrieval systems are essential to addressing the alcohol-highway safety problem. Figure 1 illustrates the lines of communication found by the Safety Board to be required for complete and timely data retrieval.

^{82/} See, National Institute of Justice, *op. cit.*

^{83/} Performance Audit Report, *Driving Under the Influence: A Review of Prosecutions Under the New Kansas Law*, by the Legislative Post Audit Division, Kansas, January 1984.

^{84/} Presidential Commission on Drunk Driving, *op. cit.*



Information Flow Chart

For Arrests, Convictions, Sentences, License Actions

Chart One

Some States are taking steps to try to reorganize their various records systems to remedy some of the flaws illustrated above and to make records work for more purposes than merely being individual data files. For example, in the 1970's, Pennsylvania found it was not systematically conducting pre-screening or alcohol evaluations of DWI offenders, and it was nearly impossible to establish an offender's prior driving history reliably. To remedy these and other records problems, Pennsylvania developed its Court Reporting Network (CRN), a sophisticated computer-assisted management information system designed to encourage uniform sentencing and referral of DWI offenders. It has, in the view of State traffic safety officials, "revolutionized" Pennsylvania's alcohol/highway safety program. It has "significantly reduced confusion and fragmentation between the criminal justice system and the rehabilitation and treatment communities. It has also educated the judicial community as to the realities of the drinking driver problem." 85/

The CRN system provides:

--A uniform evaluation tool and procedures in use by all 67 counties and recognized by every judicial office, participating drug and alcohol facility, and probation department in Pennsylvania.

--A clear, one-page profile of every DWI offender, providing pertinent demographic and traffic safety information and a psychological assessment of their alcohol and/or drug involvement, and recommending specific remedial treatment, to be considered in determining appropriate sentencing.

--A certification program for all CRN evaluators to ensure professionalism, accuracy, and program credibility.

--A data source, enabling the State Department of Transportation to provide to each county DWI program the statistical information needed for program planning and development.

The CRN system in Pennsylvania has increased the degree of consistency in the adjudication of DWI cases by all judicial offices. Its use has helped make possible better working relationships and interdependence between the health care community and the criminal justice system in terms of obtaining specific client information for CRN and ensuring defendants' successful compliance with all sentencing conditions imposed, based on the CRN evaluation results and recommendations. Using CRN, State and local program managers have been able to develop a sophisticated and efficient offender tracking system; establish offender profiles, including categories such as age, sex, race, level of alcohol abuse, and education; monitor levels of arrests for each police department in the Commonwealth by month and year; and keep each county DWI system updated with relevant statistical data on the type of offender population a county is handling.

In 1984 testimony before the House Subcommittee on Surface Transportation, the National Association of Governor's Highway Safety Representative reported on CRN's cost:

85/ Testimony of Albert L. Godfrey, Sr., Chairman, National Association of Governor's Highway Safety Representatives, Hearings of the Subcommittee on Surface Transportation, U.S. House of Representatives, February 23, 1984.

The development and implementation costs for FY 1978 through 1982 were approximately \$360,000. Yearly maintenance costs (including processing, administrative activity, and personnel training) are approximately \$90,000. Pennsylvania expects to reduce these costs by 20 percent during FY 1985, when the current certification training of 400 CRN evaluators will be completed. Yearly costs to continue the county programs are covered through the assessment of fees to the offender, making the CRN system virtually self-sufficient.

One of the most attractive features of the CRN concept is the ease with which it is adaptable to other problem driver populations. Pennsylvania is now exploring the expansion of CRN to include so-called "high risk drivers," or habitual traffic offenders. This expansion will aid in the detection of "hidden drunk drivers," who ordinarily go undetected because they are charged with reckless driving or other offenses, rather than DWI.

The CRN system would appear to be adaptable for use in other jurisdictions. The Municipal Court Judges of Los Angeles County, California, have visited the Pennsylvania program, observed CRN, and are beginning to implement it in Los Angeles County. Pennsylvania officials are willing to assist other jurisdictions in the implementation of the CRN system.

The PROMIS system, developed with Federal Law Enforcement Assistance Administration (LEAA) funds and first implemented in 1971 by the U.S. Attorney's Office in the District of Columbia, is a computer-based management information system. It is designed to track arrests, defendants, charges, cases, court events, and parties through the judicial process. It provides on-line access to pending and closed cases. All records of each district attorney's office that have been entered into the PROMIS system are available to the other jurisdictions in the system. It has assisted the operations of criminal justice agencies around the country through the tracking of cases, the production of operational and management reports, and the generation of statistics. PROMIS has been designated an exemplary project by LEAA as part of its program to focus national attention on criminal justice programs considered outstanding and suitable for transfer to other jurisdictions.

Colorado began using PROMIS in January 1984. Before that, the many thousands of drunk driving cases filed each year were not handled systematically. The earlier system could not provide information on sentence versus charge, nor did it include demographic, police, defendant profile, accident, disposition, or sentence information. Some cases were completed without the court's ever being aware of pending cases against the defendant.

The lack of accurate and complete information made it difficult to enact needed legislation, establish training for law enforcement personnel, determine recidivism, or establish proper sentencing, including incarceration, fines, treatment and community services.

The PROMIS system, like the Pennsylvania CRN system, uses several kinds of information, including police information, disposition information, defendant information, alcohol/drug evaluator information, and probation officers' monitoring information. The PROMIS system now makes it possible for Colorado officials to find out how many convicted drunk

drivers get sent to jail, their average fines, the numbers being assigned to community service as part of their court sentence, the number of cases dismissed or "pled down," and other data. The new system is capable of producing information concerning whether a traffic accident was involved and how many vehicle-related felony cases involved DWI.

An apparent weakness in both PROMIS and CRN is in the lack of flow of information between court systems and the Department of Motor Vehicles (DMV). Furthermore, since DMVs are also the contact between States on driver's records, they should be fully integrated into these types of information systems, so that their driver records will be complete and up-to-date.

In July 1984, the Surface Transportation Assistance Act of 1982 was amended ^{86/} to permit the granting of supplemental Federal funds to State highway safety programs to establish and maintain a comprehensive computerized traffic safety recordkeeping system that will correlate data on traffic accidents, drivers, motor vehicles, and roadways. The NHTSA is in the process of issuing guidelines to the States on how these supplemental funds can be used. In addition, the NHTSA has asked for funds to develop a model Case Management Information System which it could offer to State and local officials. The NHTSA should build on the work already done by others and incorporate the strong points of the CRN and PROMIS systems in its model.

JUVENILE OFFENDERS

Many of the gaps in our society's enforcement, judicial, and alcohol treatment practices that contribute to the adult repeat offender problem also contribute to our apparent inability to intervene successfully in the drinking/driving problems of young people. Several areas clearly need substantial improvement in the context of the juvenile.

On April 19, 1983, about 11:20 p.m., a Datsun station wagon with an 18-year-old male driver and two teenage passengers was northbound on Jewell Street in Topeka, Kansas, at a high speed. At the intersection of SW 17th Street, the Datsun drove past a stop sign without stopping and crashed into the side of a Chevrolet station wagon westbound on SW 17th Street. The 28-year-old Chevrolet driver was killed and the Datsun driver and one passenger were injured. The 18-year-old driver's BAC was 0.16 percent, 2 1/2 hours after the accident (about 0.19 percent at the time of the accident). The drinking age in Kansas is 18 for 3.2 percent beer. The Datsun driver had been drinking illegally purchased 6 percent beer.

In July 1981, when the Datsun driver was 16 years old, he had been involved in an accident and arrested by the Topeka police for DWI and an "open container" charge. ^{87/} The DWI charge was reduced to reckless driving and he was fined \$75 for that and the open container charges. He did not receive any alcohol education, counseling, or treatment. He was subsequently arrested for speeding in September 1981 and again in April 1983 (the day before the fatal accident described above).

On December 20, 1983, he was convicted of vehicular homicide, leaving the scene of an injury accident, and DWI. He was sentenced to 18 months in the county jail, 2-year suspension of his driver's license, and 3 years probation (including 300 hours public service work). An evaluation ordered by the sentencing judge had determined that he was a heavy abuser of alcohol and drugs and recommended at least 30 days of in-patient

^{86/} P.L. 98-363, 23 USC 402.

^{87/} In some States, it is against the law to be driving with an open container of alcoholic beverage in the vehicle.

treatment. A driver's license record check conducted on February 14, 1984, failed to reveal the July 29, 1981, alcohol-related charges; the records only indicate there was an accident. Furthermore, the December 20, 1983, convictions were not included. (Case No. 15.)

On October 25, 1983, about 11:10 p.m., a BMW sedan traveling southbound on Mt. Paron Road in Atlanta, Georgia, drove into the northbound lane while negotiating a right curve at a high speed, and collided head-on with a Buick sedan. The BMW driver, the Buick driver, and two BMW passengers were seriously injured; a passenger in the Buick was killed. The 16-year-old BMW driver's BAC was 0.25 percent.

The BMW driver had been issued a Georgia driver's license on January 12, 1983; 6 months later, on June 9, 1983, he had been involved in a property damage accident and arrested for DWI. Based on the BAC test result and other testimony, the Juvenile Court found him guilty of DWI, suspended his driver's license for 1 year, and placed him on probation. At the time of the October 1983 fatal accident, he had been at a party at his own home. His father asked him to run an errand, even though his father knew that he was on probation, that his license was suspended, and that he had been drinking. (Case No. 16.)

When the juvenile authorities involved in the first DWI arrest were asked by Safety Board investigators why the young man had not been evaluated for alcohol problems at that time, they said it was "not procedure."

Many of the problems in the post-arrest system discussed in this report are exemplified in these cases involving young drivers: an alcohol-related charge reduced to a nonalcohol-related charge; lack of evaluation for alcohol problems; lack of treatment; seriously flawed records. In particular, the lack of alcohol problem evaluation at the time of the first alcohol-related encounter with the law may have been central to both cases.

NTSB investigators found a similar lack of routine screening to determine the treatment needs of juveniles arrested for alcohol offenses in the Juvenile Traffic Court system in Los Angeles County, California. ^{88/} Routinely a juvenile convicted of DWI is sent to a 12-hour DWI driving school—without determining the extent of his or her alcohol problem. Even in those cases in which the court is aware of a juvenile's alcohol abuse problem, the juvenile is referred to one of many local private social service organizations that provide counseling services, but not professional treatment, to juveniles and the family unit. These facilities are funded in a variety of ways, ranging from church supported groups to some public funding.

As for professional treatment of juveniles, the only services available are hospital-type private facilities whose costs range from \$300 to \$400 per day to \$10,000 per month. These facilities provide in-patient and out-patient care. There are almost no free or low-cost treatment services available in the public sector. The Safety Board found this to be true in the limited number of locations it reviewed.

^{88/} The juvenile criminal justice system has a separate set of terms to refer to such events as "arrest," "conviction," etc. In this report, we have used only the terms employed for adults, for the sake of consistency. Some of the differences between the adult terms and those used for juveniles are: An adult is "arrested," a juvenile is "taken into custody." An adult is "charged," a "petition is filed against" a juvenile. An adult is "convicted," a juvenile is "found to be involved" or "found to be delinquent." An adult is "sentenced," a juvenile's "case is disposed." In most States, "juvenile" refers to persons younger than 18 years.

Although in many communities the treatment services available to adults are open also to juveniles, the fact that the services are designed with adults in mind means their effectiveness in dealing with juveniles is questionable. In a 1982 report on services available to teenage alcohol abusers, the Inspector General of the U. S. Department of Health and Human Services noted:

Most of the emphasis on teen alcohol programs falls in the area of prevention. Intervention programs are isolated and weak generally and the availability of treatment services for youth is generally poor. Respondents agree that most teens needing treatment are unserved. Treatment services for youth often either do not exist, or are inappropriately geared for adults in terms of their setting or methods, or are too expensive for any teens but those well off financially or covered through parental health insurance. Private, for profit, expensive residential programs are a growing provider of services geared specifically for teens. 89/

A careful screening of the specific alcohol treatment needs of each juvenile arrested for an alcohol-related offense should be provided. A range of low or no cost treatment services geared to juvenile problems is needed to address the special needs of juvenile alcohol abusers.

Need to Document Magnitude of Juvenile Alcohol Abuse

The Los Angeles County Juvenile Automated Index (JAI) 90/ reveals that 38,482 juveniles were arrested in 1982 for all juvenile crime. About 3 percent of these juveniles' crimes were easily identified as alcohol-related, such as drunk in public, DWI, and liquor law violations. These are the only crimes in the JAI that are identified as alcohol-related. Juveniles also have been found to be under the influence of alcohol when arrested for theft, burglary, and assault crimes which account for 44 percent of the county's total juvenile arrests. Although a juvenile arrested for these crimes might have been under the influence of alcohol at the time, that fact would not be documented.

In fact, none of the juvenile enforcement system records in Los Angeles County has a data entry for alcohol in connection with crimes other than drunk in public, DWI, and liquor law violations. Therefore, if a juvenile is arrested for drunk driving, and it is a first DWI offense, his or her driving record will not reveal any prior alcohol involvement, no matter how often the juvenile has been arrested for other offenses, in which alcohol had been involved. Thus, a clear picture of the county's juvenile alcohol problem is not possible. The pre-sentence investigator, who in turn provides the judge with background information for sentencing, is seriously handicapped by this lack of pertinent information. Los Angeles County is not alone in these deficiencies. None of the criminal justice systems examined by the Safety Board keeps statistics on alcohol involvement in juvenile crime, except for direct alcohol charges, such as DWI or public drunkenness.

89/ U.S. Department of Health and Human Services, Office of the Inspector General, Teenage Alcohol Abuse: A Service Delivery Assessment (draft national report), January 1982.

90/ The Los Angeles County Juvenile Automated Index is the juvenile version of the adult California Bureau of Criminal Information and Identification, except it is limited to Los Angeles County.

Juveniles are arrested for a substantial proportion of the crimes in America. Twenty-one percent of all arrests, 19 percent of arrests for violent crimes, and 36 percent of all arrests for FBI index crimes (the most serious personal and property crimes) are of juveniles. 91/ The New Jersey Uniform Crime Report for 1980 reported that 40 percent of the persons arrested in that State for robbery, 50 percent of the persons arrested for burglary, 60 percent of the persons arrested for motor vehicle theft, and 60 percent of the persons arrested for arson were under age 18. Currently, juvenile courts all over the United States are overburdened with these serious crimes; in comparison, DWI arrests often are not considered "serious."

In general, public opinion determines the areas of juvenile crime at which attention is most directed. Several administrators in the Los Angeles juvenile justice system told Safety Board investigators that, in their view, the juvenile alcohol abuse problem will not be properly addressed until there is a different social attitude toward it. Even though 27.3 percent of juvenile crime is clearly alcohol-related (3.3 percent DWI, 24 percent drunk in public), and another 44 percent are crimes which may have been committed while under the influence, the public does not seem to have recognized the extent of the youth alcohol abuse problem.

Even the FBI's Uniform Crime Report does not provide information on the rate of alcohol involvement in juvenile crimes. At the local level, the lack of records on alcohol involvement means that a juvenile may be arrested and sentenced for DWI as a first offender, when in fact, he or she is not a first-time alcohol abuser. The chances are these young people will not get the treatment they need. Furthermore, this lack of records helps to continue society's ignorance of juvenile alcohol problems. As part of the federal Department of Health and Human Services' (HHS) Initiative on Teenage Alcohol Abuse, it conducted 10 Youth Treatment Conferences across the country. The conference report noted: "The problem of youth alcohol abuse is widespread, and touches all racial, ethnic, and regional groups/populations. At the same time, a large segment of the population is either unaware of or underestimates the problem." 92/

In a paper given at the Rockville, Maryland, conference, Dr. Wallace Mandell of John Hopkins University stated:

The first obstacle to community awareness efforts is the lack of information in most communities about the extent of the community's problems related to alcohol. It is very rare that any community, city, or county in the United States has an agency which systematically gathers the data about the extent of its youthful alcohol problem. Such data would include the number of admissions to hospitals or emergency rooms of young people because of alcohol; the number of school suspensions because of alcohol; the number of traffic violations because of alcohol; and the number of public disorder arrests because of alcohol. As no single agency has access to this information, it rarely comes to public attention in an organized fashion. The community does not know the size of the problem it is facing. 93/

91/ U.S. Department of Justice, Crime in the United States, 1980 (1981). Of course, the proportion of crimes for which juveniles are arrested is not necessarily the same as the proportion committed by juveniles.

92/ U.S. Department of Health and Human Services, National Institute on Alcohol Abuse and Alcoholism, Secretarial Initiative on Teenage Alcohol Abuse: Report on the Youth Treatment Conferences (1984).

93/ Wallace Mandell, Community Awareness and Education in the Prevention and Treatment of Alcoholism, NIAAA Conference, Rockville, Maryland (1983).

The HHS' National Clearinghouse for Alcohol Information estimates that 19 percent of adolescents aged 14 to 17--about 33 million persons--are problem drinkers. ^{94/} Colorado health officials estimate nearly 12 percent of Colorado's teens are problem drinkers, and 15 percent have drug problems. ^{95/} New Jersey health officials estimate that more than 46,000 teenagers in that State are alcoholics and that a majority of them began drinking at 13 or 14 years of age. ^{96/} Sixty percent of Oregon's diversion clients (66 percent of whom are problem drinkers) reported using alcohol below age 18. ^{97/} Some studies have estimated that ten percent of those who start drinking as adults develop alcohol problems, but that 30 percent of those who start drinking as juveniles develop alcohol problems.

Law enforcement agencies should routinely document in the arrest report the involvement of alcohol in all juvenile crimes, not merely in those resulting in a direct alcohol charge (DWI, public drunkenness, underage purchase or possession).

Lack of Enforcement of DWI Laws in Juvenile Cases

In a 1978 study by the NHTSA on juvenile traffic offense adjudication, researchers were startled and disturbed by the "miniscule number" of juvenile DWI cases being processed in the six jurisdictions under review. ^{98/} In Los Angeles, for example, they found fewer than 2,000 juvenile drinking-driving cases reported in 12 months; in Buffalo, New York, "out of 1,700 cases, a relative handful (21) were juvenile drinking-driving cases;" in none of the six jurisdictions was there more than "a light smattering of cases." ^{99/} Given the significant degree of alcohol use among juveniles and the high correlation between teenage drinking and driving, such low numbers of juvenile DWI cases is unexpected.

The researchers were not able to discover an explanation for this phenomenon. However, they noted other NHTSA studies that found "a tendency among law enforcement officers to let 'young DWI suspects' go with a warning. The reasons cited for this attitude ranged from concern over 'starting the kid out on the wrong foot' to the officers' belief that the juvenile courts do not expeditiously and appropriately adjudicate the cases." ^{100/}

Enforcement agencies should evaluate their practices in regard to arrest of juveniles for drunk driving offenses. Although such arrests are indeed serious and can have heavy consequences for a teenager, merely warning a young drunk driver may well have far more serious consequences.

^{94/} "Drunken Driving: Congress Considers Funds for Alcohol Treatment," USA Today, May 15, 1984.

^{95/} Robert Booth, Colorado General Population Survey on Alcohol and Drug Use and Abuse, Colorado Department of Health (1979), p. 47.

^{96/} New Jersey State Senator Lee B. Laskin, A Report on the Drinking Age Issue: The Need for a Return to the 21-Year-Old Limit, May 10, 1982.

^{97/} Oregon, Office of Programs for Alcohol and Drug Problems, op. cit.

^{98/} NHTSA, An Overview of Juvenile Traffic Offense Adjudication in the United States (1978), p. IV-4. The six locales studied were Buffalo, Dade County (Florida), Fairfax County (Virginia), Los Angeles County, Providence (Rhode Island) and Salt Lake City and County.

^{99/} Ibid., pp. III-9 and III-11.

^{100/} Ibid., p. III-9

Special Alcohol and Licensing Laws

In its study of juvenile traffic offense adjudication, the NHTSA found that in most cases, the juvenile sanctioning practices are similar to those for adults. However, the study concluded that "licensing action appears to be taken only in extreme situations and with great reluctance." ^{101/} There is, however, a recent trend to take the opposite approach. Five States -- Maine, Maryland, North Carolina, Oregon, and Washington -- have passed so-called youthful offender laws, which operate on the theory that young people can be deterred from certain alcohol (and drug) violations by fear they will lose the privilege of driving--a privilege of considerable value to many young people (especially young men) as a sign of adulthood. ^{102/} Recent studies indicate that teenagers may be more strongly influenced by fear of their peers' disapproval or disdain than by fear of the formal sanctions threatened by society. ^{103/} Thus, the fear of being caught driving drunk and thereby losing the opportunity to have a driver's license (and being subjected to peer disdain) may be a fairly effective deterrent to youthful drunk driving.

Oregon's youthful offender law became effective October 15, 1983, and applies to every person 13 to 18 years of age found by a court to have violated any alcohol or drug law, including those against the possession of controlled substances by a minor. Under the law, a judge is required to send the conviction record to the DMV, which must suspend the driver's license or right to apply for a license for 1 year or until age 17, whichever is longer, on the first offense, and 1 year or until age 18, whichever is longer, on the second offense. The result is that the driving privileges of a person who is already licensed are suspended for at least 1 year. A person who is too young to be licensed will have to wait 1 year past the normal age of eligibility, 16.

The Washington law became effective July 1, 1983, and applies to persons 19 years old or younger. If such a person is convicted of DWI, his or her license will be suspended for 90 days or until age 19, whichever is longer.

The Maine law applies to persons less than 20 years old. A conviction on any alcohol-related charge or a BAC of 0.02 percent will result in a minimum 1-year suspension, without a preliminary hearing.

The North Carolina "Safe Road Act of 1983" includes a provision that the driver's license of a person convicted of purchasing alcohol while under age will be suspended for 1 year. (The drinking age in North Carolina is 19 for beer, 21 for other spirits.)

These laws have not been in effect long enough to have been evaluated, but the approach may well have considerable potential. The use of these laws in States now trying them should be monitored carefully and their effectiveness evaluated. If found to be effective, other States should also adopt them.

^{101/} Ibid., p. III-9.

^{102/} This use of the term "youthful offender" is the common meaning of the term among highway safety professionals. It is not to be confused with the same term as used in the larger justice system, where it describes persons not treated as juveniles nor fully as adults -- typically, those 18 to early 20's in age.

^{103/} C. R. Little, Sanctions and Social Deviance: The Question of Deterrence (New York: Praeger Publishers, 1980). Cited in Patricia Waller and Marcus Waller, The Young Drinking Driver: Cause or Effect?, prepared for the Research Workshop on Alcohol and the Drinking Driver, National Institute on Alcohol Abuse and Alcoholism, National Institutes of Health, Bethesda, MD (1984).

Changing the public's attitude about drunk driving will be a slow and gradual process, requiring decades of effort. A focus for such an effort must be our nation's youth. Through long-term prevention/education programs in our schools and within our communities, responsible attitudes toward the use of alcohol and driving can be reinforced. The Safety Board believes that such prevention/education programs should require additional emphasis.

CONCLUSIONS

1. Recent studies by the National Highway Traffic Safety Administration indicate that, in 1983, 53 percent of the fatal motor vehicle crashes involved alcohol; 30 percent of the 773,000 drunk driving convictions each year are of "repeat offenders."
2. Many drunk drivers persist in their behavior because they believe there is a low risk of their arrest and penalty; in fact, the probability of arrest is relatively low, somewhere between 1 in 200 drunk drivers and 1 in 2,000, even though DWI arrests have increased steadily for many years.
3. The detection capabilities of police have been expanded and the deterrent effect of DWI enforcement programs increased by the establishment in many States of REDDI-type programs enlisting the aid of the motoring public to report drivers who appear to be intoxicated.
4. Sobriety checkpoints are in use in 36 U. S. jurisdictions and in at least five foreign countries; these DWI enforcement efforts appear to be effective in reducing the number of crashes involving drivers with illegal blood alcohol concentrations.
5. Law enforcement officers properly trained in the application of the "Horizontal Gaze Nystagmus" test can estimate a driver's BAC at roadside within 0.02 percent of chemical test readings; increased training in the test and increased use of it in the field could therefore increase the probability of detecting lower BAC levels and decrease the probability that intoxicated drivers would be mistakenly released as not intoxicated (as can happen with some of the field tests used now).
6. Preliminary breath test devices can reveal a driver's BAC to within 0.01 percent; their use enables an officer in the field to determine, easily and quickly, whether a person is under the influence of alcohol in marginal cases and whether an arrest is justified.
7. The drawing of blood for DWI evidentiary purposes generally occurs only at the direction and in the presence of a police officer; it is not routinely performed by hospitals treating persons injured in motor vehicle crashes; the results of tests of blood drawn for medical purposes are legally considered privileged communications between doctor and patient; hospitals are therefore reluctant to release such test results if the results have not been ordered by a court. These facts sometimes make it difficult to gather the evidence necessary for successful prosecution of DWI charges.

8. The holding and release policies of many detention agencies are inadequate to assure that intoxicated persons are not released before their intoxication no longer renders them unsafe to drive.
9. Continuances and full court dockets are some of the many reasons for the commonly long delays between DWI arrests and case adjudication; if a person charged with DWI commits another DWI offense during the delay, the two charges may be combined and the offender viewed by the court as a first-time offender.
10. Administrative license revocation, imposed at the time of DWI arrest, might reduce the probability that another DWI offense will be committed between arrest and case consideration by the court; if another offense is committed during that period, it would be more difficult to combine the offenses as a first offense.
11. Even though many drivers continue to drive after their license has been revoked, such revocation appears to be effective in reducing the rate of subsequent crashes and traffic offense convictions by repeat DWI offenders; its overall traffic safety effectiveness, in the short term, appears to be at least as great as providing alcohol treatment to such offenders; and it is less costly to implement.
12. Further increases in the effectiveness of license actions might be gained by increasing the certainty and unpleasantness of sanctions for driving under suspended or revoked license action; some methods being tried or recommended involve impoundment of the vehicle or of the license plates when a driver is caught driving on a suspended or revoked license.
13. Plea bargaining ensures reduced penalties for drunk drivers and distorts their offense records, particularly when an alcohol-related charge is reduced to a nonalcohol-related charge; when this happens, subsequent DWI offenses may be viewed by the court as first offenses.
14. The distortion of DWI offenders' records produced by plea bargaining could be prevented by requiring that all dismissals of DWI charges or amendment of a DWI charge to a lesser charge be recorded, or by restricting plea bargaining in DWI cases so that an alcohol-related charge cannot be reduced to a nonalcohol-related charge.
15. Substantial improvements are needed in many States in systems for recording information on DWI-related offenses, convictions, sentencing, and other similar information, and efficiently exchanging this information among enforcement, judicial, and motor vehicle agencies, both intra- and inter-State.
16. Improvements are needed in the education of judges in relation to alcohol issues and effective disposition of DWI cases.
17. Diversion or supervision programs are likely to produce net disbenefits if they are used in lieu of punitive sanctions known to be effective in reducing alcohol-related traffic losses and if they result in court and motor vehicle driver license record distortions.

18. Merely fining and/or jailing repeat DWI offenders does not appear to be effective in reducing recidivism; even license actions used in conjunction with fines and/or jail terms are not likely to be effective in the long term in reducing recidivism by problem drinkers.
19. Although too little is yet known about the causes of problem drinking and how to cure it, there seems to be little alternative to continued research and experimentation in alcohol treatment approaches for long term success in reducing DWI recidivism by problem drinkers.
20. Alcohol education and treatment programs should be used in conjunction with sanctions; neither approach alone has the benefits obtainable when used together.
21. Early identification of a person's drinking problem appears to increase the chance that treatment can be effective in reducing the problem.
22. Pre-sentence investigation of a DWI defendant's drinking habits and history is important in assuring that appropriate sanctions are imposed.
23. The NHTSA has found that the three criteria most successful in quickly distinguishing whether a DWI defendant is merely a social drinker or is a problem drinker are (1) a prior alcohol-related arrest, (2) an approved, structured, written diagnostic test such as the Mortimer-Filkins or MAST tests, and (3) an arrest BAC of 0.15 percent or greater; in fact, existence of a prior DWI arrest is a reliable indicator, by itself, of a problem drinker.
24. Most States do not license or set minimum standards for alcohol education programs of the type designed for DWI offenders classified as social drinkers; most States have adopted general licensing standards for alcoholism treatment programs designed for problem drinkers, but the standards do not provide specific guidance on program content, intensity, duration, or other factors which may determine effectiveness.
25. Programs combining provision of information about alcohol, discussion, and threat of punishment for future DWI offenses have been found to be somewhat effective in preventing further arrests for persons properly classified as social drinkers.
26. Treatment approaches for problem drinkers vary widely but generally include intensive alcohol education, counseling, individual and group therapy, and in some cases, medical treatment; in particular, well-designed group therapy, if continued for at least six months (preferably, for a year) has been found to be beneficial in reducing DWI recidivism.
27. Most DWI offenders who go to jail serve terms of much less than a year; thus, they are usually incarcerated in a jail (rather than a prison), few of which offer alcohol treatment services because of the typically short terms served by their inmates.
28. Post-incarceration treatment for alcohol is essential to enable a successful recovery from problem drinking for jail and prison inmates; this could be provided by imposing a post-incarceration period of conditional probation requiring successful completion of a treatment program.

29. The VA is the largest single provider of direct alcoholism treatment services; the extent of cooperative interaction between VA hospitals with alcohol treatment programs and local courts seems to depend largely on the hospital administrators and court officials involved; among the the several VA hospitals reviewed by the Safety Board, this interaction ranged from virtually none to 90 percent of the treatment clients having enrolled as a result of court action.
30. The VA hospitals reviewed by the Safety Board accept clients for alcohol treatment only when the client voluntarily seeks their services; even if the client seeks enrollment as a result of court action, VA hospitals typically are not aware of that fact until the client leaves the program (if then); in at least some VA hospitals, alcohol treatment clients are able to terminate the treatment at will, and court officials are not made aware of the termination.
31. Although prosecutors in most jurisdictions rely on records maintained by the State Department of Motor Vehicles, these records sometimes do not contain accurate, complete information about drivers' traffic offenses and convictions; these deficiencies sometimes permit repeat DWI offenders to appear in court as first-time offenders, sometimes more than once.
32. Some court records reviewed by the Safety Board were incomplete and confusing.
33. The ability of drivers to possess more than one driver's license contributes to the problem of repeat offenders; even drivers whose license has been revoked for DWI offenses have been able to obtain a new license in another State; some hold several licenses at once, including more than one licene from the same State. Much of this could be curtailed through more widespread implementation by the States of the "one-license/one record" concept, fuller participation in the Driver License Compact, and more use of the National Driver Register.
34. Although it is by no means fully documented, it is clear that there is a substantial alcohol abuse problem among juveniles; if a juvenile's abusive drinking habits are not detected and appropriate treatment is not provided, he or she may well become a repeat DWI offender.
35. There is a need for more treatment programs oriented to juvenile alcohol abusers, especially in-patient programs at reasonable cost.
36. In at least one large metropolitan county in California, no records are made of the involvement of alcohol in juvenile crimes (except those clearly alcohol-related, such as DWI, drunk in public, underage possession, etc.); procedures for evaluating the treatment needs of juveniles arrested for alcohol-related crimes are inadequate.
37. The NHTSA found, in six large jurisdictions reviewed, that the number of juvenile DWI cases being handled was "miniscule" compared to what could be expected, given the significant degreee of alcohol use among juveniles and the high correlation between teenage drinking and driving; one explanation may be a reluctance on the part of law enforcement officers to arrest juvenile DWI offenders.

38. At least five States are experimenting with new laws mandating license suspension or delay in obtaining a first license for young persons who violate alcohol laws, including DWI laws; these laws have not been in use long enough to determine their effectiveness but seem promising at this time.

RECOMMENDATIONS

As result of its Safety Study on the Repeat Alcohol Offender, the National Transportation Safety Board made the following recommendations:

—to the Governors of the 50 States and the Mayor of the District of Columbia:

Encourage the use, by all traffic law enforcement agencies in your State, of preliminary breath test devices and the NHTSA-recommended three-part field sobriety test, including the horizontal gaze nystagmus test. (Class II, Priority Action) (H-84-77)

Propose legislation, if necessary, and/or take other appropriate action to facilitate the collection of DWI evidence based on the drawing of blood for BAC test purposes. (Class II, Priority Action) (H-84-78)

Encourage detention agencies in your State to adopt DWI holding and release policies that do not permit the release of alcohol offenders until after their blood alcohol concentration has dropped below the lowest level specified in State law as indicating alcohol impairment. (Class II, Priority Action) (H-84-79)

Take steps to preclude reduction of an alcohol-related charge to a nonalcohol-related charge and to require in all cases that the defendant's driving record reflect the original charge. (Class II, Priority Action) (H-84-80)

Encourage and support initial and recurrent training on alcohol, problem drinking, and drunk driving case adjudication for all judges hearing DWI cases. (Class II, Priority Action) (H-84-81)

Take steps to develop a records system that preserves records of alcohol-related traffic offenses committed by a juvenile after the offender reaches adulthood. (Class II, Priority Action) (H-84-82)

Take steps to require that law enforcement and judicial records systems in your State include complete records of DWI defendants' previous alcohol-related traffic offenses, including those committed as a juvenile, and that they are available to judges prior to sentencing. (Class II, Priority Action) (H-84-83)

Require that appropriate alcohol problem evaluations of persons charged with alcohol-related traffic offenses be conducted and made available to judges hearing these cases. (Class II, Priority Action) (H-84-84)

Take steps to ensure that no diversion or supervision program in your State is used in place of license revocation/suspension and that court and DMV records reflect participation in diversion/supervision programs. (Class II, Priority Action) (H-84-85)

Take action to increase the availability and quality of alcohol treatment services designed specifically for juvenile alcohol abusers, especially to provide services at low cost to the user. (Class II, Priority Action) (H-84-86)

—to the National Highway Traffic Safety Administration:

Evaluate the effectiveness of license actions against juveniles who violate alcohol laws, such as the laws recently enacted in Oregon, Washington, North Carolina, Maryland, and Maine. (Class II, Priority Action) (H-84-87)

Incorporate the salient features of such court records systems as the Court Reporting Network in Pennsylvania and the PROMIS System in Colorado in the model Case Management Information System; ensure that the model system incorporates motor vehicle licensing records and court records of drunk driving-related violations and convictions. (Class II, Priority Action) (H-84-88)

—to the Veterans Administration:

Develop and implement a national policy making VA hospital alcohol dependence treatment programs more consistently available to local traffic court rehabilitation programs for convicted DWI defendants who are veterans. (Class II, Priority Action) (H-84-89)

—to the American Bar Association, the National Association of State Judicial Educators, and the National Judicial College:

Work with State governments, State judicial organizations, and the National Highway Traffic Safety Administration to vigorously promote initial and recurrent training for judges in alcohol issues and DWI case adjudication and to develop more sources of funds for financing this training. (Class III, Longer Term Action) (H-84-90)

BY THE NATIONAL TRANSPORTATION SAFETY BOARD

/s/ JIM BURNETT
Chairman

/s/ PATRICIA A. GOLDMAN
Vice Chairman

/s/ G.H. PATRICK BURSLEY
Member

VERNON L. GROSE, Member, did not participate.

September 18, 1984



APPENDIXES

APPENDIX A

CASE SUMMARIES

Case No. 1

NTSB Investigation No.: LAX 83 HAL 22

Accident Date: August 22, 1982

Accident Location: Oakridge, Oregon

Summary:

On August 22, 1982, about 5:50 p.m., a 1969 GMC pickup truck traveling east on State Highway 58 near Oakridge, Oregon, at approximately 60 mph, failed to negotiate a right hand curve, crossed the centerline into the opposing lane, and hit a 1978 Volkswagen van, right front to right front. Both vehicles were destroyed. The right front passenger in the van was killed; the van driver and right rear passenger sustained major, disabling injuries; the left rear passenger, a 14-month-old child, properly restrained in a child safety seat, was uninjured. The driver of the pickup sustained minor injuries.

Driver Profile:

The 41-year-old male pickup driver had a blood alcohol concentration (BAC) of 0.15 percent, was driving on a revoked Oregon driver's license, and had been convicted of 22 alcohol-related offenses since 1958. Nine of these convictions were for driving while intoxicated (three times while also driving on a suspended license); four of the offenses also involved accidents. He had been convicted 12 times of disorderly conduct involving alcohol.

<u>Date</u>	<u>Location</u>	<u>Charge</u>	<u>Sentence</u>
1958	Oregon	Drunk in public	Juvenile, released to parents
1960	USMC	AWOL (subject stated that he had paid for a drink and wanted to return to the bar to finish it rather than return to base)	30 days hard labor
1962	California	Traffic offense	Fine
1964	Alaska	Disorderly conduct	Fine
1966	California	Traffic offenses, resisting arrest, damage to jail	Fine, jail
1967	California	Reckless driving	Fine, suspended sentence

Table 1
(continued)

<u>Date</u>	<u>Location</u>	<u>Charge</u>	<u>Sentence</u>
1970	California	Drunk driving, resisting arrest	Drunk driving charge dismissed when convicted of resisting arrest
1973	Oregon	Disorderly conduct	Forfeited bond, fine
1973	Washington	Hit and run, assault, drunk driving	Forfeited \$3,000 bond
1974	Oregon	Drunk driving	Forfeited bond
1975	Oregon	Disorderly conduct	2 days jail (suspended), fine
1975	Oregon	Drunk driving	10 days jail, fine
1976	Oregon	Drunk driving	6 months jail, 5 years probation, fines
1976	Oregon	Drunk driving	Disposition not recorded
1977	Oregon	Assault	24 days jail, (all but 4 suspended), fine
1977	Oregon	Drunk driving, driving while license suspended for prior drunk driving	3 years jail (suspended), 3 years probation
1980	Oregon	Drunk driving	3 years jail (served 6 months), referred to Alcohol Traffic Safety Program
1982	Oregon	Manslaughter, assault, driving while intoxicated, driving while license was revoked	10 years State penitentiary

Other offenses identified by the subject were not verified in any available data source. However, the subject indicated that he remembered a total of 22 prior alcohol-related offenses.

Case No. 2

Ohio Traffic Accident Report No.: 2-36-0114

Accident Date: February 17, 1984

Accident Location: Cincinnati, Ohio

Summary:

On February 17, 1984, about 5:00 p.m., a 1971 Oldsmobile was traveling west on Beechmont Avenue in Cincinnati, Ohio, traveling the wrong way in a reversible lane; the Oldsmobile struck a 1979 Renault head-on. The 42-year-old Renault driver was ejected and killed. The driver of the Oldsmobile had a BAC of 0.24 percent and was driving on a suspended license.

Driver Profile:

The 41-year-old Oldsmobile driver's record includes 52 contacts with law enforcement officials for driving violations; 32 had led to convictions for drunk driving, reckless driving, or driving with a suspended license. As a result of the February 1984 accident, he was convicted of aggravated vehicular homicide, involuntary manslaughter while intoxicated, and involuntary manslaughter while driving under suspension. He was sentenced to 13 to 25 years in prison, and his driving privileges were suspended for life.

His arrest record, excluding the nondriving related offenses, is as follows:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
5-24-69	Leaving scene of an accident; driving with suspended license	For leaving accident: 6 months workhouse, (all but 30 days suspended), \$200 fine (\$100 suspended); for DUS: 6 additional months workhouse
11-1-69	Failure to register vehicle; driving with a suspended license	Failure to register dismissed at request of prosecution; DUS: \$100 fine, 30 days in jail (all but 2 days suspended)
6-12-72	Operating motor vehicle with suspended license	\$305 fine, 10 days jail
11-23-72	DUI, reckless operation	For DUI: \$100 fine plus costs; for reckless operation: \$50 fine plus costs
12-20-72	DUI	\$505 fine, 8 days jail
Unknown	DUI	\$190 fine
11-9-74	DUI	\$529 fine

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
5-7-76	DUI, driving with suspended license	For DUI: \$307 fine, 6 months workhouse, 3 years license suspension; DUS dismissed at request of prosecution
11-6-77	DUI, speeding	For DUI: \$100 fine plus costs, 6 months workhouse; for speeding: \$100 fine plus costs, 6 months jail
11-12-78	Leaving scene of accident	\$50 fine plus costs, 1 year license suspension; (license restored 3-79)
3-17-19	Weaving, DUI	For weaving: \$10 fine plus costs; for DUI: license suspended (except for to/from work), \$100 fine plus costs
10-23-79	DUI	1 year license suspension, \$100 fine plus costs
1-26-81	DUI, driving with suspended license	6 months jail (suspended), \$100 fine plus costs. Defendant to attend alcohol school
3-16-81	DUI	3 year license suspension, 2 year probation, \$750 fine (all but \$25 suspended)
11-08-81	Speeding, operating motor vehicle without license	Speeding charge dismissed. 180 days jail, (suspended), \$1,000 fine (all but \$100 plus costs suspended). Defendant to return license and plates to DMV
2-11-84	DUI, driving with suspended license	For DUI: \$1,000 fine (\$500 suspended), 6 months jail; for DUS: \$100 fine, 6 months jail (concurrent)

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
2-17-84	Involuntary manslaughter (2 counts): aggravated vehicular homicide	5-10 years (with 5 years actual incarceration) for each manslaughter count; 3-5 years for homicide; permanent license revocation
2-18-84	DUI (2 counts)	180 days jail for one DUI count; 365 days jail (concurrent with 180 days). 10 year license suspension, \$150 fine for 2d DUI count
	Driving with suspended license	180 additional days jail
	Possession of false license	180 days jail (concurrent)
	Speeding	\$100 fine
Unknown	Reckless operation	\$35 fine plus costs

Case No. 3

NTSB Investigation No.: MKC 84 HAL 09
Accident Date: October 14, 1983
Accident Location: Reno, Kansas

Summary:

On October 14, 1983, at about 10:00 p.m., a Chevrolet pickup truck traveling north on U.S. 24 near Reno, Kansas, ran off the left side of the road and struck a sign post and a guardrail before coming to rest at the bottom of an embankment. The 22-year-old male driver's BAC was 0.208 percent.

Driver Profile:

He had been arrested and convicted of DWI in 1980 and sentenced to attend a "DWI school" two nights per week for four weeks. When asked why he drank and drove after having been arrested and convicted before, he stated that "he didn't think he'd get caught and drove carefully." He further stated that he thought a person can drink and drive without getting caught because of the many miles of rural roads and the low number of police patrols on those roads.

Case No. 4

NTSB Investigation No.: LAX 83 HAL 17

Accident Date: June 14, 1983

Accident Location: Newhall, California

Summary:

On June 4, 1983, at about 2:25 a.m., a 1975 Mercedes Benz sedan traveling north on I-5 in Newhall, California, entered a right curve, ran off the left edge of the roadway, down a grass median, and into the southbound lanes, where it collided with a southbound Chevrolet occupied by six people. The 23-year-old male Chevrolet driver and four passengers were killed; the 26-year-old female Mercedes driver and a Chevrolet passenger were injured. The Mercedes driver's BAC was 0.25 percent; the Chevrolet driver's BAC was 0.14 percent.

The Chevrolet driver had been stopped by the police approximately one hour before the accident; open containers of beer were found in his car. The driver was given a field sobriety test. The test included, but may not have been limited to, saying the alphabet, walking a line, and clapping his hands. The officer decided that the driver was not legally impaired and that he had passed the test successfully. He was released at the scene. The surviving occupant of the Chevrolet said that the driver had consumed no alcohol after joining them five hours before the accident. If this is correct, the driver would have had a BAC of about 0.21 percent when he joined them and a 0.16 percent BAC when he was stopped and given the sobriety test.

Driver Profile:

The Mercedes driver had two California Class 3 driver's licenses under two names. One of the licenses showed a 1979 DWI conviction, at which time she was fined \$156 and sent to a traffic school.

Case No. 5

NTSB Investigation No.: CHI 84 HAL 05

Accident Date: November 18, 1983

Accident Location: Harvey, Illinois

Summary:

On November 18, 1983, at about 10:00 p.m., in Harvey, Illinois, a Ford pickup speeding north on Myrtle Street crashed into the left side of a Ford sedan traveling west on 152 Street and pushed it about 125 feet from the point of impact. The sedan driver and one sedan passenger were killed. The other sedan passenger, the pickup driver, and a pickup passenger were seriously injured. The 27-year-old pickup driver was charged with reckless homicide and DWI. The passenger in the pickup stated that he and the driver had been drinking beer.

Driver Profile:

At the time of this accident, the pickup driver was awaiting trial on charges of DWI and reckless homicide, resulting from a fatal accident nine months earlier in which three people were killed and 11 were injured. An investigation into the pickup truck driver's record revealed an extensive criminal history including the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
2-83	DWI fatal accident, two counts reckless homicide, violation of probation for previous burglary charge	1-84 sentenced to 10 years State penitentiary for probation violation and both fatal accidents
11-83	DWI fatal accident, two counts reckless homicide	

Case No. 6

NTSB Investigation No.: DEN 84 HAL 16

Accident Date: September 1, 1983

Accident Location: Sweetwater County, Wyoming

Summary:

On September 1, 1983, about 3:00 p.m., the 19-year-old driver of a Ford vehicle was stopped by a Wyoming Highway Patrolman in Sweetwater County, Wyoming, and arrested for DWI and driving with a suspended license. A breath test was administered at 4:00 p.m. and showed a BAC of 0.16 percent. The driver was lodged in the Rock Springs city jail at 4:30 p.m. and released to a bondsman an hour later. Six hours after his release, the Sweetwater County Sheriff's Office was notified of an accident involving this man; this time he was driving a Honda motorcycle northbound on County Road 4-58 near the intersection of Fire Lane 1 County Road. The motorcycle skidded 60 feet, vaulted 28 feet, landed on its side, then rolled 107 feet before it came to rest. The helmetless driver was found 10 feet from the motorcycle. The autopsy report revealed a BAC of 0.11 percent at 1:30 a.m. According to Wyoming officials, the motorcycle was stolen.

Driver Profile:

An investigation of the motorcycle driver's previous driving record indicates that he was convicted of DWI in October 1981 and was fined \$100. As a result of failure to meet the Wyoming financial responsibility requirements, his driver's license was suspended and he was therefore driving illegally at the time of his fatal accident.

Case No. 7

NTSB Investigation No.: DEN 84 HAL 25
Accident Date: July 20, 1983
Accident Location: Northglenn, Colorado

Summary:

On July 20, 1983, at about 10:45 p.m., a Chevrolet pickup traveling east on East 120th Avenue in Northglenn, Colorado, veered across the double yellow centerline and collided head-on with a westbound Ford sedan occupied by a 23-year-old driver and two passengers. The Ford driver was killed; the 26-year-old Chevrolet driver and the two Ford passengers were seriously injured. The Chevrolet driver's BAC was 0.22 percent; the Ford driver's BAC was 0.12 percent.

Driver Profile:

The Chevrolet driver was charged with vehicular homicide, but this charge was plea bargained down to vehicular assault. He had been arrested for DWI less than two years earlier (September 25, 1981), but the charge had been reduced to "driving while alcohol-impaired," to which he pled guilty on February 10, 1982. He had been sentenced to attend an alcohol education program.

Case No. 8

NTSB Investigation No.: MKC 84 HAL 11
Accident Date: October 28, 1983
Accident Location: Kansas City, Missouri

Summary:

On October 28, 1983, at about 8:30 p.m., a 1971 Oldsmobile Cutlass was traveling west at high speed on Riverfront Road at Olive Street in Kansas City, Missouri. The vehicle failed to negotiate a gradual left curve and struck a guardrail and a utility pole. The vehicle continued westbound, struck a light pole, rolled over, and slid on its roof to final rest. The vehicle immediately ignited. The 22-year-old driver escaped from the vehicle; the passenger did not and died in the fire. The driver had minor injuries and refused a breath test. Police on the scene reported that the driver showed overt signs of intoxication. The breathalyzer operator reported that the effects of alcohol were obvious and his ability to drive was impaired by alcohol. The driver was charged with involuntary manslaughter.

Driver Profile:

The driver had been issued a driver's license at age 16 in 1977. In May 1979, his license had been suspended because of his traffic offense conviction record. Subsequently, he had been arrested and convicted three times for driving with a suspended license. In November 1980, his license had been revoked. On July 20, 1982, he had been arrested by the Kansas City police at the scene of an accident; he was charged with DWI, driving with a revoked license, and possession of a stolen vehicle. His complete driving record was available to the sentencing judge, who fined him \$100. Plea bargaining reduced the DWI charge to careless and imprudent driving; the revoked license and stolen vehicle charges were dismissed. On April 11, 1983, he had been granted a temporary hardship driving privilege license, with which he could drive only to and from work and only between 6:30 a.m. and 6:30 p.m.; the license was extended five months later to March 24, 1984.

Case No. 9

NTSB Investigation No.: CHI 84 HAL 04

Accident Date: September 4, 1983

Accident Location: Chicago, Illinois

Summary:

On September 4, 1983, about 12:30 a.m., a Chevrolet sedan was traveling east on I-55 near First Avenue in Chicago, when the driver drove onto the left shoulder and hit and killed a pedestrian standing in front of her disabled car. The Chevrolet driver left the accident scene, exited the expressway, and stopped when his vehicle became disabled. His BAC was tested at 0.17 percent. As a result of this hit-and-run crime, the driver was charged with DWI and reckless homicide.

Driver Profile:

Safety Board investigation of his previous driving record disclosed that, since 1973, he had been arrested for DWI at least three times, twice more for driving with an open liquor container, six times for speeding, and once each for obstructing police, attempting to elude police, and improper passing. The most severe sanction he had received for these offenses was 12 days in jail and 1 year's probation (sentenced to this twice); his fines ranged from \$15 (for one of the speeding convictions) to \$110 (for one of the DWI convictions). His license had been revoked twice for DWI offenses.

In September 1982, he had been arrested for DWI and speeding; his BAC level was tested at 0.228 percent. The judge at his trial 7 months later knew of the BAC level and knew of at least two of the man's previous DWI arrests and convictions. Nevertheless, when the man requested permission to attend an alcohol treatment program under the Illinois court supervision program, in lieu of a punitive sanction, the judge granted the request. Three months later, while under the supervision program, he was arrested in the Chicago pedestrian killing described above and charged with DWI and reckless homicide.

A complete listing of his record uncovered in the Safety Board's investigation follows:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
2-1-73	Transportation of open liquor	\$30 fine
2-1-73	Speeding	\$15 fine
2-1-73	Failed to reduce speed to avoid an accident	Not known
2-1-73	Auto accident (parked vehicle struck)	Not known
2-9-73	Transportation of open liquor	\$30 fine
2-9-73	Failed to reduce speed to avoid an accident	Not known
2-9-73	Auto accident (fixed object)	Not known
12-16-73	DUI	12 days jail, 1 year probation

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
12-16-73	Speeding	Not known
2-27-84	Obstructed police	Not known
2-27-84	Attempted to elude police	2 days jail, 1 year probation
10-8-74	Speeding	Not known
10-8-74	DUI	\$110 fine
7-25-82	Improper passing	\$28 fine
7-25-82	Speeding	Court-directed finding of not guilty
9-19-82	DUI	Court supervision
9-19-82	Speeding	Court supervision
9-4-83	DUI, reckless homicide	Not known

Case No. 10

NTSB Investigation No.: ATL 84 HAL 08
Accident Date: September 15, 1983
Accident Location: DeKalb County, Georgia

Summary:

On September 15, 1983, at about 3:30 p.m., a 1979 Dodge pickup traveling north on I-285 in DeKalb County, Georgia, ran off the road, hit a concrete median barrier, traveled back onto the roadway, and hit a 1974 Ford pickup. The Ford pickup driver was not injured. The fatally injured 27-year-old Dodge pickup driver's BAC was 0.20 percent.

Driver Profile:

An investigation of the Dodge pickup driver's record revealed that he had been arrested twice in 1979 for driving without a license; that within two months of obtaining a license, it was suspended, and that within two months of the suspension, he was arrested again for driving with a suspended license. In 1982 he was arrested again driving with a suspended license. (In addition, he was arrested several times during this same period for DWI, speeding, failure to maintain lane, a property damage accident, and public drunkenness. His fatal accident occurred within nine months of the DWI property damage accident, committed while driving with a suspended license.)

A listing of his record follows:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
5-9-79	No license on person	Not known
5-19-79	No driver's license; DWI	\$300 fine, 1 year for no license; for DWI: probation
7-12-79	License suspended under implied consent law	---
9-17-79	Equipment violation, driving while license suspended	\$50 fine, 6 months probation
1-15-80	Issued Georgia license, turned in Illinois license	---
10-1-81	DWI (0.21% BAC), reduced to public drunkenness	\$500 fine, 12 months probation
10-30-81	DWI, speeding, failure to maintain lane	\$250 fine, 12 months probation
12-20-82	Property damage accident (0.26% BAC); charged DWI, suspended license, failure to maintain lane	Bond forfeiture
9-15-83	Fatal accident	---

Case No. 11

NTSB Investigation No.: LAX 84 HAL 14

Accident Date: July 23, 1983

Accident Location: Riverside, California

Summary:

On July 23, 1983, at about 2:00 p.m., a Chevrolet sedan traveling west on Alessandro Boulevard near Riverside, California, drove into the eastbound lane to pass another vehicle and collided head-on with a Volkswagen holding six occupants. The Volkswagen driver and a 1-year-old passenger were killed; the Chevrolet driver and four Volkswagen passengers were injured. The 31-year-old male Chevrolet driver's BAC was 0.23 percent.

Driver Profile:

Since September 1975, the Chevrolet driver had been arrested for DWI eight times, including his July 1983 DWI arrest. He had pled guilty or no contest to all of the DWI charges.

A chronological listing of his California arrest record follows:

<u>Date</u>	<u>Entry</u>	<u>Sentence</u>
9-10-75	DUI	Not known
9-12-77	DWI	30 days jail, 2 years probation, fine
9-23-78	DWI	24 months probation, fine
1-8-78	Failed to pay fine, bench warrant ordered	---
8-9-79	Paid fine, warrant recalled	---
4-1-79	DWI	360 days jail (suspended), 36 months summary probation, fine
12-20-79	DWI, invalid license	Fine
1-30-80	DWI	3 years probation, 90 days jail
12-8-81	DWI	(See below)
3-3-82	Charged for two DWI cases	No. 1 : one year jail, 3 years license/revocation No. 2 : dismissed at request of prosecution
7-23-83	Felony DUI, 2nd degree murder,	Released on \$5,000 bond; 9-23-83: arraigned and pled guilty

Case No. 12

NTSB Investigation No.: CHI 84 HAL 02

Accident Date: October 29, 1983

Accident Location: Charleston, West Virginia

Summary:

On October 29, 1983, at about 11:15 p.m., on Campbell's Creek Drive near Charleston, West Virginia, a westbound 1979 Mercury sedan traveling at an excessive speed, drove into the eastbound lane, apparently to pass a Pontiac sedan. Before the Mercury passed the Pontiac, however, the Pontiac turned left and was struck in the left side by the Mercury. The 23-year-old male Pontiac driver was killed and the 27-year-old female Mercury driver and a Pontiac passenger were injured. The Mercury driver's BAC was 0.19 percent.

Driver Profile:

When this crash occurred, the Mercury driver was on probation and driving on a suspended license; her license had been suspended earlier in the month for points, because she had accumulated three tickets for speeding and one for failure to obey a traffic signal, all within eight months. However, it was discovered that she also had two earlier arrests, one in 1977 for DWI and one in 1979 for hit and run, both on an entirely different West Virginia license issued under a different name (License A). Her license had been suspended after the December 1977 DWI arrest; she had been fined after the October 1979 hit and run arrest. At some point between then and her February 1983 arrest for speeding, she had obtained the new license (License B) under a different name.

A chronological listing of her West Virginia arrest record is as follows:

<u>Date</u>	<u>Driver's License</u>	<u>Charge</u>	<u>Sentence</u>
12-19-77	A	DWI	License suspension
10-2-79	A	Hit and run	Fine
2-23-83	B	Speeding (less than 75 mph)	Points
2-24-83	B	Speeding (less than 75 mph)	Not known
3-10-83	B	Failure to obey traffic sign or control	Not known
9-14-83	B	Speeding (less than 75 mph)	12 months license probation
10-29-83	B	Homicide DWI, BAC 0.19%	Not known

Case No. 13

NTSB Investigation No.: MKC 83 HAL 01

Accident Date: December 1, 1982

Accident Location: Kansas City, Missouri

Summary:

On December 1, 1982, at about 10:30 p.m., a 1978 Chrysler sedan was traveling north on U.S. 71 in Kansas City, Missouri, at high speed. The 35-year-old male driver lost control of the car and it sideslipped across the inside lane to the shoulder, struck the concrete median divider, overrode the divider for 100 feet, crossed into the opposing lanes of traffic, struck a 1977 Saab head-on, and proceeded further, striking a 1976 Chevrolet. The 35-year-old female driver of the Saab was fatally injured. The 18-month-old Saab passenger restrained in a child safety seat received minor injuries. The driver and passenger in the Chevrolet were uninjured. The Chrysler driver's BAC was 0.11 percent.

Driver Profile:

Between November 1964 and his December 1982 accident, the Chrysler driver had accumulated at least 19 moving violations in six States, including a charge of involuntary manslaughter involving alcohol and another charge of driving on a suspended license. At the time of the December 1982 crash, he held valid driver's licenses from Idaho, Missouri, Nevada, and Arkansas.

From February 1974 through January 1975, he had driven a truck interstate for a company in Idaho. His application for that job admitted only two moving violations; at that time, he had at least eight such violations, including the involuntary manslaughter charge involving alcohol. In November 1981, he went to work driving interstate for an Arkansas trucking firm. At that time, he had at least two driver's licenses (Arkansas and Nevada). His application said that he had never had his license suspended and noted only two of his then at least 12 moving violations (he noted the two speeding violations that occurred in Nevada). After his hiring, he obtained at least three additional licenses (California, Missouri, and Illinois); in applying for the Missouri license, however, he surrendered the Illinois license. During the first year of his interstate truck driving job, he added at least four more violations to his record. Two were in California; he showed his Arkansas license to the police officers. (California sent notice of these violations to Arkansas, but his Arkansas records do not indicate these California violations. They show only a November 1982 speeding violation issued in Arkansas.) The truck driver did not notify his employer of any of these four traffic violations, as required by Federal interstate trucking regulations.

<u>Date</u>	<u>Location</u>	<u>Charge</u>	<u>Vehicle Used</u>	<u>Driver's License</u>
11-21-64	Idaho	Speeding	Private	Idaho
1-25-65	Idaho	Driving on suspended license	Private	Idaho
11-5-65	Idaho	Involuntary manslaughter	Private	Idaho
5-8-67	Idaho	Minor in possession of alcohol	Private	Idaho
10-22-71	Idaho	Excess speed	Comm. Tr.	Idaho
11-16-71	Idaho	Improper passing	Private	Idaho
6-1-73	Idaho	Stop sign	Private	Idaho
8-6-73	Idaho	Stop sign	Private	Idaho
9-15-73	Oregon	Excess speed	Comm. Tr.	Idaho
9-18-74	Idaho	Chargeable accident	Comm. Tr.	Idaho
11-7-77	Oregon	Excess speed (+ 21 mph)	Comm. Tr.	Idaho

Case 13 driving record, continued

<u>Date</u>	<u>Location</u>	<u>Charge</u>	<u>Vehicle Used</u>	<u>Driver's License</u>
4-28-78	Missouri	DWI, reduced to improper lane usage	Private	Missouri
5-16-78	Missouri	Excess speed (+ 28 mph)	Comm. Tr.	Missouri
11-15-79	Missouri	Excess speed (+ 23 mph)	Comm. Tr.	Missouri
6-1-81	Nevada	Speeding	Private	Nevada
6-1-81	Nevada	Speeding	Private	Nevada
7-29-81	Nevada	Disregard traffic control device	Unknown	Nevada
8-25-81	Nevada	Speeding	Unknown	Nevada
?-?-82	California	No valid license	Comm. Tr.	Arkansas
1-20-82	California	Speeding	Comm. tr.	Arkansas
3-25-82	Missouri	Defective vehicle equipment	Private	Arkansas
11-1-82	Arkansas	Excess speed (+ 11 to 20 mph)	Unknown	Arkansas
12-2-82	Missouri	Vehicular homicide (Manslaughter, DUI)	Private	Missouri

Before the 1965 sentencing for involuntary manslaughter, a probation officer wrote to the sentencing judge:

...home conditions deplorable...no semblance of supervision or parental guidance...missed 27-1/2 days [of] senior high school year...just willful sloughing-off [in] school...could not get along with students or teachers...more or less a loner...two previous arrests for stealing...does not have a sense of responsibility, is belligerent toward authority...stopped by local police many times for traffic violations though was not arrested...[in the] opinion of the police and his teachers, he should not have a driver's license as he abused every privilege and courtesy of driving...would be hard to supervise on probation...jail time would have a more lasting effect...

The driver was sentenced to unsupervised probation for six months and directed not to drive during the probation period. He spent the first 30 days in the Bingham County, Idaho, jail.

As a result of his DWI arrest in 1978 (BAC 0.14 percent), he was sent to the National Safety Council Safety Driving School for four hours, paid a \$150 fine, and was assigned to six months unsupervised probation. Prior to the trial, he was allowed to plead to "improper lane usage," and the DWI charge was dismissed.

Case No. 14

NTSB Investigation No.: LAX 83 HAL 18

Accident Date: May 21, 1983

Accident Location: Minden, California

Summary:

On May 21, 1983, at about 1:00 p.m., on State Route 88 near Minden, Nevada, a southbound Mercury sedan drove across a double yellow centerline into the northbound lane and collided head-on with an AMC station wagon with six occupants. Both drivers and two AMC passengers were killed; three AMC passengers were seriously injured. The 32-year-old male Mercury driver's BAC was 0.24 percent.

Driver Profile:

Because the intoxicated Mercury driver was driving on a California driver's license, Safety Board investigators contacted the California Department of Motor Vehicles to determine his driving history. No prior traffic offenses were found in a search of the DMV records. A check of California Bureau of Criminal Information and Identification (CII) records, however, revealed five prior DWI convictions--two in California and three in Nevada--and one other DWI arrest whose disposition is not recorded. Discussions with DMV officials disclosed a number of complex reasons why the DMV records did not show any of these arrests and convictions, having largely to do with the fact that the Mercury driver had used several names and birthdates on his California and Nevada driver's licenses.

Although he had no prior drunk driving arrests on his motor vehicle record, his criminal record indicated seven prior alcohol-related offenses. The California DMV was contacted and agreed to initiate an investigation of record discrepancies, utilizing the criminal record of arrests as base data. The complete conviction data for these alcohol-related offenses are shown below.

<u>Date</u>	<u>Location</u>	<u>Sentence</u>
12-9-71	Reno, NV	\$40 fine, 25 days jail
8-18-74	Unknown - reported by Nevada DMV	Jail (specifics not reported)
6-8-75	Minden, NV (Minor consuming liquor in public)	\$100 fine, 10 days jail
8-27-75	Unknown - reported by Nevada DMV	Jail, fine (specifics not reported)

<u>Date</u>	<u>Location</u>	<u>Sentence</u>
7-3-77	Mono, CA	15 days jail, 18 months probation
12-12-77	San Jose, CA	60 days jail, \$250 fine,
12-6-79	Santa Clara, CA	2 years probation Not reported

Case No. 15

NTSB Investigation No.: MKC 84 HAL 19

Accident Date: April 19, 1983

Accident Location: Topeka, Kansas

Summary:

On April 19, 1983, at about 11:20 p.m., a Datsun station wagon with an 18-year-old male driver and two teenage passengers was traveling north on Jewell Street in Topeka, Kansas, at a high speed. At the intersection of SW 17th Street, the Datsun drove past a stop sign without stopping and crashed into the side of a Chevrolet station wagon westbound on SW 17th Street. The 28-year-old Chevrolet driver was killed and the Datsun driver and one passenger were injured. The 18-year-old Datsun driver's BAC was 0.16 percent 2 1/2 hours after the accident (approximately 0.19 percent at the time of the accident). The drinking age in Kansas is 18 for 3.2 percent beer. The Datsun driver had been drinking illegally purchased 6 percent beer at a local beer hall.

Driver Profile:

In July 1981, when the Datsun driver was 16 years old, he had been involved in an accident and arrested by the Topeka police for DWI and an "open container" charge. The DWI charge was reduced to reckless driving, and he was fined \$75 for that and the open container charges. He did not receive any alcohol education, counseling, or treatment. He was subsequently arrested for speeding in September 1981 and again in April 1983 (the day before the fatal accident described above).

On December 20, 1983, he was convicted of vehicular homicide, leaving the scene of an injury accident, and DWI. He was sentenced to 18 months in the county jail, 2 years suspension of his driver's license, and 3 years probation (including 300 hours public service work). An evaluation ordered by the sentencing judge had determined that he was a heavy abuser of alcohol and drugs and recommended at least 30 days of inpatient treatment. A driver's license record check conducted on February 14, 1984, failed to reveal the July 29, 1981, alcohol-related charges; the records only indicated there was an accident. Furthermore, the December 20, 1983, convictions were not included.

Case No. 16

NTSB Investigation No.: ATL 84 HAL 06
Accident Date: October 25, 1983
Accident Location: Atlanta, Georgia

Summary:

On October 25, 1983, at about 11:10 p.m., a BMW sedan traveling south on Mt. Paron Road in Atlanta, Georgia, drove into the northbound lane while negotiating a right curve at a high speed and collided head-on with a Buick sedan. The BMW driver, the Buick driver, and two BMW passengers were seriously injured; a passenger in the Buick was killed. The 16-year-old BMW driver's BAC was 0.25 percent.

Driver Profile:

The BMW driver had been issued a Georgia driver's license on January 12, 1983; six months later, on June 9, 1983, he had been involved in a property damage accident and arrested for DWI. Based on the BAC test result and other testimony, the Juvenile Court found him guilty of DWI, suspended his driver's license for one year, and placed him on probation. At the time of the October 1983 fatal accident, he had been at a party at his own home. His father asked him to run an errand, even though his father knew that he was on probation, had a suspended license, and had been drinking.

When the juvenile authorities involved in the first DWI arrest were asked by Safety Board investigators why the young man had not been evaluated for alcohol problems at that time, they said it was "not procedure."

Case No. 17

NTSB Investigation No.: LAX 84 HAL 10
Accident Date: November 6, 1983
Accident Location: Port Orchard, Washington

Summary:

On November 6, 1983, at about 4:00 p.m., a Datsun sedan was traveling south at a high speed on Sidney Road near Port Orchard, Washington, during a rainstorm. While attempting to pass a slower vehicle, the Datsun driver drove into the northbound lane and head-on into a Mercury station wagon with five occupants. The occupants of both cars were killed, including an unrestrained infant in the Mercury. The 29-year-old male driver of the Datsun had a BAC of 0.19 percent.

Driver Profile:

Local residents said the Datsun driver frequently drove while under the influence of alcohol; his driving record indicated that he frequently operated his vehicle in an aggressive, reckless manner, though he had never been arrested for drunk driving.

Case No. 18

NTSB Investigation No.: DEN 83 HAL 07
Accident Date: August 13, 1983
Accident Location: Northglenn, Colorado

Summary:

On August 13, 1983, at about 3:30 a.m., a 1979 Chevrolet pickup was traveling south in the northbound lanes of Interstate 25 in Northglenn, Colorado; it collided head-on with a 1973 Ford Pinto. The fatally injured 16-year-old Pinto driver's BAC was 0.08 percent. The 20-year-old driver of the Chevrolet pickup had a BAC of about 0.124 percent. Both he and the passenger in the Pinto were injured.

Driver Profile:

The Pinto driver had been drinking since 4:00 p.m. the day before and had been stopped by police in a park in Golden, Colorado, at midnight. A witness said that the police conversed with the Pinto driver outside the car, told him the park was closed, and directed him to leave the area. At that time, the Pinto driver's BAC is calculated to have been about 0.13 percent.

Case No. 19

NTSB Investigation No.: DEN 84 HAL 10
Accident Date: November 20, 1983
Accident Location: Denver, Colorado

Summary:

On November 20, 1983, at about 10:30 a.m., a Mercury sedan, being pursued by police for running a red light, was speeding south on Emerson Street in Denver, Colorado, when it struck a parked car and a bicyclist. The Mercury did not stop but continued south into the intersection of 10th Avenue, where it collided with a westbound Dodge sedan. The Mercury continued across the intersection, drove onto the west sidewalk of Emerson Street, struck two concrete fence posts, then veered left across the roadway, crashed into a parked car, and stopped. The bicyclist, the Dodge driver, and a passenger in the Mercury were killed; the Mercury driver and two passengers were injured. The 38-year-old Mercury driver's BAC was 0.32 percent.

Six and a half hours earlier, at about 4:00 a.m., the Mercury driver had been stopped by police because "his vehicle showed bright headlights towards oncoming traffic." According to the police officer interviewed by NTSB investigators, he detected an odor of alcohol from the Mercury driver and gave him a portion of the roadside sobriety tests. The Mercury driver passed two of the tests administered. The officer followed the Mercury driver three blocks to his home and left him sitting in his car in his driveway. The Mercury driver told NTSB investigators that he then stole money from his wife's purse, drove downtown, passed out in an alley, then met some friends and drank some more.

Driver Profile:

The Mercury driver is a self-professed alcoholic and is attending AA meetings while in prison. He was convicted of two counts of vehicular homicide and is serving a 16-year sentence. He has a criminal record including burglary but has never been arrested for DWI.

Case No. 20

NTSB Investigation No.: MKC 83 HAL 02

Accident Date: April 20, 1983

Accident Location: Kansas City, Missouri

Summary:

On April 20, 1983, at about 3:50 p.m., a Pontiac traveling east on 8th Street entered the signal-controlled intersection with Pasro Boulevard and collided with the left side of a Ford. Witnesses related that the Ford entered the intersection against a red traffic signal. Both occupants of the Pontiac received minor injuries. The driver of the Ford was unhurt. The Pontiac driver's BAC was 0.28 percent.

Driver Profile

The 56-year-old Pontiac driver was a professional truck driver. He had three DWI arrests in 10 years, but all had been successfully plea bargained down to lesser offenses. An investigation into his driving record indicated the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
1-73	DWI, reduced to careless and imprudent driving.	Fine, 1 year probation, DWI school
6-74	DWI, reduced to careless and imprudent driving.	Fine, 1 year probation
4-83	DWI (BAC 0.28%), reduced to improper lane usage.	Fine, 2 years probation, 60 days jail (suspended), DWI school

Case No. 21

NTSB Investigation No.: MKC 84 HAL 01

Accident Date: August 20, 1983

Accident Location: Gardner, Kansas

Summary:

On August 20, 1983, at about 2:30 p.m., a Chevrolet pickup traveling east on U.S. 56 in Gardner, Kansas, made a right turn into Moonlight Road and struck a Toyota sedan waiting to turn left onto U. S. 56. Both drivers were injured. The pickup driver was arrested for DWI after he refused to take a blood alcohol test.

Driver Profile:

The 34-year-old male pickup driver, crippled in a previous motorcycle accident, was not totally cognizant of his past violation history. An investigation of his driving record revealed the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
3-81	Speeding	Not known
4-81	Speeding	Not known
10-81	Speeding	Not known
5-82	DWI (refused BAC test)	Fine, license suspended (restored 11-82)
1-83	Speeding	Not known
5-83	Accident, alcohol involved	No charge due to the seriousness of injuries
8-83	DWI (accident; refused BAC test)	License suspended 150 days for refusal; for DWI: fine, 90 days jail, 1 year license suspension. Voluntarily entered alcohol rehabilitation program (10 weeks) with subsequent outpatient care.

Case No. 22

NTSB Investigation No.: ATL 84 AL 01
Accident Date: June 17, 1983
Accident Location: Suwanee, Georgia

Summary:

On June 17, 1983, at about 1:00 a.m., on Suwanee Dam Road in Suwanee, Georgia, a Chevrolet traveling south crossed the center line and collided with the left front of a northbound Ford sedan. The driver and rear passenger of the Ford sustained fatal injuries. Results of blood samples taken by hospital personnel two hours after the accident and after medical treatment were inconclusive. However, all observers were of the opinion that the Chevrolet driver was under the influence of alcohol.

Driver Profile:

The 25-year-old male Chevrolet driver had been driving nine years. During that time he had accumulated the following record in Georgia:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
7-76	Speeding (2 counts) failing to observe stop sign, speeding, driving on wrong side	Fines

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
4-77	--	Administrative license suspension for points
7-77	Speeding	Not known
3-81	DWI	\$265 fine
2-82	DWI (accident)	\$250 fine; 1 year license suspension (reduced to 2 months because of attendance at 12-hour alcohol program)
10-82	DWI, possession of marijuana (reduced to reckless driving)	\$450 fine
1-83	Speeding	Forfeited bond, license administratively suspended for points
4-83	DWI, driving with suspended license	\$300 fine
6-83	DWI, involvement in multiple fatality	Pending
7-83	--	License suspension

Case No. 23

NTSB Investigation No.: DEN 84 HAL 17

Accident Date: December 17, 1983

Accident Location: Arvada, Colorado

Summary:

On December 17, 1983, at about 7:55 p.m., a Chevrolet station wagon was signaled to stop by a police officer directing traffic at the intersection of West 80th Street and S. R. 95 in Arvada, Colorado. The Chevrolet driver did not stop when first directed and, even after stopping, failed to comply with additional instructions from the police officer. After a verbal exchange, the police officer tried to remove the driver from the vehicle, but the Chevrolet driver accelerated his car, dragging the police officer about 150 feet before the officer freed himself and fell to the pavement. The driver was apprehended and charged with assault and driving while intoxicated; his BAC was 0.27 percent.

Driver Profile:

An investigation of the 32-year-old male driver indicated that he had been charged with the following in Colorado:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
2-80	DWI, reduced to improper lane use and careless driving	Fine
5-83	DWI (BAC 0.246%), reduced to lesser offense	Fine, 30 days jail (suspended), 9 months probation with following conditions: -Level II alcohol programs -No alcohol-related offenses -Written proof of alcohol program completion -Notify court of change of address -48 hours community service
12-83	Reckless endangerment, DWI	Pled guilty to assault, sentenced to 1-2 years in prison

Case No. 24

NTSB Investigation No.: DEN 84 HAL 18

Accident Date: December 18, 1983

Accident Location: Boulder, Colorado

Summary:

On December 18, 1983, at about 6:55 p.m., a Toyota sedan with four occupants was traveling south on S. R. 36 in Boulder, Colorado. At the intersection with S. R. 19, the Toyota attempted to turn left in front of a northbound Ford pickup and was struck by the pickup. The pickup was then struck by a northbound Pontiac Sedan. A Toyota passenger in the right rear was ejected and killed. The Toyota driver and the remaining two passengers were injured. The Ford pickup driver and the Pontiac driver were uninjured. The Toyota driver's BAC was 0.13 percent.

Driver Profile:

The 22-year-old male driver of the Toyota had been driving an automobile for approximately six years. In addition to a substantial criminal record, his Colorado motor vehicle records revealed the following:

<u>Date</u>	<u>Event</u>	<u>Sentence</u>
1-79	Speeding	Fine
1-80	License suspended due to noncompliance with financial responsibility	Fine
4-82	Injury accident, DWI reduced to DWAI (BAC 0.16 percent), driving with suspended license	Probation, Level II treatment
9-82	Property damage accident, charged with unsafe lane usage and driving with suspended license; unsafe lane usage was later reduced to operating a defective vehicle	Fine
12-82	License reinstated	---
11-83	Speeding	Not known
12-83	Fatal accident, charged with vehicular homicide, vehicular assault, failure to appear on prior warrant, and carrying a concealed weapon (BAC 0.13 percent)	Not known

Case No. 25

NTSB Investigation No.: DEN 84 HAL 03

Accident Date: October 14, 1984

Accident Location: Weld County, Colorado

Summary:

On October 14, 1983, at about 9:25 p.m., a Mercury sedan was traveling south on County Route 7 in Weld County, Colorado, when the driver failed to stop at a stop sign and drove into the intersection, where the Mercury collided with a Buick sedan eastbound on Route 66. The Buick driver and his wife were killed, and the four Mercury occupants were injured. Two hours after the accident, the 17-year-old male Mercury driver's BAC was 0.096 percent.

Driver Profile:

The Mercury driver was not licensed to drive. Prior to this collision, he had spent 5 hours at two parties, consuming beer of unknown alcohol concentration. He had no apparent prior alcohol-related offenses.

Case No. 26

NTSB Investigation No.: DEN 84 HAL 26

Accident Date: March 20, 1983

Accident Location: Boulder, Colorado

Summary:

On March 20, 1983, at about 1:40 a.m., a Volkswagen sedan traveling north on Broadway in Boulder, Colorado, attempted a left turn at Pleasant Street and collided at high speed with a Ford pickup southbound on Broadway. The 29-year-old Volkswagen driver was killed; the Ford pickup driver was uninjured. The Volkswagen driver's BAC was 0.27 percent, and the 25-year-old pickup driver's BAC was 0.22 percent.

Driver Profile:

The pickup driver had two prior DWI arrests. Both were reduced to lesser charges and both resulted in referral to DWI education/treatment programs. The pickup driver told Safety Board investigators that neither sentence was of any value to him as a deterrent to drunk driving. Although his license was suspended as a result of other traffic violations, he continued to drive.

Case No. 27

NTSB Investigation No.: DEN 84 HAL 14

Accident Date: October 18, 1983

Accident Location: Silver City, New Mexico

Summary:

On October 18, 1983, at about 11:55 p.m., a 1971 Plymouth traveling on U. S. 180 near Silver City, New Mexico, attempted to pass another vehicle, went out of control, began weaving erratically and skidding, entered the median, and rolled over. The right passenger was ejected and crushed by the overturned vehicle. The driver received serious injuries. His BAC was 0.31 percent.

Driver Profile:

The 28-year-old male driver held a valid driver's license. His record indicated two prior DWI arrests. The first arrest occurred in late 1981, and he was sentenced to attend an alcohol education class. His completion of the class resulted in the removal of this offense from use as a "prior arrest" for any future DWI sentencing.

The second offense was committed in August 1983, when the driver was again arrested for DWI, with a BAC of 0.33 percent. He was awaiting trial on this offense at the time of the accident described above.

Case No. 28

NTSB Investigation No.: DEN 83 HAL 03

Accident Date: April 21, 1983

Accident Location: Thornton, Colorado

Summary:

On April 21, 1983, at about 1:36 a.m., a 1972 AMC was traveling north on N. Washington Street in Thornton, Colorado, when it went out of control, slid off the right side of the road at a left curve, and rolled over before coming to rest. The driver was ejected and sustained moderate injuries. The passenger was partially ejected and was fatally injured. The driver's BAC was 0.014 percent and the passenger's was 0.236 percent.

The driver and passenger were both 18 years old and had spent the evening at a tavern that sold 3.2 percent beer and catered to customers between 18 and 21 years of age. On the evening of the accident, they had gone to an "All You Can Drink for \$6" party at the tavern.

Driver Profile:

The driver had no prior record of alcohol-related offenses. However, witnesses said that he had a significant history of anti-social behavior, coupled with a prior debilitating head injury and prior treatment for drug abuse.

Case No. 29

NTSB Investigation No.: DEN 84 HAL 27

Accident Date: September 3, 1983

Accident Location: Meeker, Colorado

Summary:

On September 3, 1983, at about 3:30 a.m., a 1979 Ford pickup was traveling on County Road 115 near County Road 8 near Meeker, Colorado, when it left the right side of the dirt road and rolled onto its top. The driver, the right front passenger, and one occupant of the cargo area sustained minor injuries; another occupant of the cargo area was crushed under the truck and killed. The vehicle sustained moderate damage. Three hours after the accident, the driver's BAC was 0.096 percent.

Driver Profile

The 33-year-old male driver had been arrested for DWI in 1981. He had been sentenced to 6 months probation and attendance at a Level II alcohol education program.

After the September 1983 accident, the driver pled guilty to DWI, was sentenced to 10 days in jail, completed a Level II therapy program and 56 hours of community service, and paid a \$600 fine.

Case No. 30

NTSB Investigation No.: DEN 84 HAL 21
Accident Date: September 3, 1983
Accident Location: Aurora, Colorado

Summary:

On September 3, 1983, at about 2:10 a.m., at the intersection of S. Syracuse Way and E. Vassar Drive, a 1972 Pontiac traveling south in Aurora, Colorado, struck and killed a pedestrian walking in the roadway. Both the driver and the pedestrian were under the influence of alcohol; the driver had a BAC of 0.10 percent and the passenger had a BAC of 0.119 percent.

Driver Profile:

The 19-year-old male driver had no record of prior DWI arrests or any other alcohol-involved incidents.

Case No. 31

NTSB Investigation No.: DEN 84 HAL 04
Accident Date: October 20, 1983
Accident Location: Fort Lupton, Colorado

Summary:

On October 20, 1983, at about 5:55 p.m., a 1977 Datsun was traveling near MP 246 on U.S. 85 in Fort Lupton, Colorado, when the driver failed to negotiate a left turn and the car ran off the right edge of the road. It traveled 180 feet on the right dirt shoulder, returned to the roadway, crossed the depressed median, entered the oncoming traffic lanes, and rolled over. The driver was ejected and killed. His BAC was 0.185 percent.

Driver Profile

The 25-year-old male driver had two prior convictions for DWI. When he was 18, the driver was charged with DWI and careless driving. Under plea bargaining, the charge was reduced to DWAI and he was sentenced to attend DWI school; his license was suspended for one year. When 21, the driver was again convicted of DWI. He was fined, placed on one year's probation (which included alcohol therapy and community service), and his license was suspended for an additional year.

Case No. 32

NTSB Investigation No.: DEN 84 HAL 29
Accident Date: October 21, 1983
Accident Location: Colorado Springs, Colorado

Summary:

On October 21, 1983, at about 9:37 a.m., a 1976 Dodge Ram Charger went out of control in the 4000 block of East Constitution Avenue in Colorado Springs, Colorado. It ran off the right side of the road, hit two traffic signs, veered back into the roadway, and struck a 1980 Honda Civic in the left front. The Honda subsequently struck a curb and rolled over. Both vehicles were destroyed. The Honda driver was killed; the Dodge driver received only minor injuries. The Dodge driver's BAC was 0.31 percent.

Driver Profile:

The 40-year-old male Dodge driver had been convicted of one prior DWI (BAC 0.205 percent) and was sentenced to an alcohol education and therapy program (he was enrolled in the therapy program when he had the October 1983 accident). His Colorado license had been suspended on the first offense and he was driving under suspension at the time of the accident. The driver held a valid Florida license with a clear record in that State.

Case No. 33

NTSB Investigation No.: DEN 83 HAL 04
Accident Date: August 22, 1983
Accident Location: Midwest, Wyoming

Summary:

On August 22, 1983, at about 6:00 p.m., a 1982 Chevrolet pickup was traveling west on Wyoming State Highway near Midwest, Wyoming; the driver failed to negotiate a left curve, veered across the centerline, and struck the left side of a 1979 Kenworth tractor. Both drivers were killed; both vehicles were destroyed. The pickup driver's BAC was 0.36 percent.

Driver Profile:

The 37-year-old pickup driver had a long history of alcohol abuse. His Wyoming driver's license was suspended at the time of the accident; it had been issued April 19, 1983, and had been suspended for 90 days beginning June 24, 1983.

Case No. 34

NTSB Investigation No.: DEN 84 HAL 13
Accident Date: February 21, 1981
Accident Location: Longmont, Colorado

Summary:

On February 26, 1981, at about 10:30 p.m., a 1981 AMC sedan was eastbound on State Route 119 in Longmont, Colorado at a high speed. Near Florida Avenue, the sedan drove into the westbound lane and collided head-on with a 1965 Chevrolet pickup. The 18-year-old male pickup driver died two days after the crash; the 35-year-old male sedan driver and the 16-year-old pickup passenger were seriously injured. The sedan driver's BAC was 0.18 percent.

Driver Profile:

An investigation of the AMC driver's record showed the following:

<u>Date</u>	<u>Location</u>	<u>Entry</u>	<u>Sentence</u>
2-15-78	Boulder, CO	DWI conviction	\$100 fine
9-11-80	Boulder, CO	Arrested for DWI	Released on own recognizance (case later dismissed because of court clerk mistake)

<u>Date</u>	<u>Location</u>	<u>Entry</u>	<u>Sentence</u>
2-26-81	Boulder, CO	Fatal accident; charged vehicular homicide while drunk	3 years in "half-way house"
11-21-81	Boulder, CO	Walked away from halfway house	
12-14-81	Dallas, TX	Arrested for Colorado escape	
9-10-82	Boulder, CO	Convicted of escape	4 years in State penitentiary
7-12-83	Boulder, CO	Paroled "by mistake"	
10-23-83	Louisville, CO	DUI, vehicular homicide	1 year jail after release from penitentiary

Case No. 35

NTSB Investigation No.: DEN 84 HAL 15

Accident Date: November 4, 1983

Accident Location: Gallup, New Mexico

Summary:

On November 4, 1983, at about 3:15 p.m., a Chevrolet sedan with two occupants was westbound on I-40 near Gallup, New Mexico. As the Chevrolet traveled along a straight section of the highway at a high speed, it ran off the left edge of the roadway onto a grass median, where it struck a guardrail and concrete culvert, then overturned. The passenger was ejected and killed, and the driver was seriously injured. The 52-year-old driver's BAC was 0.29 percent.

Driver Profile:

He held a valid New Mexico operator's license, even though he had been arrested for driving under the influence on April 20, 1983, in McKinley County (Gallup), New Mexico. He was charged with several other traffic violations and refused a chemical test. On May 6, 1983, he entered a guilty plea on all the charges, was assessed fines totalling \$70, and allowed to attend alcohol education classes.

Case No. 36

NTSB Investigation No.: CHI 84 HAL 14

Accident Date: December 19, 1983

Accident Location: Schaumburg, Illinois

Summary:

On December 19, 1983, at about 8:10 p.m., a 1977 Ford sedan traveling southbound on Meacham Road in Schaumburg, Illinois, collided with the rear of a 1977 Dodge station wagon, the rearmost of three cars stopped for a traffic signal at Route 58. A chain

reaction involving the three stopped cars ensued, resulting in injuries to the Ford driver and passenger and the Dodge driver. The 23-year-old Ford driver was arrested for DWI; his BAC was 0.25 percent.

Driver Profile:

Ten months earlier, in February 1983, he had been arrested for DWI with a BAC of 0.25 percent. He was convicted in April and sentenced to one year under court supervision, attendance at a DWI driver training school, and a fine of \$250. He did not attend the DWI driving school, but admitted himself to a Veterans Administration Hospital inpatient treatment program from August 3 to September 13 because, he said, his "life was falling apart."

The Ford driver told Safety Board investigators that he had started drinking at age 9 and started having blackouts at age 14; his drinking had caused him family and job problems, and he had alcohol hepatitis, an ulcer, and nerve damage due to his drinking.

Case No. 37

NTSB Investigation No.: CHI 84 HAL 03

Accident Date: November 15, 1983

Accident Location: Charleston, West Virginia

Summary:

On November 15, 1983, at about 2:50 a.m., near Charleston, West Virginia, a Ford pickup traveling south in the northbound lanes of I-77 crashed into a tractor-semitrailer. The tractor-semitrailer overturned and a fire ensued. The two tractor occupants and a pickup passenger were killed; the pickup driver was seriously injured. The 23-year-old pickup driver's BAC was 0.28 percent.

Driver Profile:

The pickup driver's record showed the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
10-8-82	Arrest DWI (BAC 0.14 percent),	Administrative license suspension, \$505 fine, 24 hours jail, DWI safety and treatment course; license reinstated 1-7-83

Although the October 1982 arrest occurred in West Virginia, the West Virginia DMV had no record of the 1982 criminal charges or trial. The administrative suspension occurred because the arresting officer notified the DMV about the DWI arrest. The driver was evaluated and referred to Level I treatment, rather than Level II, due to the absence of any dysfunction in his life. The 18-hour Level I program, intended for drivers arrested for drunk driving who are evaluated as having no significant problem with alcohol, apparently was not sufficient in this case.

Case No. 38

NTSB Investigation No.: DEN 84 HAL 24

Accident Date: May 30, 1983

Accident Location: Denver, Colorado

Summary:

On May 30, 1983, at about 9:05 p.m., a Buick sedan, traveling north on Federal Boulevard at 23rd Avenue in Denver, Colorado, swerved into the southbound lanes and collided head-on with a motorcycle. The Buick swerved back into the northbound lanes and struck a Chevrolet sedan. The motorcycle driver was killed and the passenger was seriously injured. The Buick and Chevrolet drivers received minor injuries. The 23-year-old Buick driver's BAC was 0.24 percent and the motorcycle driver's BAC was 0.19 percent.

Driver Profile:

The Buick and motorcycle drivers in this accident both had at least one previous conviction for DWI. An investigation of the Buick driver's record showed the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
6-17-81	Arrested DWI, refused test	License suspended for refusal, paid \$90 cost of evaluation, \$150 cost of level II treatment; DWI reduced to DWAI, 10-27-81
5-30-83	Vehicular homicide, vehicular assault	4 years community corrections program

The Buick driver admitted himself to a private treatment program before serving his sentence for the May 1983 crash. In a letter to the NTSB, the director of the program stated:

This case represents very accurately, in my opinion, the dilemma which faces our nation today with the drinking, driving problem. That dilemma is a result of attempts to deal in a legal framework with behavior derivative of an illness that requires clinical, and not infrequently, medical and psychiatric intervention. Although the Buick driver must assume full legal responsibility for the consequence of his behavior, adequate information was probably available during his first DUI episode to indicate that without appropriate therapeutic intervention he was without capacity to control his illness nor his potential derivative behavior. The Buick driver was not the only party in this tragic drama to fail to assume responsibility. The system by which we deal with a drinking driving behavior is equally as responsible when all facts are considered.

Case No. 39

NTSB Investigation No.: DEN 84 HAL 19

Accident Date: November 12, 1983

Accident Location: Hell's Half Acre, Wyoming

Summary:

On November 12, 1983, at about 5:15 p.m., on U.S. 20-26 at Hell's Half Acre, Wyoming, an eastbound tractor-semitrailer collided with the rear of a Ford sedan that had slowed to turn right into Hell's Half Acre. After impact, both vehicles went off the right side of the road. The Ford, which had three occupants, burst into flames, and the tractor collided with two unoccupied vehicles. The Ford driver was killed and the two Ford passengers were injured. More than two hours after the accident, the truck driver's BAC was 0.13 percent.

Driver Profile:

Although the truck driver had no prior DWI record, the evidence indicated a precrash pattern of alcohol consumption. After 21 hours of driving and on-duty time, the truckdriver had been stopped by police 2 1/2 hours prior to the accident, cited for a speeding violation, followed by the officer as he drove to a local town for the purpose of finding a place to rest, and then released by the officer. Toxicological analysis of a blood sample taken 2 1/2 hours after the crash indicated that his BAC at the time of the accident would have been approximately 0.17 percent.

Case No. 40

NTSB Investigation No.: LAX 84 HAL 13

Accident Date: November 4, 1982

Accident Location: Los Angeles, California

Summary:

On November 4, 1982, at about 12:15 p.m., a Toyota sedan traveling west on Normandie Avenue in Los Angeles, California, went through a red traffic signal at 79th Street and crashed into a Chevrolet sedan southbound on 79th Street. Two Chevrolet passengers were injured. The Toyota driver was arrested for intoxicated driving.

Driver Profile:

The 47-year-old male driver of the Toyota was operating his vehicle with a revoked California driver's license. His driving record revealed five DUI convictions between December 12 and 23, 1976 and between January 1 and 14, 1981. Further investigation revealed that he had been arrested for DWI a total of 37 times; six times he had been charged with drunk in public; two drug-related offenses and numerous other offenses between 1956 and 1982 were on his record. In addition, his license had been revoked for many years. He had used 15 different names when arrested between 1959 and 1982. In 1962, he was arrested for the first time in Los Angeles County and was placed on probation. Eventually, his alcohol problem and DWI arrests became such a financial drain on his family that his wife and children had to seek financial assistance from the county. He stated that he got tired of paying fines and started doing time in jail. He claims to have "spent a total of eight years behind bars for DUI." When asked if he had ever received treatment, he replied, "I have never received treatment. I have asked for treatment and alcohol programs, but the court always came back with 'denied'. They just lock me up."

His California arrest record follows. All but the first two offenses took place in Los Angeles.

<u>Arrest Date</u>	<u>Charge</u>	<u>Sentence</u>
12-29-59	Drunk in public	Dismissed
2-15-61	Drunk in public	Fine
3-01-62	Drunk in public	1 year probation
9-26-64	Drunk in public	Fine
9-13-66	Drunk driving	Fine
9-14-66	Drunk driving	Fine/jail
3-02-67	Drunk driving	Fine/jail
5-25-67	Drunk driving	Fine/jail
11-26-67	Driving with suspended license	Not known
2-29-68	Drunk driving	Fine/jail
8-01-68	Drunk driving	Fine/jail
11-06-68	Warrant - drunk driving	---
1-18-69	Drunk driving	Fine/jail
7-29-69	Drunk driving	Not known
10-17-69	Drunk driving	Fine/jail
11-07-69	Drunk driving	Fine/jail
6-15-70	Drunk in public	Not known
6-27-70	Drunk driving	Fine/jail/probation
7-04-70	Drunk driving	Bail forfeiture
8-22-70	Drunk driving	Not known
11-21-70	Drunk driving	Sentence suspended
7-14-71	Drunk driving	Sentence suspended
8-05-71	Warrant - drunk driving	---
9-08-71	Drunk driving	Sentence suspended
9-24-71	Drunk in public	Not known
2-19-72	Drunk driving	Not known
4-06-72	Drunk driving	Not known
4-06-72	DUI	Sentence suspended
4-07-72	DUI	Not known
4-22-72	Felony DUI (injury)	Jail/probation
9-02-72	Drinking in public	Jail/probation
12-22-72	DUI	Jail
7-01-73	DUI, probation violation	Jail
3-21-74	DUI	Jail
11-19-74	Drugs	Not known
4-08-75	DUI	Not known
8-12-75	DUI	Not known
11-25-75	Drugs	Not known
12-19-75	DUI	Not known
1-14-76	DUI	Not known
8-05-76	DUI	Not known
10-16-76	Bench warrant - DUI	License suspension
1-13-78	DUI	Fine/jail
11-03-78	DUI	Dismissed
11-21-78	DUI	Probation/jail/fine
12-22-80	DUI	Jail
11-04-82	DUI (accident)	Jail

Case No. 41

NTSB Investigation No.: CHI 83 HAL 07

Accident Date: August 20, 1983

Accident Location: Itasca, Illinois

Summary:

On August 20, 1983, at about 10:30 p.m., a Ford station wagon, stopped facing west on the eastbound shoulder of S. R. 19 in Itasca, Illinois, made a U-turn to go east. While turning, the Ford went into the opposing lane of traffic and collided with a westbound AMC sedan. The Ford driver left the scene of the accident and drove into a nearby parking field, where she collided with an unoccupied Mercury sedan. The Ford driver, who was the only person injured, was charged with intoxicated driving. She refused to take a BAC test.

Driver Profile:

The Ford driver, a 27-year-old female, was driving on a revoked Illinois driver's license, the result of a March 1983 arrest and conviction for DUI. She had also been convicted of reckless driving in July 1982 and had received points against her license.

Case No. 42

NTSB Investigation No.: MKC 83 FH 002

Accident Date: May 27, 1983

Accident Location: West Fork, Arkansas

Summary:

On May 27, 1983, at about 2:00 a.m., a Ford pickup was traveling north in the southbound lane of U.S. 71, a two-lane highway near West Fork, Arkansas, as a southbound intercity bus was approaching. As the vehicles converged, the bus steered sharply to the left, but was unable to avoid colliding with the oncoming pickup. The Ford pickup driver and his wife were killed; the bus driver and 17 passengers were injured. The Ford driver's BAC was 0.24 percent.

Driver Profile:

The 25-year-old male Ford driver was recently married and lived in a rural Arkansas community. According to the County Sheriff, the driver had lived in the area for about a year. The Sheriff's office had never issued a traffic citation to him in that period, nor had the Sheriff observed him to be under the influence of alcohol.

A check of the Arkansas Driver License files found no record of him. However, additional checks by the Arkansas State Police discovered that he had a cancelled Minnesota operator's license.

The Minnesota Department of Public Safety reported that he had had two previous DWI convictions, one in February 1979 and one in June 1981. As a result, the Minnesota Department of Public Safety (DPS) had him undergo an Alcohol Problem Assessment on February 1, 1982. On February 10, 1982, a DPS Driver Safety Analyst interviewed him. The Minnesota DPS decided that, as a condition for keeping his license, he would be required to show completion of an outpatient treatment program for chemical dependency and attend 3 months of weekly AA meetings. When he showed no proof of either, the DPS cancelled his driver's license on June 15, 1982 and revoked his privilege to drive in Minnesota.

Case No. 43

NTSB Investigation No.: ATL 84 HAL 16
Accident Date: December 17, 1983
Accident Location: Kennesaw, Georgia

Summary:

On December 17, 1983, at about 12:35 a.m., a Ford pickup northbound on U.S. 41 near Kennesaw, Georgia, ran off the left edge of the roadway onto the grass median and crashed into the rear of a Ford police car stopped on the median. The police car burst into flames; the police officer failed to escape from the flaming vehicle and was killed. The 19-year-old pickup driver, who received only minor injuries, had a BAC of 0.14 percent.

Driver Profile:

The pickup driver held a valid nonrestricted Class 1-2 Georgia driver's license at the time, authorizing him to operate automobiles, small trucks, and motorcycles. His driving record in Georgia revealed a traffic control device violation in December 1981 and a speeding violation in March 1983; he had six points charged against his driver's license. There is no record of prior accidents or alcohol-involved driving.

Case No. 44

NTSB Investigation No.: ATL 84 HAL 18
Accident Date: January 13, 1984
Accident Location: Atlanta, Georgia

Summary:

On January 13, 1984, at about 11:30 p.m., a Dodge sedan with a 17-year-old driver and two teenage passengers, was northbound on Briarcliff Road in Atlanta, Georgia. After negotiating a right curve, the sedan skidded off the right side of the roadway, struck the edge of a bridge rail, went down an embankment, and overturned. The driver was killed and the two passengers were injured. The driver's BAC was tested at 0.16 percent.

Driver Profile:

The 17-year-old female driver was licensed to drive by the State of Georgia on November 9, 1982. Her record showed no violations or accidents.

Case No. 45

NTSB Investigation No.: FTW 84 HAL 02
Accident Date: February 15, 1984
Accident Location: Katy, Texas

Summary:

On February 15, 1984, about 9:55 p.m., a Toyota sedan with three occupants was traveling east on an I-10 feeder road near Katy, Texas, when it collided with the rear of a slow-moving Ford pickup whose taillights were not illuminated.

The Toyota driver and a passenger were killed, and the other Toyota passenger was seriously injured. The passenger in the Ford pickup received a minor injury; the driver was uninjured. The BAC of the 16-year-old male Toyota driver was 0.26 percent.

Driver Profile:

The Toyota driver had had an unrestricted Texas operator's license only since March 4, 1983. He had no Texas record of previous accidents or moving violations. All three occupants of the Toyota were under age; one of the occupants possessed a false identification indicating he was 20 years old (the legal drinking age in Texas is 19 years).

Case No. 46

NTSB Investigation No.: ATL 84 HCR 10

Accident Date: November 19, 1983

Accident Location: Sulphur, Louisiana

Summary:

On November 19, 1983, about 10:30 a.m., a Mercury sedan with three occupants was traveling east on Calcasieu Parish Road 18, in Sulphur, Louisiana. As the Mercury turned left to enter a driveway, it was struck on the left side by a Lincoln sedan traveling east on the westbound side of the roadway at an apparent high speed.

A 2-year-old unrestrained Mercury passenger was killed; the Mercury driver and other passenger were seriously injured. The Lincoln driver and one passenger received minor injuries; six other Lincoln passengers were uninjured. The Lincoln driver's BAC was 0.17 percent.

Driver Profile:

The Lincoln driver's record indicates that, due to failure to prove financial responsibility after a previous accident, his driver's license and vehicle registration were suspended on May 10, 1983. In addition, he had seven moving violations in the last three years and he has been convicted several times of public intoxication, fighting, and disorderly conduct.

Case No. 47

NTSB Investigation No.: FTW 84 HAL 08

Accident Date: June 5, 1984

Accident Location: Cedar Hills, Texas

Summary:

On June 5, 1984, at about 11:30 p.m., an Oldsmobile sedan occupied by seven teenagers was eastbound on Mount Lebanon Road in Cedar Hills, Texas. At the intersection of U.S. 67, the 17-year-old Oldsmobile driver failed to stop at a stop sign before entering the intersection and drove into the path of a GMC pickup southbound on U.S. 67. The pickup crashed into the left side of the Oldsmobile. The Oldsmobile driver and three passengers were killed; the remaining three Oldsmobile passengers, the pickup driver, and the pickup passenger were injured. The Oldsmobile driver's BAC was 0.15 percent.

Driver Profile:

The 17-year-old Oldsmobile driver was convicted of speeding in August 1982.

Case No. 48

NTSB Investigation No.: MKC 83 HAL 03

Accident Date: August 19, 1983

Accident Location: Windsor, Missouri

Summary:

On August 19, 1983, about 4:00 p.m., a 1978 Ford was traveling south at high speed on Missouri State Route Y, a two-lane rural road near Windsor, Missouri. The Ford drove off the left side of the road, struck an embankment, and rolled over. Both the seriously injured driver and the fatally injured passenger were ejected. The 31-year-old driver's BAC was 0.31 percent; the passenger's BAC was 0.18 percent.

Driver Profile:

The driver had a Missouri operator's license issued February 24, 1983. No violations appeared on his Missouri license in August 1983. However, investigation of a neighboring court in Gallaway County revealed that he was arrested on March 3, 1983 for DWI (BAC 0.22 percent) by the Missouri Highway Patrol. The records of the Henry County Court (same county as accident site) showed that four days after that, on March 7, 1983, he was arrested for DWI (BAC 0.22 percent) by the Missouri Highway Patrol. On August 16, 1983, three days before the subject accident, he pled guilty and was sentenced to 30 days in the Henry County jail (was given credit for time served), fined \$150, and given 2 years probation.

Further investigation into his driving record revealed that, from March 1970 to March 1976, he had 24 entries on his New Jersey driver's license record:

<u>Date</u>	<u>Entry</u>
3-5-70	Failure to observe traffic control device
7-7-70	Careless driving; operating under influence of liquor or drugs
8-1-70	Driver license suspension
3-1-71	Registration suspension
6-5-71	Possession or consumption of intoxicating liquor by minor in a motor vehicle
8-29-73	Registration restored
9-30-73	Driver license restored; driving while impaired
12-1-73	Refusal to submit to breath alcohol determination test
12-13-73	Driver license suspension
12-13-74	Driver license restored
3-4-75	Operating under influence of liquor or drugs
4-1-75	Operating under influence of liquor or drugs
4-15-75	Operating under influence of liquor or drugs
5-22-75	Driver license suspension
7-26-75	Refusal to submit to breath alcohol determination test
8-7-75	Driver license suspension
11-20-75	Refusal to submit to breath alcohol determination test
12-14-75	Operating under influence of liquor or drugs; operating while suspended
3-16-76	Driver license suspension
3-25-75	Refusal to submit to breath alcohol determination test
3-25-76	Driving during period of suspension

Case No. 49

NTSB Investigation No.: CHI 84 HAL 12
Accident Date: July 27, 1983
Accident Location: Twin Lakes, Wisconsin

Summary:

On July 27, 1983, about 1:55 a.m., a Buick sedan was traveling west on Kenosha County Highway "F" near Twin Lakes, Wisconsin. While negotiating a right curve, the driver apparently lost control of the Buick, and it went off the left side of the highway and struck a tree. The 18-year-old driver was killed and the two passengers were seriously injured. The driver's BAC was 0.25 percent.

Driver Profile:

The 18-year-old driver had no previous record.

Case No. 50

NTSB Investigation No.: ATL 84 HAL 19
Accident Date: October 8, 1983
Accident Location: Fairburn, Georgia

Summary:

On October 8, 1983, about 7:30 p.m., a Chevrolet sedan was eastbound on State Route 74 near Fairburn, Georgia, when it encroached on the westbound lane and sideswiped a westbound Toyota sedan. The Chevrolet then continued east in the westbound lane and collided head-on with a Mazda sedan. The Mazda driver was killed and the Chevrolet driver was seriously injured. The Toyota driver and two passengers received only minor injuries. The Chevrolet driver's BAC was 0.14 percent.

Driver Profile:

The 29-year-old Chevrolet driver was driving with a suspended license. Between November 1979 and November 1982, he had five speeding convictions and two DWI convictions.

On March 12, 1984, the driver was sentenced to 15 years in the State penitentiary for the subject accident.

Case No. 51

NTSB Investigation No.: FTW HAL 10
Accident Date: June 10, 1984
Accident Location: Savoy, Texas

Summary:

On June 10, 1984, about 6:20 p.m., a Chevrolet van was traveling east on U.S. 82 near Savoy, Texas. Although the 29-year-old driver was handicapped (both legs amputated above the knee), the van had not been altered to accommodate his handicap; he drove by steering with one hand and holding a cane in the other, which he used to press the accelerator and brakes. He was not wearing any type of leg prostheses. The van veered into the opposing lane and crashed head-on into a Datsun sedan with six occupants. All six Datsun occupants were killed, and the van driver was injured. The van driver's BAC was 0.10 percent.

Driver Profile:

The van driver's Texas license (which had expired on October 10, 1978) had been suspended in 1976 and never reinstated. An investigation into his Texas DWI arrest record revealed the following:

<u>Date</u>	<u>Charge</u>	<u>Sentence</u>
10-29-78	DWI	Charge dismissed
10-31-78	DWI	\$75 fine
11-2-79	DWI	Reduced to suspended license offense
8-3-81	DWI	Reduced to suspended license offense

He had been stopped several times by Texas police officers for no driver's license and DWI violations, but not arrested (usually the police either took him home or summoned someone to take him home). Safety Board investigators were told by law enforcement officers involved that he was not arrested for the following reasons: (1) lack of jail facilities to house handicapped people; (2) sympathy for him; (3) fear of condemnation by judges for arresting a handicapped individual; and (4) the cost of medical expenses for him while in jail.

His criminal record indicated he had been arrested nine times and convicted five times for felony violations. At the time of the accident, he was on State probation for a drug-related offense. He had been sentenced to a Texas Department of Corrections prison, then was released to a county jail, and immediately placed on probation.

APPENDIX B

RECOMMENDATIONS OF PRESIDENTIAL COMMISSION ON DRUNK DRIVING

Recommendation—*Public Information Campaign*

A media program should be developed and coordinated among appropriate agencies in each State, in cooperation with the private sector, to focus on alcohol use and abuse and their correlation to highway safety. Properly included should be information relating to new laws, fatalities and injuries, arrests, and current program activities. Specifically, the program should have the following aims:

- (1) To increase public awareness of the risks of a crash caused by drinking and driving;
- (2) To heighten the perceived risk of apprehension, especially by urging newspapers to report names and addresses of persons arrested and/or convicted of driving under the influence, and also of those whose licenses have been suspended or revoked;
- (3) To encourage responsibility on the part of the general public to intervene in DUI situations and to provide education on how to do so;
- (4) To support private organizations in the establishment of prevention programs; and
- (5) To foster awareness of the health benefits of safety belts, child restraint devices, and adhering to the 55 mph speed limit.

Recommendation—*Administration*

Each State should identify a single coordinating agency for public information and education programs to minimize or prevent issuance of contradictory messages that confuse the public and endanger long-term continuity of combined efforts.

Recommendation—*Media and Influentials*

Editorial boards and media trade associations should encourage their associates and members to communicate with the public regularly about alcohol use and abuse and highway safety.

Television and radio program managers and film makers should portray alcohol use and abuse and highway safety in a responsible manner, and, where appropriate, use program content to communicate with the public about the problem of driving under the influence.

The clergy in each community should periodically remind their congregations about their responsibility for highway safety, particularly in regard to alcohol use and abuse.

Medical schools and associations should give a high priority to alcohol use and abuse issues in their curricula and organizational agendas. Physicians should be encouraged to educate their patients.

Recommendation—*Youth Programs*

The best hope for prevention lies in teaching people how to prevent drunk driving among those in their own social circles—family, friends, neighbors, and co-workers. Young people must be a primary focus, both because they are at greatest risk for involvement in motor vehicle crashes and because their driving and drinking habits are still in the formative stages. Programs must include a variety of curricular and extra-curricular educational activities:

- (1) Curricula concerning alcohol, drugs and other impairments on the body and their relationship to highway safety should be included as part of general school curricula promoting values clarification and decision-making skills. Training for teachers and school counselors is an essential ingredient.
- (2) Extracurricular programs in junior and senior high schools and in colleges should be publicized and encouraged.
- (3) Driver education programs should include information on the effects of alcohol, drugs, and other impairments on the body.
- (4) Athletic clubs and other youth organizations should establish programs for members and their peers concerning the use and abuse of alcohol, drugs, and other impairments on the body.

APPENDIX B

Recommendation—General Outreach

Corporations and industry trade associations, labor organizations, civic, fraternal, and social organizations should:

- (1) Develop and disseminate to employees and/or members policy statements regarding the use and abuse of alcohol and alcohol's relationship to highway-related deaths and injuries, and implement these policies at company-sponsored events.
- (2) Implement educational programs directed toward their employees and customers concerning the problems caused by driving under the influence and the solutions available.
- (3) Implement employee assistance programs to deal with employees' alcoholism problems.
- (4) Become active advocates and participants in local or State endeavors to reduce driving under the influence.

Recommendation—Motor Vehicle Related Industries

Motor vehicle manufacturers and dealers should include in their owners' manuals, advertising programs, showrooms, and local sales efforts information on the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

Insurance companies should include in their policy billings, advertising and sales materials, and agent information kits, information on the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

Gasoline stations and motor vehicle repair shops should display signs informing their customers of the law and their responsibility relating to the hazards of combining alcohol use and driving and the benefits in reducing death and injury of using safety belts and child restraints and adhering to the 55 mph speed limit.

Recommendation—Alcoholic Beverage Industries and Servers

The beer, wine and distilled spirits industries at the producer, wholesale and retail levels should either initiate or expand educational programs to warn the public of the hazards of drinking and driving.

Package stores, bars, restaurants, fraternal and social organizations, and other establishments having an alcoholic beverage license should display signs informing customers of the law relating to alcohol use and highway safety.

Alcoholic Beverage Control Commissions should encourage owners of retail establishments which serve alcoholic beverages to provide their employees with education on alcohol use and abuse and highway safety.

Schools for bartending should provide education and training concerning alcohol use and abuse and highway safety.

Party hosts should be provided information on ways of entertaining that help prevent the abuse of alcohol at social functions and on methods of intervening to prevent intoxicated guests from driving.

Recommendation—Minimum Legal Purchasing Age

States should immediately adopt 21 years as the minimum legal purchasing and public possession age for all alcoholic beverages.

Legislation at the Federal level should be enacted providing that each State enact and/or maintain a law requiring 21 years as the minimum legal age for purchasing and possessing all alcoholic beverages. Such legislation should provide that the Secretary of the United States Department of Transportation disapprove any project under Section 106 of the Federal Aid Highway Act (Title 23, United States Code) for any State not having and enforcing such a law.

APPENDIX B

Recommendation—*Dram Shop Laws*

States should enact "dram shop" laws establishing liability against any person who sells or serves alcoholic beverages to an individual who is visibly intoxicated.

Recommendation—*Alcoholic Beverage Consumption in Motor Vehicles*

State and local governments should prohibit consumption of alcoholic beverages in motor vehicles and prohibit the possession of open alcoholic beverage containers in the passenger compartments of motor vehicles.

Recommendation—*Program Financing*

Legislation should be enacted at State and local levels which creates a dedicated funding source including offender fines and fees for increased efforts in the enforcement, prosecution, adjudication, sanctioning, education and treatment of DUI offenders.

Recommendation—*Citizen and Public Support*

Citizen Support: Grassroots citizen advocacy groups should be encouraged to continue fostering awareness of the DUI problem, to cooperate with government officials, prosecutors and judges to deal more effectively with the alcohol-related crash problem, and to encourage the development of personally responsible drinking/driving behavior.

Task Forces: State and local governments should create task forces of governmental and non-governmental leaders to increase public awareness of the problem, to apply more effectively DUI laws, and to involve governmental and non-governmental leaders in action programs.

National Body: A non-governmental body of public and private leaders should be established at the national level to ensure a continuing focus on efforts to combat driving under the influence.

Recommendation—*Criminal Justice System Support*

Priority: Police, prosecutors and courts should publicly assign a high priority to enforcing DUI statutes.

Training: Police, prosecutors, judges, and other related justice system personnel should participate in entry level and annual in-service training programs established to improve the detection, prosecution, and adjudication of DUI offenders.

Legal Updates: Prosecutors should provide local enforcement agencies and courts with periodic legal updates on developments and/or changes in the DUI laws.

Legal System Review: The Chief Justice or highest appellate judge in each State, in the interest of uniformity and effectiveness, should convene an annual meeting of all components of the legal system to review the progress and problems relating to DUI offenses and issue a report of the results.

Recommendation—*Tracking and Reporting Systems*

Record System: Police, prosecutors and courts should collect and report DUI apprehension, charging and sentencing information to the state licensing authority. Convictions on military and Federal lands, including Indian tribal lands, should also be reported. The State licensing authority must maintain a traffic records system capable of tracking offenders from arrest to conviction or other disposition, including sanctions imposed by both judicial and licensing authorities. This system should also be used for evaluation purposes.

Uniform Traffic Ticket: State and local governments should adopt a statewide uniform traffic ticket system.

Driver License Compact: Each State should adopt the Driver License Compact and the one license/one record policy, while also utilizing the National Driver Register.

Recommendation—*Safety Belt and Child Restraint Usage Laws*

States should enact safety belt and child restraint usage laws.

APPENDIX B

Recommendation—*Selective Enforcement and Road Blocks*

Police agencies should apply selective enforcement and other innovative techniques, including the use of preliminary breath testing devices and judicially approved roadblocks, to achieve a high perception of risk of detection for driving under the influence.

Recommendation—*Chemical Testing*

Implied Consent: Each State should establish an "implied consent" statute which provides that all drivers licensed in that State are deemed to have given their consent to tests of blood, breath, or urine to determine their alcohol or drug concentration. The statute should provide:

Sufficiently severe license suspensions to discourage drivers from refusing the test.

That a test refusal can be introduced at a DUI trial as evidence of consciousness of guilt.

That offenders who are unconscious or otherwise incapable of refusal are deemed to have given their consent to a test, the results of which are admissible in any trial or proceeding.

That an individual's right to consult his attorney may not be permitted to unreasonably delay administration of the test.

That results of preliminary breath test devices be admissible in the DUI trial proceedings.

That refusals in sister States shall result in license suspensions in the State of driver residence.

Preliminary Breath Testing: States should enact a statute allowing the use and admissibility in evidence of Preliminary Breath Test (PBT) devices by police officers.

Police Choice of Chemical Tests: The arresting officer should determine the appropriate chemical test or tests to be administered to the driver suspected of driving under the influence.

Mandatory BAC Test: States should require mandatory alcohol and other drug testing of: (1) all drivers fatally injured, and (2) where there is probable cause to suspect alcohol involvement, all drivers involved in a fatal or serious personal injury crash.

Recommendation—*Booking Procedures*

Laws, policies, and procedures should be adopted to expedite arrest, booking, and charging procedures.

Recommendation—*Citizen Reporting*

Citizens should be encouraged by governmental and non-governmental groups to report drivers under the influence.

Recommendation—*Plea Bargaining*

Prosecutors and courts should not reduce DUI charges.

Recommendation—*Definition of BAC*

States should enact a definition of 'breath alcohol concentration' and make it illegal to drive or be in control of a motor vehicle with a breath alcohol concentration above that defined level.

Recommendation—*0.08 Presumptive Level of Under the Influence*

Legislation should be enacted which provides that a person with an alcohol concentration of 0.08 is presumed to be driving under the influence.

Recommendation—*0.10 Illegal Per Se*

Legislation should be enacted making it illegal per se for a person with an alcohol concentration of 0.10 or higher within three hours of arrest to drive or be in actual physical control of a motor vehicle.

Recommendation—*Appellate Action*

Prosecutors should initiate appropriate appellate actions to ensure judicial compliance with statutory mandates governing DUI cases.

APPENDIX B

Recommendation—Mandatory Sentencing

Sentencing of DUI Offenders: The sentences recommended herein upon conviction of driving under the influence should be mandatory and not subject to suspension or probation. Specifically, the recommendations are that:

All States establish mandatory *substantial minimum fines* for DUI offenders, with correspondingly higher mandatory minimum fines for repeat offenders.

Any person convicted of a first violation of driving under the influence should receive a mandatory license suspension for a period of not less than 90 days, plus assignment of 100 hours of community service or a minimum jail sentence of 48 consecutive hours.

Any person convicted of a second violation of driving under the influence within five years should receive a mandatory minimum jail sentence of 10 days and license revocation for not less than one year.

Any person convicted of a third or subsequent violation of driving under the influence within five years should receive a mandatory minimum jail sentence of 120 days and license revocation for not less than three years.

Sentencing of License Violators: States should enact a statute requiring a mandatory jail sentence of at least 30 days for any person convicted of driving with a suspended or revoked license or in violation of a restriction due to a DUI conviction.

Recommendation—Felony

Causing death or serious bodily injury to others while driving under the influence should be classified as a felony.

Recommendation—Court Administration

Speedy Trials: DUI cases at the trial level should be concluded within 60 days of arrest. Sentencing should be accomplished within 30 days. The appellate process should be expedited and concluded within 90 days.

Traffic Infractions: To relieve court congestion and to focus attention on DUI cases, minor traffic infractions should be adjudicated by simplified and informal procedures.

Recommendation—Pre-Conviction Diversion

Pre-conviction diversion to alcohol education or alcohol treatment programs should be eliminated. A finding on the charge should be rendered and participation in education or treatment programs should then become a condition of sentencing.

Recommendation—Presentence Investigation

Before sentencing, a court should obtain and consider a presentence investigation report detailing the defendant's driving and criminal record, and, where possible, an alcohol problem assessment report. In all cases an alcohol problem assessment report should be completed by qualified personnel prior to the determination of an education or treatment plan.

Recommendation—Victim Programs

Victim Restitution: Any person convicted for driving under the influence who causes personal injury or property damage should pay restitution.

Elimination of Bankruptcy Loophole: The United States Congress should enact legislation which eliminates the possibility that a drunk driver, judged civilly liable, will be able to escape the penalties of civil action by filing for bankruptcy.

Victim Assistance: State and local governments and private and volunteer organizations should provide assistance to victims of DUI offenders.

Victim Impact Statements: State and local governments or courts by rule should require victim impact statements (including oral or written statements by victims or survivors) prior to sentencing in all cases where death or serious injury results from a DUI offense.

APPENDIX B

Recommendation—Administrative Per Se License Suspension

States should enact legislation to require prompt suspension of the license of drivers charged with driving under the influence, upon a finding that the driver had a BAC of 0.10 in a legally requested and properly administered test. The prompt suspension should also extend to those who refuse the test, as well as those who are driving in violation of a restricted license. Such suspension may be carried out by the arresting law enforcement agency, the court upon arraignment, or the administrative agency charged with license administration. There should be reciprocity among States to assure a driver's license suspension by the home State if the driver meets these conditions in another State.

Recommendation—Restricted Licenses

Each State driver licensing authority should review its practice of issuing Occupational Hardship Driver Licenses following suspension or revocation and establish strict uniform standards relative to issuance and control of such limited driving privileges. These licenses should be issued only in exceptional cases. In no event should this be done for repeat offenders.

Recommendation—Provisional License for Young Drivers

States should adopt laws providing a provisional license for young beginner drivers which would be withdrawn for a DUI conviction or an implied consent refusal.

Recommendation—Licensing Information

Driver Licensing Manuals should discuss the relationship of alcohol and drugs to highway safety and include the penalties for arrest and conviction of driving while under the influence.

Motor Vehicle Administrators should include in license and motor vehicle registration renewal applications information on the relationship of alcohol and drugs to highway safety.

Driver's License Examinations should include questions specifically designed to determine the applicant's knowledge of the relationship of alcohol and drugs to highway safety, as well as to his or her understanding of the laws governing such conduct.

Recommendation—Assignment Process

Rehabilitation and education programs for individuals convicted of driving under the influence should be provided as a supplement to other sanctions, and not as a replacement for those sanctions.

Presentence investigations, including alcohol assessments conducted by qualified personnel, should be available to all courts in order to appropriately classify the defendant's problem with alcohol. Repeat offenders should be required to undergo medical screening for alcoholism by a physician trained in alcoholism, an alcoholism counselor, or by an approved treatment facility.

Alcohol education programs should be used only for those first offenders who are classified as social drinkers and for those who have had no previous exposure to alcohol education programs. Problem drinkers and repeat offenders should be referred to more intensive rehabilitation programs.

Alcohol treatment and rehabilitation programs should be available for individuals judged to need such services. The programs should be tailored to the individual's needs, and the individual should be assigned to such programs for a length of time determined by treatment personnel and enforced by court probation.

State insurance commissioners should require and/or State legislators should enact legislation requiring health insurance providers to include coverage for the treatment and rehabilitation of alcohol and other drug dependent persons in all health insurance policies.

APPENDIX B

Recommendations—*Compliance*

When assignments are not complied with, the courts or the administrative licensing agency must take steps to impose further restrictions on driving privileges or to assess further penalties as spelled out in the original sentence.

A records reporting system should be available to assure that individual offenders assigned to education or treatment services do in fact comply with the assignments, and to make information on compliance available to motor vehicle administration officials at the time of appearance for relicensing.

Offenders should be required to appear in person to request return of driving privileges and should be given appropriate tests to determine their level of knowledge about alcohol and its relation to highway safety, as well as about the laws governing operation of a motor vehicle while under the influence of alcohol.

Recommendation—*Juvenile Offenders*

Juvenile offenders should be required to participate in a program which closely follows the requirements for adult offenders.

Recommendations—*Administrative*

State standards, criteria and review procedures should be established for alcohol education schools, treatment and rehabilitation services, and community service programs. A State agency should be assigned responsibility to certify to the courts the alcohol education and treatment and rehabilitation programs that meet established criteria and standards. This same agency should make efforts to draw upon and involve appropriate existing programs, e.g., employee assistance programs.

States should develop and implement an on-going statewide evaluation system to assure program quality and effectiveness.

Individuals should be assessed fees for education or treatment and rehabilitation services at a level sufficient to cover the costs.

Incentive Grant Criteria for Alcohol Traffic Safety Programs

Part 1209.5 Requirements for Basic Grant

To qualify for a basic incentive grant of 30 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement the following requirements:

(a)(1) The prompt suspension, for a period not less than 90 days in the case of a first offender and not less than one year in the case of a repeat offender, of the driver's license of any individual who a law enforcement officer has probable cause under the State law to believe has committed an alcohol-related traffic offense, and (i) to whom is administered one or more chemical tests to determine whether the individual was intoxicated while operating the motor vehicle and who is determined, as a result of such tests, to be intoxicated, or (ii) who refuses to submit to such a test as proposed by the officer.

(b)(1) A mandatory sentence, which shall not be subject to suspension or probation, of imprisonment for not less than 48 consecutive hours, or not less than 10 days of community service for any person convicted of driving while intoxicated more than once in any five year period.

(c)(1) Establishing that any person with a blood alcohol concentration of 0.10 percent or greater when driving a motor vehicle shall be deemed to be driving while intoxicated.

(d)(1) Increased efforts or resources dedicated to the enforcement of alcohol-related traffic laws and increased efforts to inform the public of such enforcement.

Part 1209.6 Requirements for a Supplemental Grant

(a) to qualify for a supplemental grant of 20 percent of its 23 U.S.C. 402 apportionment for fiscal year 1983, a State must have in place and implement or adopt and implement a license suspension system in which the average time from date of arrest to suspension of a license does not exceed an average of 45 days, and

(b) have in place and implement or adopt and implement eight of the following twenty-one requirements:

1. Enactment of a law that raises, either immediately or over a period of three years, the minimum age for drinking any alcoholic beverage to 21.
2. Coordination of State alcohol highway safety programs.
3. Rehabilitation and treatment programs for persons arrested and convicted of alcohol-related traffic offenses.

4. Establishment of State Task Forces of governmental and non-governmental leaders to increase awareness of the problem, to apply more effectively drunk driving laws and to involve government and private sector leaders in programs attacking the drunk driving problem.
5. A State-wide driver record system readily accessible to the courts and the public which can identify drivers repeatedly convicted of drunk driving. Conviction information must be recorded in the system within 30 days of a conviction, license sanction or the completion of the appeals process. Information in the record system must be retained for at least five years. The public shall have access to those portions of a driver's record that are not protected by Federal or State confidentiality or privacy regulations.
6. Establishment in each major political subdivision of a locally coordinated alcohol traffic safety program, which involves enforcement, adjudication, licensing, public information, education, prevention, rehabilitation and treatment and management and program evaluation.
7. Prevention and long-term education programs on drunk-driving.
8. Authorization for courts to conduct pre- or post-sentence screening of convicted drunk drivers.
9. Development and implementation of State-wide evaluation system to assure program quality and effectiveness.
10. Establishment of a plan for achieving self-sufficiency for the State's total alcohol traffic safety program.
11. Use of roadside sobriety checks as part of a comprehensive alcohol safety enforcement program.
12. Establishment of programs to encourage citizen reporting of alcohol-related traffic offenses to the police.
13. Establishment of a 0.08 percent blood alcohol concentration as presumptive evidence of driving while under the influence of alcohol.
14. Adoption of a one-license/one-record policy. In addition, the State shall fully participate in the National Driver Register and the Driver License Compact.
15. Authorization for the use of a preliminary breath test where there is probable cause to suspect a driver is impaired.
16. Limitations on plea-bargaining in alcohol-related offenses. ...no alcohol-related charge can be reduced to a non-alcohol-related charge or probation without judgment be entered without a written declaration of why the action is in the interest of justice. If a charge is reduced, the defendant's driving record must reflect that the reduced charge is alcohol related.

17. Provide victim assistance and victim restitution programs and require the use of a victim impact statement prior to sentencing in all cases where death or serious injury results from an alcohol-related traffic offense.
18. Mandatory impoundment or confiscation of license plate/tags of any vehicle operated by an individual whose license has been suspended or revoked for an alcohol-related traffic offense. Any such impoundment or confiscation shall be subject to the lien or ownership right of third parties without actual knowledge of the suspension or revocation.
19. Enactment of legislation or regulations authorizing the arresting officer to determine the type of chemical test to be used to measure intoxication and to authorize the arresting officer to require more than one chemical test.
20. Establishment of liability against any person who serves alcoholic beverages to an individual who is visibly intoxicated.
21. Use of innovative programs.

STATE STATUS: SAFETY BOARD ALCOHOL AND HIGHWAY SAFETY RECOMMENDATIONS

State	One License/ One Record Concept 1/	Sobriety Checkpoints	REDDI	Administrative License Revocation
Alabama	x		x	
Alaska	x		x	x
American Samoa				
Arizona	x	x	x	
Arkansas	x	x	x	
California	x		x	
Colorado	x	x	x	x
Connecticut	x	x		
Delaware	x	x	x	x
Dist. of Columbia		x	x	x
Florida	x	x	x	
Georgia	x	x		
Guam				
Hawaii	x	x		
Idaho	x	(x)	x	
Illinois	x	x	x	
Indiana	x	x	x	x
Iowa	x	x	x	x
Kansas	x	x	x	
Kentucky	x	x	x	x*
Louisiana	x		x	x
Maine	x	x		x
Maryland	x	x	x	
Massachusetts		x	x	
Michigan	x		x	
Minnesota	x	x		x
Mississippi	x	x		x
Missouri	x	x	x	x
Montana	x	x	x	
Nebraska	x	x	x	
Nevada	x	x	x	x
New Hampshire	x	x	x	
New Jersey	x	x	x	
New Mexico	x	x		x
New York	x	x		
North Carolina	x	x	x	x
North Dakota	x		x	x
N. Marianas	x			
Ohio	x		x	x*
Oklahoma	x			x
Oregon	x	x	x	x
Pennsylvania	x	x	x	
Puerto Rico	x			
Rhode Island	x	x	x	
Sec'y of Interior	x			
South Carolina	x		x	
South Dakota	x	(x)		
Tennessee	x	x		
Texas		x		
Utah	x	x	x	x
Vermont		x		
Virginia	x	x	x	
Virgin Islands				
Washington	x	(x)	x	x
West Virginia	x			x
Wisconsin	x		x	
Wyoming	x		x	x
Total	47	36/(3)	37	23

() = used previously, current use suspended or uncertain

* = requires judicial review

1/ = Based on state driver license administrators responses to a September 27, 1983 questionnaire circulated by the Mississippi Department of Public Safety. The states marked reported that they adhere to major provisions of the one license/one record concept e.g. requiring surrender of other state drivers licenses upon application, membership in the criver license compact, etc. Licensing experts have questioned whether some of these states actually adhere to the one license concept in practice.