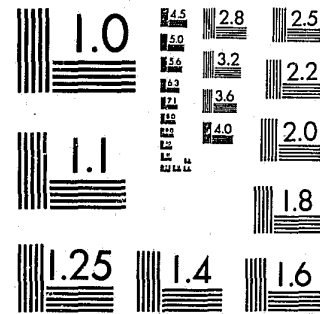


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ASSESSMENT OF THE IMPLEMENTATION
AND IMPACT OF SHB 665: THE NEW
DRIVING WHILE INTOXICATED LAW

December 1980

DIVISION OF CRIMINAL JUSTICE
Office of Financial Management

ASSESSMENT OF THE IMPLEMENTATION

AND

IMPACT OF SHB 665:

THE NEW DRIVING WHILE INTOXICATED LAW

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ACQUISITIONS

PREFACE

In 1979, the Washington State Legislature enacted a tougher driving while intoxicated (DWI) law (SHB 665) which contained stricter provisions for the determination of guilt and provided for mandatory sentencing of DWI offenders. It was the intent of both the executive and the legislature that such a change would ultimately act as a deterrent to future acts of driving while intoxicated. This study not only provides some initial indications of the deterrent effect of the new DWI law, but also identifies the impacts of the implementation of this law on various organizations within the criminal justice system. The findings of this study will better enable us to assess the impacts of this new state law.

Reports such as this represent the Office of Financial Management's commitment to pursuit of improved decision-making capabilities. Public policy is best formulated in an environment that seeks out information regarding the impacts of existing policies and then uses that information to guide decisions about future actions.

We welcome comments on the content and format of this document. We also wish to acknowledge the valuable contribution of those who contributed to the production of this document. The data were collected under contract by Performance Evaluation, Seattle, Washington. Analysis of the data and the publication were prepared in the Statistical Analysis Center, Office of Financial Management, Division of Criminal Justice by John P. O'Connell. Peter Galitelo and Russ Chadwick assisted in the preparation of the publication.

M. Lyle Jacobsen, Director
Office of Financial Management
December, 1980

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EXECUTIVE SUMMARY

The purpose of this study is to provide an assessment of the implementation and impact of the new driving while intoxicated (DWI) law, SHB 665, which was fully enacted on January 1, 1980. The law increases the certainty of punishment for DWI offenders by establishing the Illegal Per Se section (i.e., the assumption of guilt when the weight of alcohol in the defendant's blood reaches or exceeds 0.10 percent) and by introducing a provision for mandatory jail sentences of one day for all first-time DWI offenders and longer terms for repeat offenders. The intent of the law was the deterrence of future occurrences of driving while intoxicated. It was also anticipated that the implementation of this law would impact operations of the criminal justice system -- especially the jails.

This study was designed to assess, within existing constraints, the ways in which the new DWI law was implemented and the impact it has had on the various segments of the criminal justice system. In addition, initial indicators of the deterrent effect of the new DWI law are presented. The findings summarized in this section are generalizations drawn from data collected in the seven counties included in the study -- Adams, King, Pacific, Pierce, Spokane, Whatcom and Yakima Counties. Because SHB 665 provided that this report be delivered to the legislature no later than December 31, 1980, the data upon which the findings are based are for the first half of 1980 only. Keeping in mind the limitations of the study and qualifiers on the data and analysis, these generalizations describe the statewide experience with the implementation of the new DWI law:

- Contrary to popular belief, change in the number of persons arrested is a poor indicator of the deterrent effect of changes in the DWI law.
- For the most part, police procedures such as booking persons arrested for DWI, giving breathalyzer tests, and making additional charges at arrest, did not change with initiation of the new DWI law.
- Early indications, as measured by the percentages of DWI related accidents and the percentage of DWI injury and fatal accidents per the number of reported DWI arrests, are that the new law is not having the desired deterrent effect.

- More time and better analysis are needed before the deterrent outcome can be more accurately assessed. Research in this area is difficult and expensive.
- The Illegal Per Se section of the law led to a reduction in the percentage of cases where the DWI charge was reduced to a lesser charge.
- In nearly all counties, requests for DWI jury trials have increased.
- There has been a minor shift away from guilty and not guilty dispositions and toward deferral programs and an increase in defendants failing to appear at trial or sentencing.
- A trend for appealing DWI convictions to higher courts may be starting.
- The use of jail sentences for those found guilty has increased from levels of 10 to 50 percent before the new DWI law to nearly 100 percent following implementation.
- Participation in alcohol education programs is required by the new law, but thus far has only been partially implemented.
- All jails show a large increase in the number of short term (less than four days) sentenced DWI offenders confined.
- Some areas have counteracted the impact of the large increase in the short term sentenced DWI offenders by shortening the length of stay for long term sentenced DWI offenders.
- There has been a small increase in the use of weekend jail sentences with the advent of the new DWI law.
- Based upon the preliminary information available, the law did increase costs of operating the criminal justice system, especially in jails. In most instances, however, these increased costs were absorbed by the agencies with a resulting decrease in the quality and efficiency of other services delivered.

INTRODUCTION

This study was designed, within available resources and time constraints to provide the most representative information on the implementation and impact of the new DWI law. In a general sense, the results of the study are representative of the entire state, because the seven counties included in the study were selected to represent a cross section of the types of counties in the state. King and Pierce counties represent urban Western Washington, and Spokane County represents urban Eastern Washington. Yakima County is included for two reasons. First, Yakima County has historically been unique in its crime and criminal justice system experiences. Second, Yakima County pioneered the enactment of mandatory jail sentences for DWI offenders. Whatcom County, which is a middle size county, was chosen to represent the special problems that border counties face with DWI offenders. Pacific and Adams counties were chosen to represent rural counties in Western and Eastern Washington, respectively. In addition, Adams County lies along the Interstate 90 corridor.

Although the sample counties are meant to represent the state's enactment of the new DWI law, all of the analysis is done by individual county. The reason for this, is that there are distinct variations between the counties. Much valuable information would be lost if a composite of the seven counties in the study was completed. It is possible to make summary statements concerning the study, but it is rare that such a statement can be made without stating conditions.

After selecting the counties that were to be included in the study, specific courts were selected within each county. Again, as with the selection of counties, the courts were selected to represent a cross section of the entire county. For example, in King County, the following courts were selected: Seattle Municipal, Seattle District, Bellevue Municipal, Bellevue District, Issaquah Municipal, Issaquah District, and Enumclaw Municipal. Within each of the courts a random sample (ranging from a fifty percent sample in the smallest courts to a seventeen percent sample in the largest

court) of all DWI cases was selected. Police information was collected where possible from the court records, but in a few situations it was necessary to obtain police information by tracing cases back to police records. A subsample of the court sample (in some cases the entire court sample) was tracked into the jails to obtain jail related information.

In addition to the court sample, a special random sample of incarcerated DWI offenders (ranging from eleven to fifty percent) was drawn directly from jail records. This information was collected to support a more detailed analysis of the new DWI law's impact on jail space and jail conditions.

The research approach was a simple pre-post comparison of pertinent information for comparable months in 1979 and 1980. Except for Yakima County, the general comparison was for the first six months of 1979 (the pre DWI law period) and the first six months of 1980 (the post DWI law period). Some comparisons were made using only four month comparison periods because 1979 arrest cases, which were subject to the dictates of the old law, were still pending in the courts in the early months of 1980. This was also the case in the analysis of the change in jail population. Other parts of the analysis were limited to four months because of the May 18th eruption of Mt. St. Helens. Police and court patterns in the Eastern Washington counties shifted during the aftermath of the volcano's eruption, resulting in noncomparable information being generated for May and June for Yakima, Spokane, and Adams counties.

Information was collected from two other sources for this study. First, a mail survey with telephone follow-up was used to collect information concerning the cost impact of the new DWI law. A second telephone survey was used to collect information concerning the availability, utilization, and cost of alcohol treatment programs that were available for DWI offenders. Both of these surveys included King, Pierce, Spokane, and Whatcom counties in their samples.

This study presents a detailed analysis of many facets of the implementation and impact of the new DWI law, but it cannot -- due to a number of factors outside of the control of the study -- sufficiently answer all questions regarding the law's implementation and impact. For example, it is very important to realize that the results presented in this report are at best preliminary

regarding the long term impact of the new DWI law because a maximum of only six months of post implementation data was available for analysis. The snapshot taken by this study was of a complex system adapting to a new law; analysis of the information available to it does not allow statements to be made with any certainty regarding where the system will stabilize. On the other hand, the direction in which the system is headed is quite clearly established and these indicators should provide guidance for current consideration of the new DWI law.

It will be noticed in the analyses that follow that there are usually three years of data (1977, 1979, and 1980) presented for Yakima County, whereas only two years of information (1979 and 1980) are presented for the other counties. In the middle of 1978, Yakima County started implementing a more stringent DWI ordinance similar to the present state law. As a result, 1977 serves as the pre "stringent law" period for Yakima County.

The final qualification for this study deals with the presentation of the data in the early sections of the study. In the sections of the study dealing with police DWI activities and court DWI operations, information is presented and discussed as percentages. The percentages for each indicator are assumed to be representative of the counties because it is assumed that the selected courts are representative of all courts in each of the counties. However, it is virtually impossible to extrapolate from the number of cases occurring within the sample courts to the total number of cases in each county because the proportion of the total court caseload in each county handled in the sampled courts is not known.

I. COMPARATIVE ARREST INFORMATION

Arrest information can be used to address two crucial factors concerning the new driving while intoxicated (DWI) law. The impact of the law on the patterns of police practice and its deterrent effect on the occurrence of DWI can be examined. Unfortunately, the analysis of these factors is only partially feasible. For instance, the reduction in the number of arrests in a jurisdiction could be a key indicator of the deterrence effect of the DWI law. This would be the case if the probability of being arrested for DWI was constant for all people who are driving while intoxicated across jurisdictions and within jurisdictions over time. However, the correlation between making a DWI arrest and the number of DWI's on the road appears to be relatively weak. As the records of arrests in most Washington State jurisdictions indicate, the frequency of DWI arrests is probably more closely tied to police policy than it is to the actual number of persons driving while intoxicated. (See appendix 1 for a five year history of DWI arrests by reporting jurisdiction). The policy of individual police departments in allocating limited resources probably has more to do with changes in the frequency of DWI arrests than do changes in secondary indicators such as the number of persons driving while intoxicated on the highway, the number of miles driven or the amount of alcoholic beverages sold within a jurisdiction.

As a result, different indicators have to be used and less direct arguments have to be made for the analysis of police practices and of the deterrent effect of the DWI law. Nevertheless, the results produce pieces of information helpful for understanding the larger picture of the DWI offender, police practices, and the impact of the new DWI law. The remainder of this section will be divided into two separate parts: (1) the comparison of DWI policing patterns and (2) a discussion of the impact of the new law on DWI behavior.

Policing Patterns

On the whole, the DWI policing patterns (excluding arrests) have remained remarkably stable during the two years including the year prior to the initiation of the law (the preperiod) and the initial year of the new DWI law (the post period). This stability from one year to the next does not mean, however, that there is uniformity across jurisdictions. As reported in Table 1, DWI policing patterns differ greatly from county to county, but are stable within each county from one year to the next. The general stability through time within a single county is striking when it is considered that many separate local police, county sheriff, and Washington State Patrol units contribute to the summary statistics for each county.

The first indicator of police practice examined is the percentage of arrested DWI cases that were booked into jail following the arrest. As shown in Table 1, the percentage booked into jail varies greatly across the sample counties. However, within a county there was limited or no change in the percentage of DWI arrestees booked between the year prior to and the first year of the implementation of the law. Adams County has the highest percentage of DWI cases booked into jail after arrest (68.7% in 1979 and 86.7% in 1980), while Pacific County had the lowest percentage of DWI cases booked at arrest (13.6% in 1979 and 8.3% in 1980). In cases where DWI offenders were not booked, those persons were most often released to the custody of a relative or friend.

One important consequence of not booking DWI offenders is the reduction in jail cost. The reduction in the number of bookings is one method through which a jurisdiction could offset the anticipated increase of jail use resulting from DWI cases being sentenced to jail for one day as called for under the new law. The only jurisdictions included in this study that may have realized such a savings are Spokane County and the City of Spokane where law enforcement officers have apparently reduced the percentage of DWI arrestees that are booked by 7 and 16 percent, respectively. In Yakima County the situation was just the opposite. The percentage of persons booked after

arrest rose 29 percentage points. Assuming that the frequency of arrest remained constant, this would tend to exacerbate jail space problems. The booking following arrest patterns in the remaining five counties in the study remained stable.

Another indicator of policing patterns is frequency with which the DWI arrestee is charged with offenses in addition to DWI. As can be noted in Table 1, the frequency with which additional charges are cited along with a DWI charge varies greatly across the sample counties. The range is from a low of about 25 percent in Pacific and Whatcom counties to a high of 97 percent in the City of Spokane. The most frequently cited additional charge to that of DWI in most jurisdictions is driving without a valid license or a similar charge. In the City of Spokane, the most frequent additional charge is negligent or reckless driving.

The third item relevant to the DWI policing patterns is the use of a breathalyzer or some other chemical test to ascertain the amount of alcohol in the arrested person's blood. Administration of this test became even more crucial in 1980 because under the Illegal Per Se section of the new law, a person is automatically guilty if he has 0.10 percent or more by weight of alcohol in his blood. Because of the increased importance of the breathalyzer test score, one might expect that there would be a greater rate of refusal to take such a test at the time of arrest, even though such refusal results in a six month suspension of the person's driver's license. Table 1 shows that the rate of utilization of the breathalyzer test remained very stable before and after implementation of the law. In most jurisdictions 80 percent or more of the persons arrested for DWI are given a breathalyzer test.

Two other items--the percentage of persons arrested for DWI who reside in the county in which the arrest occurred and the percentage of persons arrested for DWI in each county who are residents of the state--are presented in Table 1. These contribute to an understanding of DWI police practices. This information not only sheds light on the simple patterns of arresting local residents and nonresidents for DWI, but--when related to other information such as the percentage booked

after arrest within a county--helps yield a better understanding of some local law enforcement practices. The most striking item is the low percentage of local residents arrested for DWI in Adams County. This fact provides a plausible explanation for the fact that Adams County books a higher percentage of DWI offenders into jail than any other county included in the study. If persons arrested for DWI are booked into jail primarily when the police are unable to locate a friend or relative into whose custody the offender can be placed, it is reasonable to presume that the high booking rate in Adams County is caused by the high proportion of nonresidents among persons who are arrested for DWI in that county.

Deterrent Effect of the New DWI Law

As noted earlier in this section, comparing the numbers of DWI arrests pre and post implementation of the DWI law as a method of ascertaining the impact of law on drinking and driving behavior is somewhat misleading. This is due to the probable low correlation between the number of arrests made within a jurisdiction and the number of persons on the highways at risk of being arrested for DWI because they are driving while intoxicated. Data in Appendix 1 provides supportive evidence for this point of view. When the 1980 data for DWI arrests do become available, however, they should be examined. Because of the great fluctuation that has historically been present in the DWI arrest data, it would take a rather widespread reduction in the number of DWI arrests to provide convincing evidence that the new DWI law is having an impact on drinking and driving behavior.

In evaluation research, another method that is often used to assess the impact of a program change (experimental treatment) on the criminal behavior of persons is the pre post comparison of recidivism rates. This methodology is not appropriate for the present study because this type of analysis requires tracking similar samples of persons pre and post implementation of the new law. Neither the time or the resources were available for such an effort. Furthermore, as the information in Table 1 shows, valid recidivism data for DWI cases is scarce in most local court records and would require additional extensive data collection efforts.

Not unlike other short term DWI studies that have been attempted, this study produced secondary data elements with which judgements about the deterrent effect of the new DWI law can be made. One of these elements is the number of DWI related accidents. Referring to Table 1, one can quickly ascertain that the pattern of change in DWI accidents is mixed. In King County, the percentage of DWI arrests related to an auto accident increased by 4.7 percent over the pre-post comparison period. On the other hand, during the same time period, the percentage of DWI arrests related to an auto accident decreased in Pierce County by 9.2 percentage points. In the other sample counties, there does not appear to be a significant percentage change. While it appears that the percentage changes in the small rural counties are significant, such interpretations are misleading because a very small number of cases in these small counties can cause a relatively large change in the percentage change over time.

The evidence collected in this study is consistent with Washington State Patrol information comparing statewide totals for the first six months of 1979 (the pre period) and the first six months of 1980 (the post period). The information from the State Patrol shows that the number of auto accidents related to DWI increased slightly from 3,915 cases in 1979 to 3,981 cases in 1980. It is interesting to note that this small increase in DWI related accidents can be compared to a small decrease in the total number of accidents for the same time period statewide. This may indicate that there was actually a somewhat greater increase in DWI accidents than expected because DWI accidents increased while the total number of accidents decreased.

This interpretation, though, must be viewed with some caution. An argument that DWI accidents actually increased more than they appeared to because the total number of accidents actually decreased requires that the probability for being on the road were equal for both kinds of drivers in both time periods. It is plausible to argue that the motivation for driving by a DWI driver is governed by different forces than those operating for the average driver--i.e. a DWI driver may not reduce his miles driven when drinking because of

the increased economic cost of driving while an average driver would do so. Thus, it is also reasonable to conclude that DWI accidents per mile driven really remained stable rather than increasing because DWI offenders may not have reduced their miles driven (at least while drinking) in spite of higher costs of driving.

Another factor to be considered in examining the impact of the DWI law is the number of injury or fatal accidents that are associated with DWI arrests. Table 1 shows a distressing increase in most sample counties between the pre and post law periods. The increase may not be statistically significant in all cases, but the general pattern of the increase is most convincing. Washington State Patrol accident information provides another source to examine the question of fatal DWI accidents (See Appendix 2). This data is of limited use because 1980 data is not yet available. Pre-post comparison of accidents is possible only for Yakima County (1977 = pre; 1978, 1979 = post); this comparison shows that although there was an initial reduction in the number of DWI collisions in 1978, the first year of a similar DWI law in Yakima County, there was an increase again in 1979. Furthermore, examination of fatal collisions reveals that the number of fatal collisions in Yakima County remained relatively stable in spite of the increased punishment called for in its new laws.

At this point, assessment of the deterrent effect of the new DWI law is not promising. A detailed analysis of the number of arrests is dependent on the availability of complete 1980 data; even then, arrest data--because of their high rate of fluctuation within individual jurisdictions--do not promise to be a fruitful area of analysis. Next, the percentage of DWI arrests related to accidents has not shown improvement. Finally, the number of injury and fatal accidents compared over pre-post periods does not show a promising outcome.

In summary, the evidence presented here suggests that the DWI law may not be producing the intended deterrent effect. However, there are a number of major limitations to the present analysis. The most serious limitation is its extremely short time frame. At best, the analysis compares the events related to DWI offenders for like six month periods

early in 1979 and in 1980. It would be very optimistic to expect that the success or failure of the statute could be demonstrated in such a short time period. Next, there are serious methodological limits with any deterrence study of DWI offenders. Probably the most serious methodological difficulty for this type of study is its inability to obtain a valid measure of the number of persons actually driving while intoxicated on the state's highways. The best measure available this time is the number of arrests made by the various police agencies, although the problems inherent in this information have been discussed at length above. The paucity of direct measures leaves the researcher with nothing but indirect measures, the numbers of DWI related accidents and DWI related injury or fatal accidents. Another question that needs to be addressed is whether or not there are different types of DWI offenders and whether or not the same deterrent is equally effective with all types.

Given such serious limitations to the analysis of the deterrent effect of the new DWI law, one must resist making hasty judgements about its efficacy. The conclusion that must be reached at this time is that it is too early to determine the long term success or failure of the deterrent effect of the new DWI law. However, it is not too early to take into account the early indications of negative outcomes for the initial deterrent effect of the new DWI law.

TABLE I
COMPARATIVE DWI ARREST INFORMATION

YEAR	LOCATION	PERCENTAGE BOOKED	PERCENTAGE WITH ADDITIONAL CHARGES	PERCENTAGE GIVEN BREATHALIZER TEST	PERCENTAGE RESULTING IN ACCIDENTS	PERCENTAGE RESULTING IN INJURY OR FATAL ACCIDENTS	PERCENTAGE ⁺ HAVING PRIOR RECORD	RESIDENCE	
								PERCENTAGE LOCAL COUNTY	PERCENTAGE STATE
1979	King County*	36.8	72.0	84.0	22.4	5.5	NA	85.6	97.3
1980	King County*	33.6	73.2	83.6	27.1	8.6	NA	89.1	96.2
1979	Pierce County*	57.1	38.7	86.7	33.7	8.7	NA	77.2	88.6
1980	Pierce County*	56.9	34.2	83.1	24.5	7.1	NA	79.1	89.0
1979	Spokane, City of**	76.7	96.8	70.0	42.0	9.7	NA	90.3	96.8
1980	Spokane, City of**	59.4	96.8	64.5	42.0	19.4	NA	96.8	96.8
1979	Spokane County**	32.4	35.0	80.5	22.2	6.9	NA	83.7	95.6
1980	Spokane County**	25.0	31.2	85.6	19.4	8.8	NA	80.2	87.0
1977	Yakima County**	44.6	38.9	90.8	16.4	5.8	NA	92.9	98.2
1979	Yakima County**	73.9	34.5	89.3	16.8	9.9	NA	87.1	95.7
1980	Yakima County**	73.8	35.2	91.2	18.4	7.9	NA	91.3	97.6
1979	Whatcom County*	45.5	25.5	75.3	25.9	9.7	NA	76.1	85.6
1980	Whatcom County*	51.3	29.5	79.8	31.0	17.2	NA	74.2	85.8
1979	Pacific County*	13.6	25.0	83.3	12.0	7.2	NA	74.4	100.0
1980	Pacific County*	8.3	23.1	80.0	26.1	17.4	NA	88.5	100.0
1979	Adams County**	68.7	14.3	81.3	28.1	3.1	NA	48.6	80.0
1980	Adams County**	86.7	42.1	82.4	17.7	5.9	NA	44.4	94.4

*Six month comparison (January - June)

** Four month comparison (January - April)

+Information was collected on this subject; however, information was so sparse that valid interpretations cannot be made.

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2. COMPARATIVE POST ARREST AND PRE VERDICT INFORMATION

Information was collected on three types of data for the period after arrest and booking and before the verdict. These are:

- Whether or not a defense attorney was present at the verdict;
- (2) Whether or not the DWI charge was reduced to a less serious charge; and
- (3) The percentage of cases that went to jury trial.

Each of these kinds of information can be used to assess how the different parties impacted by the new law respond to its provisions. For instance, the presence of a defense attorney is basically the decision of the defendant. The decision to request a jury trial (a high cost item) is made by the defendant, usually with input from an attorney. The decision to reduce the DWI charge to a lesser charge when it occurs, is the result of consensus between the judge, the defense attorney, the defendant, and the county prosecutor.

Pre-Post changes in any of these decisions may be due to the understanding each of the different parties has of the new law. The two parts of the law which should generate the greatest impetus for change in these decisions are the Illegal Per Se section (i.e. the assumption of guilt at the 0.10 percent level of alcohol in the defendant's blood) and the increased certainty of confinement as part of the punishment.

It is possible to construct a plausible rationale for either increased or decreased use of defense attorneys by defendants after implementation of the new law. Because the new law assumes guilt of DWI when the blood alcohol level is at or above the 0.10 percent level and makes almost certain a day in jail if found guilty, defendant's might be willing to forego the use of an attorney. On the other hand, defendants may believe that an

attorney is more necessary than before because of the increased difficulty of avoiding conviction under the new law. Results show (see table 2) that the use of attorneys rose slightly in Pierce and Yakima counties and in the City of Spokane, but in all other sample jurisdictions there was a decrease in the demand for these services.

It was assumed that charge reduction would be greatly reduced by the Illegal Per Se element of the law. Results support this hypothesis. Only in Pierce County did the level of charge reduction remain stable. In both 1979 and 1980, 27 percent of the DWI cases that were brought before the courts in Pierce County were reduced. In other counties there was a fairly drastic decrease in the use of charge reduction. For example, charge reduction for DWI cases in King County was reduced from 29 percent of the cases in 1979 to only 5.4 percent of the cases in 1980.

One would expect that the use of jury trials would increase as defendants seek ways to avoid the more severe penalties for DWI provided by the new law. The data presented in Table 2 indicate that there was an increased use of jury trials in most, but not all, of the jurisdictions included in the study. This widespread increase in the request for jury trials should be monitored in the months to come. If the pattern presented here continues (Yakima County, for which there are three years of data, has experienced such an increasing trend), the DWI law could ultimately produce a major and costly workload impact on the courts.

Summarizing the post-arrest/pre-verdict information presented in this section, it was found that no clear pattern of change emerged in the use of an attorney with increased use in some jurisdictions and decreased use in others. For the other two items, it is relatively clear that new patterns are developing. The practice of charge reduction appears to be declining, while the use of jury trials appears to be on the increase.

TABLE 2
COMPARATIVE DWI
POST ARREST - PRE VERDICT
INFORMATION

YEAR	LOCATION	PERCENTAGE OF CASES ATTORNEY PRESENT	PERCENTAGE OF CASES CHARGES REDUCED	PERCENTAGE OF CASES JURY TRIAL
1979	King County	71.2	29.0	1.3
1980	King County	65.4	5.4	5.2
1979	Pierce County	60.7	27.1	1.2
1980	Pierce County	65.8	27.0	8.0
1979	Spokane, City of	53.1	0.0	0.0
1980	Spokane, City of	60.7	0.0	0.0
1979	Spokane County	53.7	14.0	5.5
1980	Spokane County	50.7	13.2	2.0
1977	Yakima County	33.0	23.6	0.0
1979	Yakima County	35.3	15.3	1.8
1980	Yakima County	45.6	8.7	4.3
1979	Whatcom County	60.2	14.7	3.7
1980	Whatcom County	54.4	10.8	10.5
1979	Pacific County	25.0	33.4	4.2
1980	Pacific County	15.0	11.8	0.0
1979	Adams County	40.0	34.5	0.0
1980	Adams County	21.1	0.0	5.3

*This table uses four months (January - April) because there was a relatively high number of pending cases in May and June for which outcome for the topics in this table could not be discerned.

3. COMPARATIVE DWI VERDICT AND OUTCOME INFORMATION

Analysis of the impact of the new DWI law on the types of verdicts entered must take into account not only the guilty and not guilty categories, but also the "other" category. It is normally thought that verdicts are of two kinds -- guilty and not guilty. Data reported in this section reveal that a substantial proportion of DWI verdicts or outcomes fall into the category "other". The "other" category includes "sentence or verdict deferred", "failure to appear at trial or sentencing" and, finally, "case pending".

Each of the various subcategories of the "other" type of verdict has a different meaning. "Sentence or verdict deferred", "deferred prosecution", and "dismissal" involve various forms of judicial system discretion. The subcategory "failure to appear at trial or sentencing" involves offender discretion. Finally, "case pending" reflects the speed of judicial system processing. The categories that represent criminal justice system and offender discretion are of principal concern. These categories are important for the assessment of the impact of the new DWI law, because it could be anticipated that implementation of the new law may produce a shift in the application of criminal justice system discretion. Prior to the new DWI law, there was a broad discretion in terms of punishment available within the pronouncement of a sentence; under the new DWI law, with its Illegal Per Se and mandatory jail time provisions, this discretion is greatly reduced. It is possible, therefore, that in an effort to retain some discretion, the criminal justice system would effect a shift in verdicts from the guilty and not guilty categories to the "other" category.

Before conclusions can be drawn from this

data, one must determine how to handle those cases that are still pending in 1980. Even though cases pending is a small percentage of all cases, the final distribution of those cases into the "other" verdict categories can have large impact on the interpretation of the information. For analysis, it was assumed that the pending cases would be distributed proportionately across the various categories.

Information from Table 3 indicates that, on the whole, there has been a minor shift from the guilty and not guilty categories to the "other" verdict category. The shift in discretion has been in both the criminal justice system and the individual categories. In six out of the eight sample jurisdictions the percentage of guilty cases decreased, but in only two of these six counties was there an increase in the percentage of persons found not guilty. Even in these two cases, the increase in not guilty verdicts is not sufficiently large to account for the decrease in guilty verdicts. As a result, in these six counties, there must have been some increase in the "other" verdict category.

Examining the information in Table 3, the various types of shifts in discretion can be recognized. There is wide variation among jurisdictions in the distribution of the "other" verdicts. However, one trend that may be developing on a fairly broad scale is the tendency for individuals to fail to appear for either trial or sentencing. The data suggest that this is happening in six of the eight sites, and in a few of the jurisdictions, the increase was rather substantial. Only Pierce County and the City of Spokane experienced a decrease in the percentage of persons failing to appear for trial or sentencing, and in both cases the decrease was relatively small. It is possible that the increase in persons failing to appear at trial or sentencing is related to their reluctance to serve time in jail.

There is no clear pattern in the shifts in criminal justice system discretion across the jurisdictions. In King County there was very little change noted in system discretion with

only a small increase in the use of deferred prosecution. In Pierce County, there was drastic reduction in the use of deferred verdict or sentence, balanced to some extent by an increase in the percentage of cases dismissed. The City of Spokane experienced a slight increase in the percentage of cases dismissed, while in Spokane County there was a small increase in both the percentage of cases given deferred verdicts or sentences and the percentage of cases in which prosecution was deferred. Yakima County, which is a special case because they have had two years (1979 and 1980) experience under a stringent county DWI ordinance, experienced an increase in the percentage of cases with deferred sentences and deferred prosecution in the first year under the stricter DWI law; in the second year of the law there was an increase in cases dismissed and a decrease in cases deferred. Whatcom County experienced the smallest shift in criminal justice system or individual discretion with only small increases in percentage of persons failing to appear and in the percentage of cases dismissed. Finally, both of the small rural counties, Pacific and Adams counties, experienced an increase in the use of deferred prosecution. However, the percentage changes in the smaller counties translate into a smaller impact in terms of absolute numbers when compared to the larger counties because of the smaller number of cases handled in those counties.

In summary, there has been a minor pre-post implementation shift in discretion concerning the types of verdicts that are reached for DWI cases. The shift is away from guilty and not guilty dispositions and toward those outcomes involving criminal justice system or individual discretion. The largest increase is in the increased propensity of individuals to not appear for trial or sentencing. In terms of the over all implementation of the new DWI law, the absence of major shifts in discretion speaks to efficient application of the law at the verdict stage of the criminal justice process.

One other item of importance is displayed in Table 3; the last column in this table

displays the percentage of cases that were appealed pre and post implementation of the new DWI law. This item is important for two reasons:

- (1) Any major change in the number of appeals will eventually be translated into increased court and attorney costs;
- (2) Increased appeals may represent a challenge to the legitimacy of the law.

The information in Table 3 indicates that there was an increase in the percentage of guilty verdicts that were appealed in some of the jurisdictions studied. The increase in appealed cases was most striking in King County and Whatcom County. In King County the percentage of cases appealed has more than doubled, to a level of 21 percent of the cases being appealed during the sample months in 1980. In Whatcom County the comparable increase was 5 percentage points. The situation in Yakima County is also interesting. In the year prior to implementation of its strict DWI ordinance, Yakima County had no appeals for DWI cases; in each succeeding year, there has been 1.1 percentage point increase. Although the pattern of increased DWI appeals is not uniform across all sample sites, the pattern that is presented must be noted. The trend toward DWI appeals may be an initial testing of the law, in which case there should be a decrease in future years. However, if this early trend continues into the future, one should expect a cost impact in the courts.

TABLE 3
COMPARATIVE DWI VERDICT INFORMATION**

YEAR	LOCATION	PERCENTAGE GUILTY	PERCENTAGE NOT GUILTY	PERCENTAGE OTHER			DISMISSED	PENDING	PERCENTAGE OF CASES APPEALED
				SENTENCE OR VERDICT DEFERRED	DEFERRED PROSECUTION	FAILURE TO APPEAR AT TRIAL OR SENTENCING			
1979	King County	79.4	2.0	1.2	3.6	5.7	8.1	0.0	8.5
1980	King County	68.8	4.8	.8	4.4	11.2	5.6	4.4	21.0
1979	Pierce County	52.4	5.1	22.0	3.5	10.2	6.7	0.0	4.2
1980	Pierce County	57.8	1.8	7.5	2.7	9.3	11.1	9.8	5.2
1979	Spokane, City of	71.9	6.3	3.1	9.4	9.4	0.0	0.0	0.0
1980	Spokane, City of	71.9	3.1	3.1	9.4	6.3	3.1	3.1	0.0
1979	Spokane County	76.1	4.3	3.6	3.6	5.1	7.2	0.0	0.0
1980	Spokane County	70.6	5.0	5.0	5.6	6.2	5.0	2.5	0.9
1977	Yakima County	36.7	1.8	0.0	0.0	3.5	8.0	0.0	0.0
1979	Yakima County	77.2	2.6	4.4	6.1	5.3	4.4	0.0	1.1
1980	Yakima County	79.8	1.6	.8	1.6	7.0	7.0	2.3	2.2
1979	Whatcom County	79.1	6.1	1.7	2.6	7.0	3.5	0.0	3.2
1980	Whatcom County	69.6	5.4	1.1	2.2	8.7	6.5	6.5	8.1
1979	Pacific County	75.0	3.6	0.0	0.0	14.3	7.1	0.0	0.0
1980	Pacific County	73.7	0.0	0.0	5.3	15.8	0.0	5.3	0.0
1979	Adams County	82.9	5.7	0.0	5.7	0.0	5.7	0.0	0.0
1980	Adams County	73.7	0.0	0.0	10.5	10.5	5.3	0.0	0.0

*Four Month Comparison (January - April)

**Items Percentage Guilty, Percentage Not Guilty and Percentage Other should sum to approximately 100%. These items will not always sum to 100% because of rounding error. Percentage of cases appealed is an item separate from the other verdict information.

4. COMPARISON OF SENTENCING OUTCOME FOR DWI CASES FOUND GUILTY

This section examines the various types of sentences received by persons convicted of a DWI offense prior to and following the initiation of the new DWI law. The major dispositions examined include the use of jail time, the payment of fines, driver's license suspensions, and various other special conditions. Two special conditions fall into the category of treatment--alcohol education classes and alcohol treatment.

The new DWI law calls for three distinct changes in the types of sentences that can be given.

- (1) If a defendant is found guilty, the judge is required to sentence the offender to one day in jail for a first conviction except when the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. The penalty for a second conviction within a five year period is a jail sentence of a minimum of seven days.
- (2) A person found guilty of a DWI shall be required to complete a course at an alcohol information school.
- (3) Each guilty party is to be punished by a non-suspendable fine.

Table 4 provides information which permits pre and post comparisons since the implementation of the new law for each element of sentences described above. The first column reports the number of people that were found guilty from the sample of cases that was selected in each of the study jurisdictions in the pre and post years. These numbers serve as a baseline

against which the utilization of each element of DWI sentences can be compared for the pre and post periods. The second column, which presents information on the jail sentence elements, has three subcategories for the pre period and four subcategories for the post period. The one additional subcategory "excused", accounts for a change under the new law. A case is reported "excused" where, for the sake of a defendant's physical or mental well being, the judge excuses the person from the jail sentence. The subcategories in the jail column should add to approximately 100 percent. The cases not accounted for in the various jail subcategories should be considered as cases that did not serve jail time for their punishment.

Jail Time

The use of jail time as a punishment for a DWI case shows a large increase between the time periods pre and post implementation of the new law. The comparison shows that the courts have, in the pronouncement of sentences, very completely implemented the intent of the new law. In general, courts changed their inclusion of jail terms as an element of the sentence from a level of use in 10 to 50 percent of the cases in the pre-period to nearly 100 percent of the cases in the post period. Even the City of Spokane, in which there were preliminary indications that the law would not be strictly implemented because of its municipality status, experienced almost full compliance with the law.

Yakima County is the one jurisdiction which, at first inspection, appears to not to be fully implementing the law. In 1979, the first full year of the enactment of a local strict DWI ordinance similar to the State's 1980 DWI law, Yakima County had twelve cases which appeared not to be sentenced to jail. In 1980, the number of guilty cases which appeared not to go to jail increased to twenty-four. In part, this apparent deviation from the law is a research artifact. It was discovered, after the data collection phase of the study was concluded, that the courts in

lower Yakima Valley sometimes gave approval to people allowing them to serve their jail time in local lower county municipal jails rather than in the Yakima County jail in Yakima. This local diversion of DWI prisoners probably explains what happened to most of the cases that were not located in the Yakima County Jail records in 1979 and in 1980. During the data collection phase of the research, it was also discovered that some persons found guilty of a DWI offense in 1980 had no jail records even though they had been sentenced to jail. It was found that the Yakima County jail is so overcrowded at times that DWI prisoners cannot be immediately accepted. When this occurs, DWI defendants are being assigned a future date to report to the jail to serve their sentences. It is believed that the individuals eventually serve their jail time.

The problem of overcrowding in the jails, which cannot be contributed solely to the new DWI law, is counterproductive to the purpose of the new law. One rationale of the new law is that the more immediately the punishment follows the DWI violation, the greater will be the probability that persons will refrain from future driving while intoxicated.

Special Conditions

The special conditions column on Table 4 shows the comparative rates at which the various types of special conditions are included as elements of sentences. Total percentages in this column will greatly exceed 100 percent because most people convicted of DWI receive more than one special condition as an element of their sentence. Each subcategory in the special condition column must be interpreted as an independent category. It is not possible, using this information, to determine the number persons who had more than one special condition added as an element of their sentence or what those elements were.

Regarding the alcohol education requirements of the new law, it was found that courts in most of the jurisdictions increased the rate at which the requirement to attend alcohol

education classes was included as an element of sentences. The largest increases in the use of alcohol education as a sentence element were found in Spokane City and county, where the combined percentage increase was about 60 percent. Two of the counties included in the study either did not change or reduced the use of the requirement to attend alcohol education classes. Pacific County showed no change over the pre-post period and Whatcom County showed a decrease in the use of alcohol education for those convicted of DWI. In three counties, King, Pierce and Yakima, alcohol treatment was often included as an element of DWI sentences.

Fines were applied almost universally in all counties before and after implementation of the new DWI law. There is no consistent policy regarding requiring full payment or partial payments for fines. Because fine schedules have been increased, it might have been expected that there may have been a shift toward allowing partial fine payments. However, there is no clear evidence to support this expectation.

Although there were no new requirements in the new law concerning the impact of DWI convictions on recommendations for driver's license suspensions, this information is presented in Table 3 to provide a comprehensive picture of sentences being given to DWI offenders. The utilization of this sentence element varies by county and has shown no consistent pattern of change across the pre and post implementation periods of the new DWI law.

FOOTNOTE 1:

Separate analysis of the City of Spokane and Spokane County was performed because of preliminary indications that the judiciary which serves the City of Spokane chose not to fully implement the law because of its standing as municipality. See appendix III for a Washington State Attorney General's opinion on this topic.

TABLE 4

COMPARISON OF SENTENCING OUTCOME FOR DWI CASES FOUND GUILTY*

YEAR	LOCATION	NUMBER GUILTY (SAMPLE**)	JAIL		SPECIAL CONDITIONS***		FINE		COURT RECOMMENDED LICENSE SUSPENSION	
				NO. %		NO. %		NO. %	NO.	%
1979	King County	196	Jail	10 5.1	Alcohol Education	118 60.2	Full	172 87.8	31	15.8
			FTA+	0 -	Probation	27 13.8	Partial	19 9.7		
			Jail Credit	0 -	Alcohol Treatment	50 25.5				
1980	King County	172	Jail	159 92.4	Alcohol Education	116 67.4	Full	109 63.4	2	1.2
			FTA	0 -	Probation	13 10.5	Partial	48 27.9		
			Jail Credit	11 6.4	Alcohol Treatment	47 23.3				
1979	Pierce County	133	Jail	9 6.8	Alcohol Education	38 28.6	Full	115 86.5	2	1.5
			FTA	0 -	Probation	39 29.3	Partial	16 12.0		
			Jail Credit	2 1.5	Alcohol Treatment	38 28.6				
1980	Pierce County	192	Jail	153 79.7	Alcohol Education	115 59.9	Full	175 91.1	3	1.6
			FTA	4 2.1	Probation	25 13.0	Partial	11 5.7		
			Jail Credit	34 17.7	Alcohol Treatment	8 4.2				
1979	Spokane, City of	23	Jail	4 17.4	Alcohol Education	4 17.4	Full	18 78.3	5	21.7
			FTA	0 -	Probation	1 4.3	Partial	5 21.7		
			Jail Credit	1 4.3	Alcohol Treatment	2 8.7				
1980	Spokane, City of	24	Jail	20 83.3	Alcohol Education	19 79.2	Full	15 62.5	5	20.8
			FTA	0 -	Probation	0 -	Partial	8 33.3		
			Jail Credit	3 12.5	Alcohol Treatment	0 -				
			Excused	1 4.2	Other	4 16.7				

*These charts cover January to April for each year compared.

**The number of guilty persons in this table do not represent the total number of cases within the county; nor are magnitude of the number comparable across counties because the number was generated by different sampling factors.

***The number and percentage of persons receiving special conditions exceeds the total number guilty and 100 percent because most persons are subject to more than one special condition.

+FTA: FAILURE TO APPEAR at court or sentencing.

++"Excused" category was a condition for sentencing that was made available in the new DWI law.

TABLE 4, page 2

COMPARISON OF SENTENCING OUTCOME FOR DWI CASES FOUND GUILTY*

YEAR	LOCATION	NUMBER GUILTY (SAMPLE**)	JAIL		SPECIAL CONDITIONS***				FINE		COURT RECOMMENDED LICENSE SUSPENSION	
				NO. %		NO. %			NO. %		NO. %	
1979	Spokane County	105	Jail	11 10.5	Alcohol Education	28 26.7	Full	51 48.6	22	21.0		
			FTA+	0 -	Probation	11 10.5	Partial	52 49.5				
			Jail Credit	4 3.8	Alcohol Treatment	17 16.2						
1980	Spokane County	113			Other	6 5.7						
			Jail	103 91.2	Alcohol Education	95 84.1	Full	51 45.1	15	13.3		
			FTA+	0 -	Probation	12 10.6	Partial	53 46.9				
1977	Yakima County	98	Jail Credit	5 4.4	Alcohol Treatment	1 .9						
			Excused++	2 1.8	Other	7 6.2						
			Jail	62 63.3	Alcohol Education	35 35.7	Full	45 45.9	10	10.2		
1979	Yakima County	88	FTA+	0 -	Probation	12 12.2	Partial	42 42.9				
			Jail Credit	0 -	Alcohol Treatment	31 31.6						
					Other	49 50.0						
1980	Yakima County	103	Jail	68 77.3	Alcohol Education	32 36.4	Full	48 54.5	15	17.0		
			FTA+	0 -	Probation	10 11.4	Partial	38 43.2				
			Jail Credit	8 9.1	Alcohol Treatment	30 34.1						
1979	Whatcom County	91			Other	57 64.8						
			Jail	72 69.9	Alcohol Education	49 47.6	Full	56 54.4	25	24.3		
			FTA+	0 -	Probation	37 35.9	Partial	33 32.0				
1980	Whatcom County	64	Jail Credit	7 6.8	Alcohol Treatment	31 30.1						
			Excused++	0 -	Other	55 53.4						
			Jail	6 6.6	Alcohol Education	29 31.9	Full	90 98.9	13	14.3		
1979	Whatcom County	91	FTA+	2 2.2	Probation	69 75.8	Partial	1 1.1				
			Jail Credit	0 -	Alcohol Treatment	15 16.5						
					Other	47 15.4						
1980	Whatcom County	64	Jail	57 89.1	Alcohol Education	7 10.9	Full	54 100.0	9	14.1		
			FTA+	0 -	Probation	55 85.9	Partial	0 -				
			Jail Credit	6 9.4	Alcohol Treatment	2 3.1						
			Excused++	1 1.6	Other	47 73.4						

(See Table 4, Page 1 for explanation of footnotes.)

TABLE 4, page 3

COMPARISON OF SENTENCING OUTCOME FOR DWI CASES FOUND GUILTY*

YEAR	LOCATION	NUMBER GUILTY (SAMPLE**)	JAIL		SPECIAL CONDITIONS***				FINE			COURT RECOMMENDED LICENSE SUSPENSION	
				NO.	%		NO.	%		NO.	%	NO.	%
1979	Pacific County	21	Jail	3	14.3	Alcohol Education	5	23.8	Full	6	28.6	1	4.8
			FTA+	1	4.8	Probation	0	-	Partial	0	-		
			Jail Credit	0	-	Alcohol Treatment	2	9.5					
					Other	0	-						
1980	Pacific County	14	Jail	14	100.0	Alcohol Education	3	21.4	Full	5	35.7	1	7.1
			FTA+	0	-	Probation	0	-	Partial	1	7.1		
			Jail Credit	1	7.1	Alcohol Treatment	1	7.1					
			Excused**	0	-	Other	3	21.4					
1979	Adams County	29	Jail	N/A	-	Alcohol Education	N/A	-	Full	N/A	-	N/A	-
			FTA+	"	-	Probation	"	-	Partial	"	-		
			Jail Credit	"	-	Alcohol Treatment	"	-					
					Other	"	-						
1980	Adams County	15	Jail	8	53.3	Alcohol Education	10	66.7	Full	12	80.0	0	-
			FTA+	0	-	Probation	0	-	Partial	1	6.7		
			Jail Credit	6	40.0	Alcohol Treatment	0	-					
			Excused**	1	6.7	Other	0	-					

(See Table 4, Page 1 for explanation of footnotes.)

5. IMPACT OF THE NEW DWI LAW ON JAIL SPACE AND POPULATION

A major concern about the implementation of the new DWI law was that its mandatory sentencing provisions would have a detrimental impact on local jails. To provide a better understanding of this potentially very expensive problem, special samples were selected directly from jail logs in the jurisdictions included in this study. These samples permit examination of the differential impact of the new DWI law on three subgroups of DWI offenders--those not yet sentenced, those sentenced, and those serving their sentences on weekends.

Table 5 shows the changes that took place in the use of jail for the pre-sentence subpopulation of DWI offenders during the time periods prior to and following implementation of the new DWI law. This portion of the DWI jail population is made up of persons who are booked at arrest. These individuals are frequently released on their own recognizance or post bail shortly after they are booked into jail. Those not getting out of jail in a short period of time wait one to three days for an arraignment hearing. At arraignment, a person is informed of the charge, and either can plead guilty or innocent. If a person pleads innocent he can be released from jail until his trial or, because of aggravating circumstances, the judge can order the person held in jail until the trial. In any case, all time spent in jail up to the time of sentencing is considered pre-sentenced jail time. The vast majority of offenders in the presentence classification stay in jail for a short period of time--usually less than one day. In a few cases, however, people are held for quite lengthy periods of time. The people held for longer periods of time often have additional charges filed against them or were under probation or parole supervision at the time of their arrest and are held because the DWI charge violates conditions of their supervision. To assist in understanding the extent to which these different subpopulations contribute to the use of bed space, Table 5 is divided into

two parts. The first part deals with those persons with short lengths of stay (i.e., equal to or less than four days); the other part deals with those persons with longer lengths of stay (i.e., greater than four days).

Table 6 shows the impact of the sentenced DWI offenders who served their sentences in one time block on jail space and population. Because of the mandatory sentencing provisions of the new DWI law, this is the population that is most directly effected by the new law. The data for this population is subdivided into short and long stay offenders in the same way that data in Table 5 for pre-sentence jail time was presented. This division is helpful because the new law should be expected to have greatest impact on those persons with short lengths of stay. This Table does not include information on, or include the impact of, those serving sentences on weekends. Data for this population is presented in Table 7 and is discussed separately later in this section.

Assessment of the impact of changes in the law on the DWI presentence population is accomplished by comparing the percentage of jail bed days used for DWI offenders pre and post implementation of the law. The far left column reports the total number of bed days available in each jurisdiction's jail during the months for which data were collected. For example, in King County the number of usable beds in the facility is multiplied by the number of days in the period studied (i.e., 996 beds times 122 -- the number of days in the 4 month period) yielding the number of potential beds days available -- 121,512.

To determine the number of bed days used for DWI offenders, the estimated number of offenders within each specific DWI subpopulation is multiplied by the average length of stay for that group. The number of bed days used by each population is then divided by the total number of bed days available within the jail to yield a percentage of bed days in that jurisdiction used for that specific DWI offender subpopulation. Finally, the percentages of total bed days used for the DWI subpopulations in the pre and post periods is computed.

Impact of the Presentence DWI Offenders on Jail Space and Population

There is no direct relationship between the new DWI law and changes in the use of jails for the DWI presentenced population. A number of factors such as change in the number of DWI arrests made by police, the percentage of DWI cases booked into jail, change in the early release procedure in the jails, and change in the propensity of judges to keep an offender in jail until sentencing could cause a change in the use of jail for this population. Even though the new DWI law does not require changes in these areas, it is still possible that the law could indirectly induce such changes. Whether or not a change in the presentence population is associated with the change in the DWI law, any change in confinement practices for this DWI population could have a major impact for jail population. A detailed examination of the changes in confinement practices for the presentenced DWI offender population, to the extent that they have occurred, will help clarify reasons for changes in the jailed DWI population.

Only three jurisdictions had increases in the presentenced DWI population from the preperiod to the post period. In both King and Spokane counties, the increase was caused by substantial increases in the length of stay in jail for the long term (greater than four days) group of DWI detainees. There was little change in the number of offenders in the long term presentence group in each county, but the length of stay for the group increased approximately 20 days. The cause of such a change is uncertain, but it can not be logically construed to be a direct result of the new DWI law.

The DWI presentence population also grew in Bellingham City Jail. The increase in this population was caused by both an increase in the number of persons booked and in the average length of stay for the short term presentence population. It is possible that both a slight change in the police procedures and the release policy of the jail in Bellingham produced this increase. It is conceivable, though, that this change could be the result of a general "toughening up" consistent with

the spirit of the new DWI law in one location.

The remainder of the jails in the study either experienced no change in the beds used by DWI presentence offenders or experienced a slight decrease for this population. In cases where a population reduction occurred, there would be a savings in beds on the presentence side that helps offset any impact of the new DWI law on the total jailed DWI population.

Impact of the Sentenced DWI Offenders on Jail Space and Population

The increased demand for bed space for sentenced DWI offenders is directly linked to the new DWI law. In all major jail sites except one, there was increased use of jail beds for sentenced DWI offenders. As might be expected, the greatest area of increase was in the sentenced short term (lengths of stay 4 days or less) offender group. There was a drastic increase in the sentenced short term offender in King County, where an increase from 18 offenders in the preperiod to 792 in the post period was experienced. In the Spokane County Jail, the number of offenders increased from 18 to 252 during the same time period. The impact of this increase in the number of offenders in the short term sentence group on jail bed space was further exacerbated by a general increase in the length of stay for this group.

The large increases in beds used by short term sentenced DWI offenders was partially balanced by a decrease in the demand for beds for long term sentenced DWI offenders in four jurisdictions. In each of these four cases, the decrease in long term sentenced DWI offenders was caused by a decrease in their average length of stay rather than by a reduction in the number of offenders sentenced to long term sentences. Because data for the 1980 sample of DWI offenders could not be collected beyond July records, it might be assumed that this reduction is at least partially an artifact created by the inability to follow the confinement of all DWI offenders to their ultimate release from jail. However, the reduction in length of stay was consistent in each of the post period months.

The reduction in the length of stay for the long term sentenced group of DWI offenders in Pierce

County actually resulted in a reduction in the overall use of jail bed days for DWI offenders for the initial year of the new DWI law. A 129 jail bed day increase for the group of DWI offenders sentenced to short terms was more than offset by a reduction of over 900 bed days experienced for the long term sentenced DWI offender group. The length of stay for the long term DWI offenders in Pierce County was reduced from an average of 27.14 days in 1979 to 11.03 days in 1980.

Weekenders

Because of the difficulty in determining the length of stay in jail for offenders who were allowed to serve their jail time in installments (i.e., some courts permitted offenders to serve multiday jail sentences by reporting on weekends or other fixed days until their sentence had been served), this group of sentenced DWI offenders is analyzed separately. The two key issues associated with "weekenders" are whether there was an increase in the use of weekend type sentences with the advent of the new DWI law and whether the use of weekend sentences caused an increase in jail bed day use. As the information in Table 7 shows, there was at least a small increase in use of weekend sentences in most sites. Only Pierce County experienced a substantial increase in the number of people serving sentences in weekend installments. The number of people receiving such sentences increased from 6 in the preperiod to 129 in the post new law implementation period. Additional jail bed days used for the DWI offenders serving weekends in the Pierce County Jail increased by 318. King County also realized an increased demand for weekend jail bed days. Although the number of persons receiving weekend sentences increased by only 18 offenders in King County, the length of stay nearly doubled resulting in an increase in bed day use of 157 beds.

Yakima County presents an interesting pattern in the use of installment sentencing. Both 1979 and 1980 were post years in terms of implementing a strict DWI law in Yakima County. It is interesting to note that at the same time overcrowding appeared to be seriously impacting the county's ability to jail DWI offenders (See Section IV), the use of weekend sentences for DWI offenders has apparently decreased drastically. In 1979, the Yakima County

court sentenced 28 offenders to weekend installment sentences. In 1980, the use of these sentences came to a halt. This change in court procedures saved Yakima County 112 jail bed days in 1980 for this DWI Offender sentence group. The importance of this reduced impact on weekend jail bed days is further highlighted when it is understood that weekends are traditionally the time that population in county jails peaks--often beyond capacity.

The Yakima County experience brings to light one of the constraints operating on courts in sentencing DWI offenders. Weekend installment sentences can be ordered at the discretion of the courts, to make serving the jail sentence more convenient for the DWI offender; however, this discretionary relief for the individual offender often has a detrimental impact on jail operations. Another limitation of DWI weekend installment sentences some argue, is that the convenience of being allowed to serve jail time on weekends or other non-work days detracts from the punishment that is intended by the law. It is also argued that the reduction in punishment afforded by weekend sentencing reduces the deterrent effect of mandatory sentencing.

Jail Space and Population Summary

The purpose of this section was to show how, and to what extent, the new DWI law has impacted bed space and population in local jails. The analysis has shown that the change in the law has had a clear impact on jail bed space and population. However, the analysis also clearly reveals that the change in the DWI law is not the only factor which impacts the DWI offender portion of the jail population. Jail bed day use for short term sentenced DWI offenders was significantly impacted by the initiation of the law, resulting in an increased demand for bed days for this group. It is not clear, however, that the new DWI law is related to the increase in length of stay in the long term presentenced group that led to increased use of jail bed days for this group in King and Spokane counties. The new DWI law may have had an indirect impact on these subpopulations, but it is likely that other changes in the criminal justice system such as court backlog, defense delays, or changes in parole and probation holding practices have contributed to the increased length of stay of

presentence DWI offenders.

In many jurisdictions, there were changes in the various DWI jail subpopulations that counteracted the general increase in the DWI population sentenced to short terms. In several instances the length of stay for long term sentenced DWI offenders was significantly reduced. Whether or not this reduction was planned or circumstantial, the effect was to reduce the over all demand for jail bed days in the King, Pierce, Spokane, and Yakima county jails. In Pierce County, this change in the long term sentenced group was responsible for an over all reduction in jail bed days used for all DWI offender groups.

TABLE 5

IMPACT OF PRE SENTENCE DHI OFFENDERS ON JAIL SPACE AND POPULATION*

YEAR	JAIL	SHORT TERM (equal to and less than 4 days)					LONG TERM (greater than 4 days)				TOTALS		
		SAMPLE PERIOD BED DAYS	ESTIMATED NUMBER OF CASES	AVERAGE LENGTH OF STAY	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE	ESTIMATED NUMBER OF CASES	AVERAGE LENGTH OF STAY	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE	ESTIMATED NUMBER OF CASES	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE
1979	King County	121,512	1,170	.42	491	.40	102	12.11	1,235	1.02	1,272	1,726	1.42
1980	King County	121,512	936	.33	309	.25	81	34.95	2,831	2.33	1,017	3,140	2.58
1979	Enumclaw, City	732	32	.50	16	2.2	-0-	-0-	-0-	-0-	32	16	2.2
1980	Enumclaw, City	732	20	.79	16	2.2	-0-	-0-	-0-	-0-	20	16	2.2
1979	Pierce County	42,700	498	.31	154	.36	21	37.19	781	1.83	519	935	2.2
1980	Pierce County	42,700	558	.37	206	.48	18	28.11	506	1.19	576	712	1.67
1979	Spokane County	44,408	220	.32	70	.16	12	18.44	221	.50	232	291	.66
1980	Spokane County	44,408	154	.45	69	.16	14	36.99	518	1.17	168	587	1.32
1979	Yakima County	33,672	228	.62	141	.42	68	17.88	1,216	3.61	296	1,357	4.03
1980	Yakima County	33,672	244	.64	156	.46	32	34.84	1,115	3.31	276	1,271	3.77
1979	Whatcom County	6,832	36	.28	10	.15	2	132.00	264	3.86	38	274	4.01
1980	Whatcom County	6,832	60	.37	22	.32	8	22.31	178	2.60	68	200	2.93
1979	Bellingham, City	2,684	34	.18	6	.22	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1980	Bellingham, City	2,684	66	.39	26	.97	-0-	-0-	-0-	-0-	66	26	.97
1979	Adams County	1,952	54	.46	25	1.28	-0-	-0-	-0-	-0-	54	25	1.28
1980	Adams County	1,952	30	.20	6	.31	-0-	-0-	-0-	-0-	30	6	.31
1979	Pacific County	1,708	14	.50	7	.04	2	8.0	16	.94	16	23	1.35
1980	Pacific County	1,708	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-

*The comparison period for this table is March, April, May and June for 1979 and 1980. Information is available for January and February; however, because so many cases were pending from the old law in the early months of 1980, these months were not included in the analysis.

TABLE 6

IMPACT OF SENTENCED DWI OFFENDERS ON JAIL SPACE AND POPULATION*

YEAR	JAIL	SHORT TERM (equal to and less than 4 days)					LONG TERM (greater than 4 days)				TOTALS		
		SAMPLE PERIOD BED DAYS	ESTIMATED NUMBER OF CASES	AVERAGE LENGTH OF STAY	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE	ESTIMATED NUMBER OF CASES	AVERAGE LENGTH OF STAY	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE	ESTIMATED NUMBER OF CASES	ESTIMATED NUMBER OF BED DAYS	PERCENTAGE OF USE
1979	King	121,512	18	2.00	36	.02	114	16.35	1,864	1.53	132	1,900	1.56
1980	King	121,512	792	1.08	855	.70	117	13.23	1,548	1.27	909	2,403	1.97
1979	Enumclaw	732	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1980	Enumclaw	732	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1979	Pierce	42,700	12	.75	9	.02	54	27.14	1,466	3.4	66	1,475	3.5
1980	Pierce	42,700	162	.85	138	.32	48	11.03	529	1.2	210	667	1.56
1979	Spokane	44,408	18	1.0	36	.08	32	25.00	800	1.8	50	836	1.9
1980	Spokane	44,408	252	1.06	267	.60	36	19.95	718	1.6	288	985	2.2
1979	Yakima	33,672	212	.40	85	.25	100	24.67	2,467	7.3	312	2,552	7.6
1980	Yakima	33,672	276	1.28	353	1.05	108	11.80	1,274	3.8	384	1,627	4.8
1979	Whatcom	6,832	20	.50	10	.15	12	43.92	527	7.7	32	537	7.9
1980	Whatcom	6,832	114	1.10	125	1.83	40	24.23	969	14.2	154	1,094	15.0
1979	Bellingham	2,684	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1980	Bellingham	2,684	18	1.22	22	.82	2	39.40	79	2.9	20	101	3.8
1979	Adams	1,952	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1980	Adams	1,952	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
1979	Pacific	1,708	4	1.49	6	.35	-0-	-0-	-0-	-0-	4	149	.35
1980	Pacific	1,708	22	1.27	28	1.63	-0-	-0-	-0-	-0-	22	127	1.63

*The comparison period for this table is March, April, May and June for 1979 and 1980. Information is available for January and February; however, because so many cases were pending from the old law in the early months of 1980, these months were not included in the analysis.

TABLE 7
DWI WEEKENDERS*

YEAR	JAIL	NUMBER	ESTIMATED LENGTH OF STAY	ESTIMATED BED DAYS	CHANGE IN NUMBER OF BED DAYS
1979	King	18	3.3	59	
1980	King	36	6.0	216	+157
1979	Enumclaw	-0-	-0-	-0-	
1980	Enumclaw	-0-	-0-	-0-	None
1979	Pierce	6	5.0	30	
1980	Pierce	129	2.7	348	+318
1979	Spokane	2	4.0	8	
1980	Spokane	12	5.6	67	+59
1979	Yakima	28	4.0	112	
1980	Yakima	-0-	-0-	-0-	-112
1979	Whatcom	2	1.0	2	
1980	Whatcom	4	5.0	20	+18
1979	Bellingham	-0-	-0-	-0-	
1980	Bellingham	2	1.0	2	+2
1979	Adams	-0-	-0-	-0-	
1980	Adams	8	1.0	8	+8
1979	Pacific	4	2.5	10	
1980	Pacific	4	1.5	6	-4

*The comparison period for this table is March, April, May and June for 1979 and 1980. Information is available for January and February; however, because so many cases were pending from the old law in the early months of 1980, these months were not included in the analysis.

6. COST IMPACT OF THE NEW DWI LAW

Driving while intoxicated is only one of many different kinds of crimes that the criminal justice system processes. At the same time, the system that processes these crimes consists of a large number of relatively autonomous elements. A change in the handling of one crime by one element of the criminal justice system does not assure corresponding changes in the system's other elements. As a result, it is difficult to trace the cost of the new DWI law within the criminal justice system.

Information from two sources is presented to assess the cost impact of the new DWI law. First, data on changes in jail bed days associated with the new law are used in conjunction with State Jail Commission data on jail prisoner costs per day to estimate the extent that jail operating costs have increased in the sample counties. Second, the findings of the cost impact survey of various segments of the criminal justice system completed for this study are presented and discussed.

Cost Impact on Local Jails

Using the information that was generated in the previous section, it is possible to derive a rough estimate of the cost impact of the DWI law on local jails. Assuming that the change in jail bed days used for DWIs can be attributed to the new DWI law, it is possible to use prisoner-per-day cost to estimate the increased cost of operating local jails. Obviously, this simplistic approach fails to consider that, under most conditions, there are no extra monies available when a increase in caseload is experienced. Jails basically operate, as do most segments of the criminal justice system, on a fixed budget. Increases in public agency budgets to meet increased workloads are difficult to obtain. Far more frequently, public agencies absorb the increased workload, experiencing a concomitant reduction in the quality of services provided.

As table 8 shows, four of the jurisdictions included in the study experienced increased workloads that may be attributed to implementation of the new DWI law. The cost increases in the four jurisdictions are calculated for the four month sample period and then projected for a full year.

The King County Jail has the highest estimated cost impact, an additional \$115,044. The Spokane County Jail's estimated cost impact is \$16,860, and Whatcom County Jail's estimated cost impact is \$21,930. The Bellingham City Jail had an estimated cost impact of \$7,503. It was not possible to estimate the impact of the DWI law on the Yakima County Jail because some of the data for 1977--the pre-implementation year for Yakima County's local ordinance--had been destroyed prior to the data collection effort. The remaining jails in the study did not register an increase in the overall use of jail bed days. This does not indicate, however, that these jurisdictions were not impacted by the new DWI law. All counties were impacted by the new DWI law, but other pressures on jail population may have masked the effect so as to make changes in the DWI population appear as only a minor phenomenon.

Discussion of the Cost Impact Survey

Responses to a cost impact survey were sought from various elements of the criminal justice system in King, Pierce, Spokane, and Whatcom counties. The results of this cost impact survey were somewhat surprising. Initial informal inquiries had indicated that there was much greater cost impact than was formally reported in the survey responses. Many county officials remarked that the generally perceived high impact was not substantiated by a detailed review of the situation. The fact that fiscal impacts were generally lower than had been expected should not overshadow the cost impacts that are reported, nor should they overshadow the fact that many of the costs are not easily measured in dollars but will be experienced as subtle changes in the quality of service.

The King County Jail is probably the agency most affected by the new law. It has faced more commitments without a change in revenue. The courts in King County, however, are relatively unaffected by the law. The Pierce and Whatcom

County Jails report no cost impact at all due to the new law, in spite of having more commitments. The Spokane County Jail noted an increase in the cost-per-inmate-per-day and an increase in administrative errors caused by overcrowding. The survey also mentioned a "tenseness" in the jail due to overcrowding. The Enumclaw Jail expects future expenses, but this is due to an expected increase in demand for bed space from other counties.

There seemed to be almost no impact on any of the District Courts. However, as was shown in Section II, the use of jury trials has increased with the implementation of the new DWI law. Clerks in several courts told data collection staff that they had to find a way to absorb the increased workload, because new staff was not a possibility. After January 1, 1981, however, there may be an additional impact resulting from the implementation of new Court of Limited Jurisdiction procedures affecting the recording of proceedings and the appeal process.

Superior Courts were not sampled in this survey. There is evidence, however, that there may be a fairly substantial impact in appeal hearings for this higher level court because of the increase in appeals in several counties (see section III for more information).

Several probation departments were affected. Most reassigned staff to maximize supervision and instituted procedural changes to handle the increase in caseload. Several departments noted that time per case and quality of service was declining due to the increase in workload.

Both prosecutors and public defenders mentioned an increase in trial preparation and trial activity. Some counties increased overtime in order to prepare trials. One county made use of legal interns to handle the increase in trial activity. King and Whatcom County prosecutors could not foresee any future expenses, but the Pierce County Prosecutor's Office expected to hire a new staff attorney to handle DWI cases. Bellevue expressed a need for more staff.

Few agencies reported an increase or a decrease in revenues. No agency had purchased or leased new equipment or new space. Most of the cost impact

was in terms of overtime paid to staff members.

Charts 1 through 5 detail, for each element of the criminal justice system, the various types of economic and organizational impact that may be attributed to the new DWI law.

TABLE 8

ESTIMATED IMPACT OF THE NEW DWI LAW ON JAIL OPERATION COSTS

JAIL	CHANGE IN BED DAYS USED FOR DWI'S				COST	ESTIMATED COST INCREASE	
	PRE SENTENCE	SENTENCED	WEEKENDERS	COMBINED CHANGE	1979 COST PER PRISONER DAY*	SAMPLE PERIOD	ANNUALIZED
King County	+1,414	+503	+157	+2,074	\$18.49	\$38,348	\$115,044
Enumclaw	No change	No change	No change	No change	--	None	--
Pierce County	-223	-808	+318	-267	\$16.38	None	--
Spokane County	+296	+149	+59	+504	\$11.15	\$5,620	\$16,860
Yakima	Pre/Post Comparison not possible						
Whatcom	-74	+557	+18	+501	\$14.59	\$7,310	\$21,930
Bellingham	+26	+101	+2	+129	\$19.39	\$2,501	\$7,503
Adams	-19	No change	+8	-11	--	None	--
Pacific	-23	-22	-4	-49	--	None	--

*Provided by the Washington State Jail Commission.

CHART 1

COST IMPACT TO JAILS

JAIL	STAFFING CHANGES	PROCEDURAL CHANGES	NEW EQUIP.	NEW SPACE	COST PER CASE	REVENUE CHANGES	FUTURE EXPENSE	FUTURE CHANGES
KING	NOT (1) POSSIBLE	YES (2)	NOT POSSIBLE	NOT POSSIBLE	YES (3)	NO	YES (4)	NO
PIERCE	NO	NO	NO	NO	NO	NO	NO	NO
SPOKANE	NOT POSSIBLE	YES (5)	NO	NO	YES (6)	NO	NO	NO
WHATCOM	NOT POSSIBLE	NOT (7) POSSIBLE	NOT	NOT	NO	NO	NO	NO
BELLINGHAM	NO	NO	NO	NO	NO	NO	NO	NO
ENUMCLAW	NO	NO	NO	NO	NO	NO	YES (8)	NO

Explanation of Responses:

- (1) More staff time is required to book, process paperwork, classify and monitor.
- (2) Due to overcrowding, jail population is reduced by releasing other types of offenders.
- (3) By adding 40 to 50 persons per day at \$25 per person, the costs are increasing.
- (4) Due to projected increase of DWI bookings.
- (5) There has been an increase in administrative errors and the jail is becoming more tense.
- (6) From \$12 per day to \$17 per day.
- (7) Developed a pre-booking form to be filled out by arresting officer to speed the delivery of a prisoner.
- (8) Due to increased use of jail by other courts and due to requests by prisoners.

CHART 2

COST IMPACT TO MUNICIPAL COURTS

<u>COURT</u>	<u>STAFFING CHANGES</u>	<u>PROCEDURAL CHANGES</u>	<u>NEW EQUIP.</u>	<u>NEW SPACE</u>	<u>COST PER CASE</u>	<u>REVENUE CHANGES</u>	<u>FUTURE EXPENSE</u>	<u>FUTURE CHANGES</u>
SEATTLE	NO	NO	NO	NO	NO	NO	NO	NO
ENUMCLAW	NO	NO	NO	NO	NO	NO	NO	NO
TACOMA	NO	NO	NO	NO	NO	NO	NO	NO
GIG HARBOR	NO	NO	NO	NO	NO	NO	NO	NO
SPOKANE	NO	SOME (1)	NO	NO	NO	UNKNOWN	NO	YES (2)
CHENEY	NO	YES (3)	NO	NO	NO	NO	NO	NO
BELLINGHAM	NO	NO (4)	NO	NO	NO	UNKNOWN	NO	NO (5)

Explanation of Responses:

- (1) More clerical time was spent due to new forms and new procedures for jail commitments.
- (2) Possible changes if volume of cases and trials increase substantially.
- (3) More clerical time is being spent on jail commitments and alcohol rehabilitation forms.
- (4) Because more people plead guilty at arraignment now.
- (5) Because full probation and alcohol treatment are only recommended for defendant's whose breathalyzer test score is .14 or above.

CHART 3

COST IMPACT TO PROBATION DEPARTMENTS

DEPARTMENT	STAFFING CHANGES	PROCEDURAL CHANGES	NEW EQUIP.	NEW SPACE	COST PER CASE	REVENUE CHANGES	FUTURE EXPENSE	FUTURE CHANGES
KING CO.	NO	NO	NO	NO	NO	NO	NO	NO
SEATTLE	NO	YES (1)	NO	NO	NO	NO	NO	NO
BELLEVUE	YES (2)	YES (3)	NO	NO	YES (4)	YES (5)	YES (6)	YES (7)
PIERCE CO.	YES (8)	NO	NOT POSSIBLE	NOT POSSIBLE	UNKNOWN	NO	YES (9)	YES (10)
SPOKANE	NO	NOT ANSWERED	NO	NO	NO	NO	NO	NO
WHATCOM	YES (11)	YES (12)	NO	NO	UNKNOWN	UNKNOWN	UNKNOWN	YES (13)

Explanation of Responses:

- (1) Needed to establish sentencing guidelines.
- (2) Reassigned staff and added overtime.
- (3) Needed to reduce services in other areas to handle the work load in DWI cases.
- (4) As caseload increased, the cost per case and the quality of service decreased.
- (5) Increased from approximately \$13,950 in 1979 to \$16,650 for 1980.
- (6) Will need to hire another counselor.
- (7) Did not specify changes.
- (8) Reassigned staff.
- (9) Expect more court referrals and more supervision necessary.
- (10) Need to increase capabilities.
- (11) Reassigned staff by staggering hours.
- (12) Administrative and clerical changes were made.
- (13) Services will probably be cut, more cases will be put on inactive status, clerks instead of counselors will supervise cases.

CHART 4
COST IMPACT TO PROSECUTORS

COUNTY OR CITY	STAFFING CHANGES	PROCEDURAL CHANGES	NEW EQUIP.	NEW SPACE	COST PER CASE	REVENUE CHANGES	FUTURE EXPENSE	FUTURE CHANGES
KING	NO	YES (1)	NO	NO	NO	NO	NO	NO
PIERCE	YES (2)	NO (3)	NOT POSSIBLE	NO	YES (4)	NO	YES	NO
SPOKANE	Cost impact survey not returned.							
WHATCOM	NO	NO	NO	NO	NO (5)	NO	NO	NO
BELLEVUE	NO	NO	NO	NO	YES (6)	NO	YES (7)	NO

Explanation of Responses:

- (1) Due to some pressure from judges and alcoholism treatment programs, deferred prosecution was resumed on July 1, 1980.
- (2) Needed to reassign staff due to an increase in trials and needed to increase overtime. Will add a new staff member if budget request is approved.
- (3) But it is becoming more difficult to maintain the level of services.
- (4) Due to an increase in overtime pay to staff members.
- (5) But there may be more jury trials.
- (6) Due to more jail commitments.
- (7) Less guilty pleas and more eligibility for appointed counsel.

CHART 5

COST IMPACT TO COUNTY PUBLIC DEFENDERS

<u>COUNTY</u>	<u>STAFFING CHANGES</u>	<u>PROCEDURAL CHANGES</u>	<u>NEW EQUIP.</u>	<u>NEW SPACE</u>	<u>COST PER CASE</u>	<u>REVENUE CHANGES</u>	<u>FUTURE EXPENSE</u>	<u>FUTURE CHANGES</u>
KING	Cost impact survey not returned.							
PIERCE	YES (1)	YES (2)	NO	NOT (3) POSSIBLE	YES (4)	NO	YES (5)	NO
SPOKANE	YES (6)	YES (7)	NOT POSSIBLE	NOT POSSIBLE	UNKNOWN	NO	YES (8)	YES (9)
WHATCOM	NO	YES (10)	NO	NO	NO	NO	YES (11)	NO

Explanation of Responses:

- (1) Staff spent more time on trials and less time in negotiating. More staff overtime is now used. Need a new staff member.
- (2) The fines have been standardized at a higher level than before; hence, poverty level clients cannot afford to pay the fines and they serve more time in jail in lieu of paying fines.
- (3) Will need new space if additional staff member is granted.
- (4) Due to more overtime pay, the cost per case has increased. Unable to give precise figures.
- (5) Due to additional trials.
- (6) Reassigned staff and used more legal interns for investigation and trial preparation.
- (7) More time needed in investigation and trial preparation.
- (8) Will need to assign more staff to pleading, investigation, and trials.
- (9) Exactly how procedures will change is uncertain at this time.
- (10) Attorneys' home phone numbers have been posted in the county jail for DWI arrestees. Attorneys are paid \$30 per phone call received at home.
- (11) At \$30 per phone call, the cost to the county will increase for defending indigent DWI arrestees.

7. CONFINEMENT ALTERNATIVES FOR DWI OFFENDERS

This section reports on the availability and utilization of alternative confinement facilities for DWI offenders. The new DWI law does not allow a sentencing judge the freedom to defer or excuse a person convicted of a DWI from the mandatory jail sentence just because a person is placed in an alcohol treatment facility. At the same time, the law requires that this study address the existence of alternative facilities to which DWI offenders could be committed. Under the new law, a judge can excuse a person from the mandatory jail sentence only for physical or mental health reasons. Therefore, there are presently no alternatives for jailing DWI offenders.

The new DWI law does, however, express an interest in the treatment of DWI offenders. It requires the use of alcohol education classes for DWI offenders. Furthermore, there is implicit support in the law for continued use of alcohol treatment facilities. When the law is amended regarding confinement facilities, as seems probable given the requirement that alternatives be examined, these facilities could be considered as alternatives for confinement. The availability, use, and cost of alcohol treatment sites are delineated for four counties -- King, Pierce, Spokane, and Whatcom.

In general, in-patient alcohol treatment programs have not experienced an increase in DWI referrals under the new law. Public programs had little or no vacant bed space, yet private institutions represent a relatively under used resource.

The program administrators contacted indicated two opposing responses to the new law. Some felt the new law was detrimental because the mandatory sentencing provisions are delaying, or preventing, treatment. Others felt that the threat of jail time provoked alcoholics to seek help.

Most Alcohol Information Schools (AIS) have not noted an increase in enrollments. At many AIS programs, particularly in King County, enrollments

are below 1979 levels, and it was thought enrollments would be even lower if it were not for a recent increase in voluntary enrollments. These voluntary enrollments are made at the suggestion of defense attorneys before the trial. The lower enrollment levels were caused, in the opinion of several King County AIS administrators, by an increase in the time a DWI case takes in court. They believed that fewer guilty pleas and more appeals were responsible for slowing the flow of DWI convicted persons to the AIS programs.

There are other factors that may also affect the King County AIS programs. Some judges require enrollment at a specific AIS, possibly because that specific program offers a longer program; this increases the enrollments at certain programs and reduces the enrollments in others. Cost also is a factor in enrollment. When defendants are able to "shop around" for an AIS program, they enroll in those programs that are the least expensive. Charts 6 through 9 provide detailed information concerning the alternative placement sites for DWI offenders.

CHART 6
ALCOHOL PROGRAMS ACCEPTING COURT REFERRALS
(In-Patient Care Programs)

PROGRAM	TYPE	SERVICES PROVIDED*	TOTAL DWI REFERRALS 1979	TOTAL DWI REFERRALS 1980**
<u>KING COUNTY</u>				
Alcenas-ATC	Private	A, B, D	30 - 40	20
V.A. Hospital	Public	A, B ⁺ , F	96 (2)	48 (2)
Cabrini Hospital	Private	A, B, C	10	6
Cedar Hills-ATC	Public	A	21 (1)	34
North West-ATC	Public	A, B, C, D	86 (1)	58
Pioneer-ATC	Public	A, B, C, E	35 (1)	17 (2)
Riverton Hospital	Private	A, B, C	24 (2)	12 (2)
Shadel Hospital	Private	A	15	15
<u>PIERCE COUNTY</u>				
Puget Sounty Hospital	Private	A, B, C, D		
V.A. Hospital	Public	A, B, C	156 (2)	78 (2)
<u>SPOKANE COUNTY</u>				
Raleigh Hills Hospital	Private	A, B, C	23 (2)	12 (2)
<u>WHATCOM COUNTY</u>				
Olympic Center-ATC	Private	A, B, C, F	100 (2)	55 (2)

*Services Provided:
A = In-patient care
B = Out-patient care after residency
B⁺ = Out-patient care
C = Follow-up care, monitoring
D = Family counseling
E = Work release
F = Other (AA, antibuse, etc.)

(1) For the last 6 months of 1979
(2) Estimate only

1980** refers to the first 6 months only

CHART 7

ALCOHOL PROGRAMS ACCEPTING COURT REFERRALS - CAPACITY

(In-patient Care Programs)

PROGRAM	TOTAL PATIENTS 1979	TOTAL PATIENTS 1980*	BED CAPACITY 1979	BED CAPACITY 1980*
<u>King County</u>				
Alcenas	950		82	82
V.A. Hospital	240	120	16	16
Cabrini Hospital	382	299	23	23
Cedar Hills	192 (1)	257	128	128
North West	418	197	36	36
Pioneer	656	320	105	105
Riverton Hospital	1,353	421	32	38
Shadel Hospital	400	422	58	58
<u>Pierce County</u>				
Puget Sound Hospital	Not available		33	21
V.A. Hospital	625 (2)	312 (2)	75	39
<u>Spokane County</u>				
Raleigh Hills Hospital	450	225	34	14
<u>Whatcom County</u>				
Olympic Center	198	110	21	21

*For the first 6 months only.

(1) For the last 6 months of 1979.

(2) Estimate only.

CHART 8

ALCOHOL PROGRAMS ACCEPTING COURT REFERRALS - COST

(In-patient Care Programs)

PROGRAM	AVERAGE LENGTH OF STAY (DAYS)	COST PER DAY 1979	COST PER DAY 1980
<u>King County</u>			
Alcenas	28	\$130.00	\$130.00
V.A. Hospital	14/49	\$225.00	\$225.00
Cabrini Hospital	21	\$162.00	\$162.00
Cedar Hills	90	\$17.29	\$17.29
North West	28	\$55.00	\$55.00
Pioneer	28/75	\$22.00	\$22.00
Riverton Hospital	23	\$174.00	\$174.00
Shadel Hospital	14	\$225.00	\$225.00
<u>Pierce County</u>			
Puget Sound Hospital	21	\$110.00	\$110.00
V.A. Hospital	39	\$156.00	\$169.00
<u>Spokane County</u>			
Raleigh Hills Hospital	14	\$360.00	\$360.00
<u>Whatcom County</u>			
Olympic Center	28	\$80.00	\$80.00

CHART 9
ALCOHOL PROGRAMS ACCEPTING COURT REFERRALS - VACANCIES
(In-patient Care Programs)

PROGRAM	TURNED AWAY DWI REFERRALS 1979 (3)	TURNED AWAY DWI REFERRALS 1980 (3)	BED SPACE VACANCIES 1979 & 1980
<u>King County</u>			
Alcenar	NO	NO	YES
V.A. Hospital	YES	YES	NO
Cabrini Hospital	YES	YES	YES
Cedar Hills	YES	YES	NO
North West	NO	NO	YES
Pioneer	NO	NO	YES
Riverton Hospital	NO	NO	YES
Shadel Hospital	YES	YES	YES
<u>Pierce County</u>			
Puget Sound Hospital	NO	NO	YES
V.A. Hospital	NO	YES	NO
<u>Spokane County</u>			
Raleigh Hills Hospital	NO	NO	YES
<u>Whatcom County</u>			
Olympic Center	NO	NO	YES

(3) Due to lack of space

APPENDIX I

FIVE YEAR COMPARATIVE ARREST
DATA FOR CITIES AND COUNTIES

This appendix shows the number of DWI arrests made for cities and counties (counties here represent the area covered by the Sheriff's Departments) for the time period of 1975 to 1979. Various other reported crime frequencies are also reported so that the trends of different crime categories can be contrasted with the DWI category.

Following the detail presentation for both the cities and counties, various types of summary information are reported. First, the average number of DWI arrests are reported for each city and county. Next, the average number of DWI arrests are presented for the various size classifications of cities and counties. Finally, the statewide average for DWI arrests are presented.

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
ABERDEEN	75	18522	1827	319	1508	36	283	285	
ABERDEEN	76	18980	1751	353	1398	29	324	372	
ABERDEEN	77	18900	1602	387	1215	45	342	247	
ABERDEEN	78	19100	1762	364	1398	26	337	205	
ABERDEEN	79	19075	3131	448	2683	41	407	179	
ANACORTES	76	8010	428	140	288	5	135	26	
ANACORTES	77	8200	589	118	471	11	107	86	
ANACORTES	78	8550	764	126	638	5	121	183	
ANACORTES	79	8870	470	81	389	3	78	101	
AUBURN	76	22600	923	479	444	29	450	60	
AUBURN	77	23055	858	372	486	21	351	63	
AUBURN	78	24750	775	378	397	22	356	62	
AUBURN	79	25735	911	454	457	66	388	96	
BLAINE	75	2272	396	50	346	9	41	137	
BLAINE	76	2265	405	37	368	1	36	125	
BLAINE	77	2360	554	71	483	10	61	114	
BLAINE	78	2410	284	35	249	2	33	36	
BLAINE	79	2500	447	75	372	6	69	74	
BONNEY LAKE	79	4900	156	28	128	4	24	28	
BOTHELL	76	6036	182	60	122	6	54	34	
BOTHELL	77	6295	189	52	137	4	48	32	
BOTHELL	78	6708	213	61	153	3	58	21	
BOTHELL	79	7138	319	100	219	3	97	29	
BREMERTON	76	42160	2185	648	1537	60	588	197	
BREMERTON	77	43160	2460	706	1754	86	619	171	
BREMERTON	78	36100	2379	790	1589	77	713	177	
BREMERTON	79	36850	2893	880	2013	97	783	164	
BUCKLEY	76	3085	301	27	274		27	59	
BUCKLEY	77	3030	196	16	180		16	39	
BUCKLEY	78	3054	242	36	206	5	31	46	
BUCKLEY	79	3100	352	32	320	0	32	29	
BURLINGTON	76	3400	271	93	178	7	86	10	
BURLINGTON	77	3368	244	67	177	6	61	20	
BURLINGTON	78	3515	227	53	174	2	51	8	
BURLINGTON	79	3625	417	65	352	4	61	67	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
CAMAS	76	5990	569	94	475	2	92	47	
CAMAS	77	6010	566	90	476	9	81	37	
CAMAS	78	6000	839	74	765	1	73	66	
CAMAS	79	5900	403	73	330	8	65	51	
CEN.WA.STATE	78	0	194	30	164	5	25	9	
CEN.WA.STATE	79	0	149	30	0	3	27	2	
CHEHALIS	75	6387	337	81	256	6	75	22	
CHEHALIS	76	5940	314	85	229		85	43	
CHEHALIS	77	5900	290	70	220	7	63	52	
CHEHALIS	78	5990	170	31	139	5	26	45	
CHEHALIS	79	6000	385	126	259	13	113	59	
CHENEY	76	6637	219	71	148	3	68	26	
CHENEY	77	6685	314	78	236	5	73	28	
CHENEY	78	7092	287	63	224	4	55	15	
CHENEY	79	7110	173	66	107	3	63	15	
CLARKSTON	75	6875	296	96	200	4	92	20	
CLARKSTON	76	6920	277	100	177	6	94	17	
CLARKSTON	77	7050	329	102	227	17	85	33	
CLARKSTON	78	7090	95	11	138	84	0	38	
CLARKSTON	79	7310	241	131	110	14	117	22	
CLE ELUM	76	1725	55	13	42		13	3	
CLE ELUM	77	1725	126	33	93	1	32	2	
CLE ELUM	78	1725	167	52	115	2	50	18	
CLE ELUM	79	1735	108	26	82	0	26	12	
CLYDE HILL	76	3185	274	154	120		154	17	
CLYDE HILL	77	3073	102	7	95		7	3	
CLYDE HILL	78	3150	88	15	73	0	16	2	
CLYDE HILL	79	3210	77	2	75	0	2	2	
COLLEGE PL.	76	5120	89	9	80	2	7	27	
COLLEGE PL.	77	5215	87	10	77	3	7	24	
COLLEGE PL.	78	5289	30	9	21	0	9	7	
COLLEGE PL.	79	5530	79	36	43	2	34	11	
COLVILLE	76	4350	180	60	120	1	59	15	
COLVILLE	77	4347	236	59	177	1	58	27	
COLVILLE	78	4500	168	51	117	0	51	16	
COLVILLE	79	4830	234	51	183	1	50	28	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
CONNELL	76	1780	181	8	173		8	45	
CONNELL	77	1904	167	15	152		15	47	
CONNELL	78	2032	68	6	62	1	5	8	
COSMOPOLIS	77	1590	20	1	20		1	6	
COSMOPOLIS	78	1600	7	0	7	0	0	0	
COSMOPOLIS	79	1605	6	3	3	0	3	0	
DAYTON	76	2646	109	18	91	3	15	7	
DAYTON	77	2650	143	13	130	2	11	18	
DAYTON	78	2650	62	3	59	0	3	5	
DAYTON	79	2660	64	14	50	2	12	6	
DES MOINES	76	6460	506	79	427	10	69	136	
DES MOINES	77	6730	661	94	567	4	90	145	
DES MOINES	78	6900	448	92	330	8	84	57	
DES MOINES	79	7405	389	78	311	4	74	118	
ELLENSBURG	79	13000	633	196	437	9	187	68	
ELMA	77	2452	220	18	202	2	16	38	
ELMA	78	2562	359	56	303	7	49	56	
ELMA	79	2750	379	43	336	15	28	89	
ENUMCLAW	76	4800	222	47	175		47	19	
ENUMCLAW	77	4710	252	68	184		68	21	
ENUMCLAW	78	4800	316	64	252	1	63	30	
ENUMCLAW	79	5135	275	85	190	4	81	18	
EPHRATA	76	5280	175	15	160		15	57	
EPHRATA	77	5320	419	89	330	2	87	26	
EPHRATA	78	5430	213	58	155	0	58	66	
EPHRATA	79	5500	194	23	171	1	22	51	
FIRCREST	76	5800	109	8	101		8	20	
FIRCREST	77	5700	113	15	98	4	11	23	
FIRCREST	78	5960	140	9	131	1	8	12	
GRAND COULEE	79	1325	75	19	56	1	18	26	
HOQUIAM	76	10445	721	119	602	16	103	185	
HOQUIAM	77	10430	1024	54	970	14	40	452	
HOQUIAM	78	10400	703	78	625	2	76	218	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
HOQUIAM	79	10400	713	96	617	21	75	152	
ILWACO	79	575	41	15	26	1	14	2	
ISSAQUAH	76	4850	412	111	301	12	99	55	
ISSAQUAH	77	5078	580	124	456	5	119	71	
ISSAQUAH	78	5055	532	94	438	8	86	57	
ISSAQUAH	79	5160	533	121	412	0	121	69	
KENNEWICK	76	21301	1580	357	1223	19	337	289	
KENNEWICK	77	23638	1615	515	1100	18	497	177	
KENNEWICK	78	26564	2311	826	1485	17	809	217	
KENNEWICK	79	29810	3260	972	2288	21	951	297	
KENT	76	17500	724	266	458	31	235	170	
KENT	77	18250	562	188	374	18	168	131	
KENT	78	19400	763	25	468	270	0	55	
KENT	79	21100	699	274	425	34	240	69	
KIRKLAND	77	15350	610	224	386	6	218	143	
KIRKLAND	78	17000	714	308	406	11	297	132	
LACEY	76	11860	536	171	365	3	168	39	
LACEY	77	11807	684	288	396	7	281	30	
LACEY	78	12660	673	313	360	9	304	39	
LACEY	79	13800	684	308	376	14	294	49	
LONG BEACH	79	1100	133	32	101	4	28	19	
LONGVIEW	76	29500	2273	521	1752	22	499	323	
LONGVIEW	77	29830	2056	474	1582	24	450	302	
LONGVIEW	78	30200	2260	643	1617	24	619	248	
LONGVIEW	79	31100	2132	569	1563	32	537	260	
LYNNWOOD	76	20150	786	311	475	37	274	144	
LYNNWOOD	77	21450	729	208	521	19	189	213	
LYNNWOOD	78	21470	556	191	380	27	164	142	
LYNNWOOD	79	22600	640	209	431	27	182	193	
MCCLEARY	77	1315	52		52			19	
MCCLEARY	78	1362	76	10	66	1	9	24	
MCCLEARY	79	1400	127	47	80	2	45	11	
MEDINA	76	3270	43	18	25	6	12	11	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
MEDINA	77	3280	49	14	35	4	10	7	
MEDINA	78	3280	62	22	40	1	21	4	
MEDINA	79	3260	53	14	39	0	14	5	
MILTON	76	2650	70	11	59	2	9	18	
MILTON	77	2624	60	3	57	1	2	27	
MILTON	78	2747	17	0	17	0	0	11	
MONROE	76	2695	239	81	158	5	76	37	
MONROE	77	2725	338	97	241	12	85	44	
MONROE	78	2730	320	97	223	6	91	43	
MONROE	79	2775	323	86	237	3	83	17	
MONTESANO	79	2850	193	31	162	0	31	34	
MOSES LAKE	76	10165	977	167	815	22	140	131	
MOSES LAKE	77	10475	1018	202	816	26	176	138	
MOSES LAKE	78	10900	630	171	459	14	157	82	
MOSES LAKE	79	11300	726	164	562	7	157	115	
MOUNT VERNON	76	10300	916	276	640	8	268	86	
MOUNT VERNON	77	11021	855	272	583	12	260	80	
MOUNT VERNON	78	11600	999	243	756	6	237	94	
MOUNT VERNON	79	12600	997	232	765	12	220	56	
MOUNTLAKE TR	76	16400	682	160	522	8	152	45	
MOUNTLAKE TR	77	16550	725	217	508	6	211	88	
MOUNTLAKE TR	78	16900	651	215	436	8	207	91	
MOUNTLAKE TR	79	17770	602	253	349	14	239	37	
NORMANDY PK.	76	4351	89	28	61	7	21	26	
NORMANDY PK.	77	4500	145	10	135	1	9	52	
NORMANDY PK.	78	4635	81	4	77	2	2	36	
NORMANDY PK.	79	4775	26	10	16	2	8	9	
OAK HARBOR	76	11271	900	251	649	9	242	144	
OAK HARBOR	77	11618	767	161	606	12	149	95	
OAK HARBOR	78	11980	660	167	493	7	160	68	
OAK HARBOR	79	12070	596	185	411	9	176	80	
OCEAN SHORES	76	1021	70	15	55	2	13	23	
OCEAN SHORES	77	1280	80	10	70	1	9	30	
OCEAN SHORES	78	1398	71	16	55	4	12	14	
OCEAN SHORES	79	1604	104	37	67	2	35	20	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
OTHELLO	75	4508	367	72	295	2	70	77	
OTHELLO	76	4504	319	60	259	3	57	59	
OTHELLO	77	4570	338	57	281	1	56	56	
OTHELLO	78	4649	450	50	400	6	44	57	
OTHELLO	79	4670	343	54	289	8	46	74	
PASCO	75	14654	1169	215	954	25	190	131	
PASCO	76	14618	1022	225	797	31	194	105	
PASCO	77	15375	1029	222	807	35	187	150	
PASCO	78	16000	938	220	718	50	170	151	
PASCO	79	16370	974	265	709	43	222	146	
PORT ANGELES	76	16506	1451	322	1129	19	303	110	
PORT ANGELES	77	16890	1587	300	1287	20	278	123	
PORT ANGELES	78	17025	1328	316	1012	20	295	107	
PORT ANGELES	79	17375	1439	321	1118	22	299	113	
PORT ORCHARD	77	4280	342	106	236	7	99	138	
PORT ORCHARD	78	4295	361	107	254	12	95	109	
PORT ORCHARD	79	4620	310	101	209	10	91	96	
PORT TOWNSND	76	5500	318	77	241	1	76	11	
PORT TOWNSND	77	5655	403	80	323	4	76	41	
PORT TOWNSND	78	5700	344	59	285	1	58	47	
PORT TOWNSND	79	5800	349	48	301	3	45	58	
PROSSER	76	3150	205	27	178	1	26	35	
PROSSER	77	3335	206	24	182	3	21	44	
PROSSER	78	3400	162	14	148	2	12	38	
PROSSER	79	3788	192	33	159	2	31	56	
PULLMAN	76	23500	448	71	377	12	59	88	
PULLMAN	77	23500	287	67	220	5	62	87	
PULLMAN	78	23300	436	69	367	10	59	121	
PULLMAN	79	23050	349	68	281	3	65	123	
PUYALLUP	76	15500	758	246	512	7	239	70	
PUYALLUP	77	15757	970	229	741	5	222	92	
PUYALLUP	78	16300	1160	259	901	6	253	99	
PUYALLUP	79	16900	1314	346	968	6	340	90	
QUINCY	79	3580	171	52	119	11	41	29	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
RAYMOND	78	3095	144	33	111	4	29	18	
RAYMOND	79	3175	171	38	133	2	36	22	
REDMOND	76	16445	430	114	316	5	109	130	
REDMOND	77	17757	594	165	429	10	155	136	
REDMOND	78	19860	471	169	302	10	155	106	
REDMOND	79	21360	772	232	540	5	227	140	
RENTON	76	26039	1873	350	1523	26	323	358	
RENTON	77	27150	1943	376	1567	15	361	448	
RENTON	78	29300	2127	504	1623	13	491	311	
RENTON	79	30700	2294	654	1640	41	613	443	
RICHLAND	76	30009	1183	190	993	10	180	259	
RICHLAND	77	31051	1402	175	1227	20	155	368	
RICHLAND	78	32350	920	173	747	20	153	269	
RICHLAND	79	33550	1033	307	726	14	293	240	
RIDGEFIELD	76	1026	107	19	88		19	11	
RIDGEFIELD	77	952	119	9	110		9	8	
RIDGEFIELD	78	1020	81	12	69	0	12	2	
SEA-TAC AIRP	79	0	308	78	230	11	67	33	
SEATTLE	76	503500	27645	7191	20454	548	6638	915	
SEATTLE	77	500000	42185	8682	33503	680	8002	3837	
SEATTLE	78	490000	38779	8586	29896	634	7547	2965	
SEATTLE	79	497300	45087	10692	34395	915	9777	3166	
SEDRO WOOLEY	76	5260	338	86	252	1	85	27	
SEDRO WOOLEY	77	5260	398	111	287	13	98	28	
SEDRO WOOLEY	78	5443	423	118	305	22	96	47	
SEDRO WOOLEY	79	5580	433	117	316	9	108	54	
SELAH	78	3930	272	108	164	32	76	11	
SELAH	79	4090	224	49	175	15	34	31	
SHELTON	76	6480	499	145	354	5	140	42	
SHELTON	77	6650	673	141	532	8	133	90	
SHELTON	78	6850	578	148	430	4	144	93	
SHELTON	79	7020	844	174	670	10	164	182	
SNOHOMISH	77	4935	408	169	239	7	162	50	
SNOHOMISH	78	4970	357	171	186	32	135	44	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
SNOHOMISH	79	5050	394	204	190	37	167	30	
SOUTH BEND	79	1820	53	5	48	0	5	30	
SPOKANE	76	174500	8371	2771	5600	274	2498	401	
SPOKANE	77	174500	7811	2658	5153	208	2445	714	
SPOKANE	78	176700	7555	2990	4565	304	2678	662	
SPOKANE	79	179200	7401	3301	4100	302	2999	291	
STEILACOOM	78	4600	204	46	158	6	40	44	
STEILACOOM	79	4700	210	18	192	6	12	36	
SUMNER	76	4327	174	75	99	5	70	36	
SUMNER	77	4400	174	55	119	2	53	35	
SUMNER	78	4670	126	44	82	1	43	24	
SUMNER	79	4800	159	104	55	0	104	14	
SUNNYSIDE	76	7440	1195	252	943	26	226	201	
SUNNYSIDE	77	7600	1044	136	908	6	130	148	
SUNNYSIDE	78	7850	1398	265	1133	6	259	193	
SUNNYSIDE	79	7920	1220	200	1020	13	187	179	
TACOMA	76	156500	6695	2670	4025	301	2367	799	
TACOMA	77	156000	7652	3120	4532	405	2710	877	
TACOMA	78	156500	7147	3067	4080	321	2741	896	
TACOMA	79	157800	7202	3136	4066	422	2714	724	
TUKWILA	76	3300	1511	1125	386	20	1105	57	
TUKWILA	77	3037	1647	1310	337	16	1293	60	
TUKWILA	78	3160	1641	1143	498	12	1130	60	
TUKWILA	79	3430	1515	1116	399	18	1098	82	
VANCOUVER	75	47156	1760	398	1362	42	356	299	
VANCOUVER	76	46500	2200	519	1681	50	469	385	
VANCOUVER	77	46500	2138	550	1588	37	513	282	
VANCOUVER	78	46900	1930	541	1389	52	485	199	
VANCOUVER	79	47400	1864	441	1423	33	408	182	
WAITSBURG	79	1070	37	22	15	0	22	1	
WALLA WALLA	76	23840	1949	233	1716	7	226	61	
WALLA WALLA	77	24300	1956	365	1591	23	342	130	
WALLA WALLA	78	24570	1390	222	1168	12	210	104	
WALLA WALLA	79	24750	729	100	629	10	90	71	

** See footnotes that follow

		POP	GTOT	PT1	PT2	VI	PRP	DWI	**
WASH STATE U 78		0	198	40	158	0	40	57	
WASH STATE U 79		0	236	55	181	1	54	71	
WENATCHEE	76	17700	2508	302	2206	25	277	320	
WENATCHEE	77	17700	2409	308	2101	19	289	281	
WENATCHEE	78	18000	2094	381	1713	29	352	210	
WENATCHEE	79	18700	2010	369	1641	34	335	187	
WESTPORT	77	1530	134	21	113	3	18	42	
WESTPORT	78	1530	47	1	46	0	1	32	
WESTPORT	79	1550	57	7	50	3	4	22	
WOODLAND	79	2215	172	56	116	3	53	12	
YAKIMA	76	49100	3821	1292	2529	80	1211	281	
YAKIMA	77	51000	3568	1236	2332	59	1177	274	
YAKIMA	78	52250	3535	1192	2343	66	1126	275	
YAKIMA	79	52700	3201	1239	1962	96	1143	270	

FOOTNOTES: These arrest statistics were extracted from Uniform Crime Reports compiled by the U.S. Dept. of Justice, FBI.
 GTOT - Total arrests (less traffic)
 PT1 - arrests for Part 1 crimes per UCR definitions.
 PT2 - arrests for Part 2 crimes
 VI - arrests for Part 1 violent crimes
 PRP - arrests for Part 1 property crimes
 DWI - arrests for Driving While Intoxicated

AVERAGES FOR DWI ARREST DATA BY AGENCY			
NAME	AVG. POP	AVG DWI'S	YRS REPORTING
ABERDEEN	18915	257	5
ANACORTES	8314	84	5
AUBURN	23688	72	5
BELLINGHAM	41000	100	1
BLAINE	2361	97	5
BONNEY LAKE	4732	18	2
BOTHELL	6412	26	5
BREMERTON	39088	185	5
BUCKLEY	3113	48	5
BURLINGTON	3464	26	5
CAMAS	5994	47	5
CASTLE ROCK	2025	20	1
CEN. WA. STATE	0	5	2
CENTRALIA	11190	84	1
CHEHALIS	6043	44	5
CHENEY	6841	27	5
CHEWELAH	1962	17	1
CLARKSTON	7049	26	5
CLE ELUM	1724	7	5
CLYDE HILL	3159	7	5
COLLEGE PL.	5224	14	5
COLVILLE	4444	22	5
CONNELL	1848	28	4
COSMOPOLIS	1598	5	4
DAYTON	2647	8	5

AVERAGES FOR DWI ARREST DATA BY AGENCY			
NAME	AVG. POP	AVG DWI'S	YRS REPORTING
DES MOINES	6766	111	5
ELLENSBURG	12900	94	2
ELMA	2558	51	4
ENUMCLAW	4822	22	5
EPHRATA	5334	48	5
FIRCREST	5835	19	4
GRAND COULEE	1352	26	2
HOQUIAM	10374	223	5
ILWACO	576	2	2
ISSAQUAH	4978	59	5
KENNEWICK	23913	243	5
KENT	18635	106	5
KIRKLAND	15816	121	3
LACEY	12370	35	5
LONG BEACH	1100	22	2
LONGVIEW	29935	309	5
LYNNWOOD	21068	169	5
MCCLEARY	1347	21	4
MEDINA	3266	7	5
MILTON	2664	20	4
MONROE	2722	34	5
MONTESANO	2825	31	2
MOSES LAKE	10657	112	5
MOUNT VERNON	11029	65	5
MOUNTLAKE TR	16921	63	5

AVERAGES FOR DWI ARREST DATA BY AGENCY			
NAME	AVG. POP	AVG DWI'S	YRS REPORTING
NORMANDY PK.	4555	26	5
OAK HARBOR	11567	102	5
OCEAN SHORES	1267	21	5
ORTING	1680	3	1
OTHELLO	4580	64	5
PACIFIC	1845	18	1
PASCO	15403	136	5
PORT ANGELES	16807	111	5
PORT ORCHARD	4360	99	4
PORT TOWNSEND	5623	33	5
PROSSER	3364	42	5
PULLMAN	23387	92	5
PUYALLUP	16011	87	5
QUINCY	3510	22	2
RAYMOND	3121	31	3
REDMOND	18170	127	5
RENTON	28105	361	5
RICHLAND	31192	282	5
RIDGEFIELD	1009	9	4
SEA-TAC AIRP	0	53	2
SEATTLE	498860	2398	5
SEDRO WOOLEY	5359	38	5
SELAH	3886	23	3
SHELTON	6695	93	5
SNOHOMISH	4937	36	4

CONTINUED

1 OF 2

AVERAGES FOR DWI ARREST DATA BY AGENCY
NAME AVG. POP AVG DWI'S YRS REPORTING

SOUTH BEND	1812	31	2
SPOKANE	175880	479	5
STEILACOOM	4428	27	3
SUMNER	4527	31	5
SUNNYSIDE	7612	181	5
TACOMA	157101	745	5
TUKWILA	3259	67	5
TUMWATER	6505	0	1
VANCOUVER	46891	269	5
WAITSBURG	1072	1	2
WALLA WALLA	24222	78	5
WAPATO	3215	27	1
WASH STATE U	0	64	2
WENATCHEE	18016	246	5
WESTPORT	1536	32	4
WOODLAND	2209	14	2
YAKIMA	50668	266	5

YEAR 75 AVGS:	108	FOR	66	REPORTS
YEAR 76 AVGS:	122	FOR	68	REPORTS
YEAR 77 AVGS:	175	FOR	68	REPORTS
YEAR 78 AVGS:	122	FOR	86	REPORTS
YEAR 79 AVGS:	123	FOR	83	REPORTS

CITIES LESS THAN 10,000 POP

AVG POP: 3991 AVG DWI'S: 39 REPORTS:230

CITIES 10,000 TO 20,000 POP

AVG POP: 14923 AVG DWI'S: 131 REPORTS: 70

CITIES 20,000 TO 100,000

AVG POP: 31363 AVG DWI'S: 206 REPORTS: 56

CITIES OVER 100000 POP

AVG POP: 277280 AVG DWI'S: 1207 REPORTS: 15

STATE AVGS:POP- 21235 DWI'S - 129
AGENCY REPORTS:371

		TPOP	POP	+POP	GTOT	PT1	PT2	VI	PRP	DWI
ADAMS	75	5941	4985	956	326	60	266	8	52	62
ADAMS	76	7195	6240	955	380	44	336	3	41	110
ADAMS	77	7323	6372	951	442	46	396	7	39	150
ADAMS	78	7538	6588	950	336	20	316	3	17	127
ADAMS	79	7811	6861	950	267	43	224	11	32	95
ASOTIN	77	8350	7457	893	305	68	237	7	61	34
ASOTIN	78	7615	7615	0	233	55	178	4	51	25
ASOTIN	79	7625	7625	0	179	39	140	4	35	26
BENTON	76	21257	21257	0	203	43	160	16	27	21
BENTON	78	24058	24058	0	558	90	468	18	70	51
BENTON	79	25711	25711	0	951	157	794	24	133	70
CHELAN	76	20408	16669	3739	974	132	842	17	115	327
CHELAN	77	21200	17399	3801	1147	140	1007	20	119	321
CLALLAM	76	18836	18836	0	522	81	441	25	56	156
CLALLAM	79	22635	22635	0	498	86	412	15	71	111
CLARK	76	98076	94001	4075	3218	404	2814	40	359	1338
CLARK	77	107617	103557	4061	2977	458	2519	38	420	1083
CLARK	78	112343	108503	3840	1643	283	1360	25	257	647
CLARK	79	116887	116887	0	2144	405	1739	37	368	728
COLUMBIA	76	1647	1647	0	109	20	89	7	13	31
COLUMBIA	77	1738	1738	0	159	11	148	1	10	75
COLUMBIA	78	1722	1722	0	88	14	74	3	11	17
COLUMBIA	79	1710	1710	0	68	15	53	3	12	10
COWLITZ	76	26393	26393	0	682	204	478	16	188	87
COWLITZ	77	27537	27537	0	470	134	336	10	124	71
COWLITZ	78	28346	28346	0	496	163	333	27	134	71
COWLITZ	79	29824	29824	0	367	90	277	17	73	42
DOUGLAS	77	17844	14906	2938	470	80	390	9	71	41
DOUGLAS	78	25271	15361	9910	444	25	419	2	21	45
DOUGLAS	79	18710	15880	2830	451	99	352	7	92	60
FERRY	76	3205	3205	0	116	17	99	8	9	54
FRANKLIN	76	11102	10510	592	646	75	571	16	59	110
FRANKLIN	77	11921	11300	621	362	72	290	14	57	53
FRANKLIN	78	14002	11742	2260	242	49	193	6	43	21

** See footnotes that follow

76

		TPOP	POP	+POP	GTOT	PT1	PT2	VI	PRP	DWI
FRANKLIN	79	13003	12777	226	246	58	188	7	51	37
GARFIELD	76	1040	1040	0	40	5	35	1	4	16
GARFIELD	77	1015	1015	0	18	8	10	6	2	6
GARFIELD	78	660	660	0	21	7	14	0	7	7
GRANT	76	18221	17855	366	996	186	810	35	151	202
GRANT	77	19114	18794	370	760	123	637	36	87	166
GRANT	78	22232	18632	3600	673	110	563	28	82	141
GRANT	79	21552	21167	385	677	132	545	39	93	156
GRAYS HARBOR	76	19772	19772	0	869	213	656	36	177	196
GRAYS HARBOR	77	20528	20528	0	990	209	781	11	198	207
GRAYS HARBOR	78	20948	20948	0	955	176	779	25	148	175
ISLAND	76	20737	20737	0	785	151	634	4	145	118
ISLAND	77	24375	24375	0	692	167	525	7	160	99
ISLAND	78	25534	25534	0	491	135	356	7	128	36
ISLAND	79	26585	26585	0	605	131	474	2	129	48
JEFFERSON	76	6300	6300	0	144	43	101	9	34	20
JEFFERSON	77	6945	6945	0	95	43	52	3	40	14
JEFFERSON	78	7899	7899	0	88	23	68	3	20	20
JEFFERSON	79	8400	8400	0	264	45	219	2	43	81
KING	76	419741	417524	2217	6783	3013	3770	301	2712	450
KING	77	425948	423640	2308	8522	3609	4913	294	3315	423
KING	78	448863	441543	7320	10349	4395	5954	436	3959	395
KING	79	467133	463712	3421	12046	4580	7466	433	4147	366
KITSAP	76	71976	71976	0	1425	359	1066	47	311	201
KITSAP	77	77882	77882	0	1339	325	1014	26	293	95
KITSAP	78	83861	83861	0	1318	274	1044	30	240	84
KITSAP	79	88215	88215	0	982	181	801	58	123	42
KLICKITAT	76	7596	7596	0	810	95	715	22	72	177
KLICKITAT	77	8159	8159	0	902	88	814	16	72	243
KLICKITAT	78	14400	14400	0	908	88	821	14	73	231
KLICKITAT	79	9289	9289	0	520	76	444	29	47	154
LINCOLN	75	5951	3361	2590	670	59	573	14	44	130
LINCOLN	76	6092	3538	2554	541	40	501	5	35	64
LINCOLN	77	6349	3794	2555	370	36	334	4	32	50
LINCOLN	78	15490	9900	5590	302	13	289	3	10	72

** See footnotes that follow

77

		TPOP	POP	+POP	GTOT	PT1	PT2	VI	PRP	DWI
LINCOLN	79	6655	4095	2560	237	35	202	6	29	77
MASON	76	17820	17820	0	410	75	335	13	62	111
MASON	77	17950	17950	0	479	82	397	20	62	111
MASON	78	19150	19150	0	301	62	239	6	54	56
MASON	79	20480	20480	0	462	115	347	24	91	87
OKANOGAN	79	16140	15523	617	795	135	660	52	83	181
PACIFIC	76	9338	9338	0	179	53	126	12	41	10
PACIFIC	77	9431	9431	0	160	53	107	22	31	13
PACIFIC	78	9623	9623	0	203	74	129	12	61	8
PACIFIC	79	9730	9730	0	310	96	214	32	64	28
PEND OREILLE	76	4165	3940	225	331	46	285	4	42	69
PEND OREILLE	77	5280	5055	225	324	51	273	4	47	54
PEND OREILLE	78	7975	5475	2500	280	50	230	5	42	39
PEND OREILLE	79	5725	5520	205	174	47	127	11	36	25
PIERCE	76	216018	215808	210	3241	1309	1932	196	1107	217
PIERCE	77	217356	217146	210	3091	1203	1888	261	932	224
PIERCE	78	236846	234846	2000	2949	1365	1584	333	1029	207
PIERCE	79	243258	243062	196	1634	707	927	125	582	93
SAN JUAN	76	4730	4730	0	103	23	80	5	18	20
SAN JUAN	77	5076	5076	0	152	32	120	7	25	17
SAN JUAN	78	5640	5640	0	148	28	120	2	26	11
SAN JUAN	79	5946	5946	0	346	63	283	8	55	39
SKAGIT	76	25904	25356	548	449	151	298	33	118	5
SKAGIT	77	26911	26374	537	616	152	464	28	124	3
SKAGIT	78	32297	26707	5590	468	120	338	23	107	5
SKAGIT	79	27975	27397	578	398	201	197	53	148	5
SNOHOMISH	76	129909	129736	173	3306	1070	2236	120	948	80
SPOKANE	76	110724	109896	828	3262	1125	2137	81	1043	74
SPOKANE	77	118353	117502	851	3943	1174	2769	100	1074	144
SPOKANE	78	135637	126797	8840	2695	1057	2717	79	978	128
SPOKANE	79	132726	131800	926	2442	1114	1328	70	1044	98
STEVENS	76	16109	14965	1144	278	39	239	5	34	53
STEVENS	77	17466	16321	1145	215	16	199	1	15	36
STEVENS	78	18379	17329	1050	292	46	246	0	45	37

** See footnotes that follow

		TPOP	POP	+POP	GTOT	PT1	PT2	VI	PRP	DWI
STEVENS	79	18675	18501	174	296	83	213	1	82	24
WACIAKUM	76	3051	3051	0	70	16	54	3	13	15
WACIAKUM	77	3170	3170	0	64	10	54	3	7	18
WACIAKUM	78	3270	3270	0	57	6	51	2	4	23
WACIAKUM	79	3270	3270	0	101	14	87	9	5	22
WATCOM	75	35705	34658	1047	704	119	585	5	113	278
WATCOM	78	45831	41681	4150	504	169	335	18	151	48
WATCOM	79	43836	43401	435	283	80	203	17	63	28
WHITMAN	76	9129	7682	1447	288	68	220	9	59	73
WHITMAN	78	17350	9330	8020	153	39	114	1	38	23
WHITMAN	79	10426	9641	785	100	28	72	8	20	8
YAKIMA	76	72675	70689	1986	2007	459	1548	91	368	743
YAKIMA	77	71832	70515	2017	1725	403	1322	49	348	461
YAKIMA	78	71830	69680	2150	2058	433	1625	54	371	704
YAKIMA	79	73478	73478	0	1955	500	1455	88	412	626

FOOTNOTES: These arrest statistics were extracted from Uniform Crime Reports compiled by the U.S. Dept. of Justice, FBI.
TPOP - Total Population served by the Sheriff's dept.
POP - Unincorporated County Population
+POP - Population served under contract w/ Sheriff
The +POP figures were not all available for 1979.
GTOT - Total No. of arrests (less traffic)
PT1 - arrests for Part 1 crimes per UCR definitions.
PT2 - arrests for Part 2 crimes
VI - arrests for Part 1 violent crimes
PRP - arrests for Part 1 property crimes
DWI - arrests for Driving While Intoxicated

AVERAGES FOR SHERIFF'S DWI ARREST DATA BY COUNTY

NAME	AVG. POP	AVG DWI'S	YRS REPORTING
ADAMS	7161	108	5
ASOTIN	7867	23	4
BENTON	22894	38	4
CHELAN	20599	398	3
CLALLAM	19303	121	3
CLARK	265575	951	5
COLUMBIA	1655	30	5
COWLITZ	27684	67	5
DOUGLAS	19743	48	4
FERRY	3190	43	2
FRANKLIN	12120	56	5
GARFIELD	1428	9	4
GRANT	19699	227	5
GRAYS HARBOR	20571	210	4
ISLAND	22977	81	5
JEFFERSON	7051	29	5
KING	435438	438	5
KITSAP	78547	129	5
KLICKITAT	10525	194	5
LEWIS	30016	203	1
LINCOLN	8107	78	5
MASON	18287	99	5
OKANOGAN	14096	194	2
PACIFIC	9512	16	5
PEND OREILLE	5392	55	5

AVERAGES FOR SHERIFF'S DWI ARREST DATA BY COUNTY

NAME	AVG. POP	AVG DWI'S	YRS REPORTING
PIERCE	227366	200	5
SAN JUAN	5178	17	5
SKAGIT	27740	5	5
SNOHOMISH	128734	100	2
SPOKANE	121141	104	5
STEVENS	16621	41	5
THURSTON	60425	327	1
WAHKIAKUM	3190	19	4
WALLA WALLA	12965	184	1
WHATCOM	41790	118	3
WHITMAN	11109	36	4
YAKIMA	71969	660	5

YEAR 75 AVGS: 188 FROM 30 REPORTS

YEAR 76 AVGS: 186 FROM 34 REPORTS

YEAR 77 AVGS: 156 FROM 27 REPORTS

YEAR 78 AVGS: 119 FROM 29 REPORTS

YEAR 79 AVGS: 125 FROM 31 REPORTS

COUNTIES LESS THAN 10,000 POP

AVG POP: 5713 AVG DWI'S: 49 REPORTS: 53

COUNTIES 10,000 TO 20,000 POP

AVG POP: 15868 AVG DWI'S: 109 REPORTS: 32

COUNTIES 20,000 TO 100,000

AVG POP: 39308 AVG DWI'S: 208 REPORTS: 45

COUNTIES OVER 100000 POP

AVG POP: 257476 AVG DWI'S: 349 REPORTS: 21

STATE AVGS: POP- 52890 DWI'S - 151
REPORTS: 151

APPENDIX II

SPECIAL WASHINGTON STATE PATROL DWI ACCIDENT REPORT

DWI Statistics

COUNTY	YEAR	TOTAL COLLISIONS	FATAL COLLISIONS	# KILLED
Adams	1977	77	2	2
	1978	76	2	2
	1979	76	3	3
King	1977	5643	84	100
	1978	5773	113	125
	1979	6073	128	145
Pacific	1977	95	7	9
	1978	118	4	5
	1979	123	6	8
Pierce	1977	2740	49	60
	1978	2596	47	55
	1979	2832	51	59
Spokane	1977	1417	29	31
	1978	1730	36	43
	1979	1367	27	31
Whatcom	1977	592	16	18
	1978	532	16	19
	1979	548	16	19
Yakima	1977	972	24	26
	1978	840	31	41
	1979	923	24	31

***First ½ 1979 - All Collisions

Statewide	57,471	413	486
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First ½ 1980 - All Collisions

Statewide	53,199	398	455
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###First ½ 1979 - DWI Collisions

Statewide	3,915	153
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First ½ 1980 - DWI Collisions

Statewide	3,981	155
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Provided by:

Washington State Patrol
Accident Records Section
4242 Martin Way
Olympia, WA 98504
753-5161
(Cathy Osborne)

STATE OF WASHINGTON
1979
DRINKING DRIVER COLLISION ABSTRACT

Law enforcement officers investigated 21,614 reportable traffic collisions involving drinking drivers. These collisions accounted for 23.6% of all investigated collisions. There were 1,586 more drinking driver collisions in 1979 than in 1978 for a 7.9% increase whereas all traffic collisions increased 1.5%.

YEAR	INVESTIGATED COLLISIONS	DRINKING DRIVER COLLISIONS	PERCENT DRINKING TO TOTAL INVESTIGATED
1979	91,500	21,614	23.6%
1978	91,342	20,028	21.9%
1977	91,358	20,394	22.3%
1976	88,419	19,376	21.9%
1975	85,149	19,151	22.5%

Nearly 6 out of every 10 traffic deaths were attributed to drinking driver collisions in 1979.

594	People were killed (594 ÷ 1033 = 57.5%)
17,301	People were injured
3,836	People were seriously (disabling) injured

Drinking driver collisions accounted for 26.5% of all traffic collision injuries and 36.5% of all serious traffic collision injuries.

<u>LIGHT CONDITIONS</u>		<u>DRIVER VIOLATIONS</u>	
Daylight hours	124	Under the Influence of Alcohol	426
Dawn	7	Exceeded the Stated Speed Limit	35
Dusk	12	Exceeded Reasonable Safe Speed	29
Darkness - street lights on	134	Over the Centerline	17
Darkness - street lights off	13	Failure to Yield Right of Way	16
Darkness - no street lights	232	Apparently Asleep	12
Total Fatal Collisions	522		
<u>ROAD SURFACE CONDITIONS</u>		<u>LOCATIONS OF FATAL COLLISIONS</u>	
Dry Roadway	387	Interstate System	42
Wet Roadway	122	U.S. Routes	51
Snow	3	State Routes	152
Ice	9	County Roads	166
Other	1	City Streets	92
Total Fatal Collisions	522	Other Roadways	19
		Total Fatal Collisions	522
<u>CHARACTER OF ROADWAY</u>			
Straight Roadway	297		
Curved Roadway	225		
Total Fatal Collisions	522		

Hit and Run collisions caused by drinking drivers produced 7 fatal collisions.

APPENDIX III

A LETTER FROM THE ATTORNEY GENERAL'S OFFICE

STATING AN OPINION CONCERNING THE POWER
OF CITIES AND TOWNS VIS A' VIS THE NEW DWI LAW



OFFICE OF THE ATTORNEY GENERAL

SLADE GORTON ATTORNEY GENERAL
TEMPLE OF JUSTICE OLYMPIA, WASHINGTON 98504

CITIES AND TOWNS--POLICE POWERS--MOTOR VEHICLES--
INTOXICATING LIQUOR--PENALTY FOR DRIVING WHILE INTOXICATED
IN VIOLATION OF MUNICIPAL ORDINANCE

While a city or a town which adopts an ordinance defining and establishing as a municipal offense the crime driving while intoxicated must do so in terms identical to the statutory provisions of RCW 46.61.502, it is not also required to fix the same penalties for a violation as are fixed by the provisions of RCW 46.61.515.

July 30, 1980

Honorable Rod Chandler
State Representative, 45th Dist.
6522 - 20th N.E.
Redmond, Washington 98052

Cite as:
AGO 1980 No. 17

Dear Sir:

By letter previously acknowledged you requested our opinion on a question which we paraphrase as follows:

Where a city or town, in the exercise of its police power under Article XI, § 11 of the Washington Constitution, adopts an ordinance establishing and defining as a municipal offense the crime of driving while under the influence of intoxicating liquor or any drug in terms identical to the statutory provisions of RCW 46.61.502, is that city or town then further required by RCW 46.08.020 to fix the same penalties for a violation as are fixed by RCW 46.61.515 with respect to any person who is convicted of a violation of RCW 46.61.502?

We answer this question in the negative for the reasons set forth in our analysis.

ANALYSIS

As amended by § 6, chapter 176, Laws of 1979, 1st Ex. Sess., RCW 46.61.515 provides that any person who is convicted of a violation of RCW 46.61.502 (driving while

Honorable Rod Chandler

-2-

AGO 1980 No. 17

intoxicated) or RCW 46.61.504 (being in actual physical control of a motor vehicle while under the influence of intoxicating liquor or any drug) ". . . shall be punished by imprisonment for not less than one day nor more than one year, and by a fine of not more than five hundred dollars." The statute then further provides that:

" . . . One day of the jail sentence shall not be suspended or deferred unless the judge finds that the imposition of the jail sentence will pose a risk to the defendant's physical or mental well-being. . . ."

The other statute which is pertinent to your question is RCW 46.08.020, a long-existing section of the state motor vehicle code which reads as follows:

"The provisions of this title relating to vehicles shall be applicable and uniform throughout this state and in all incorporated cities and towns and all political subdivisions therein and no local authority shall enact or enforce any law, ordinance, rule or regulation in conflict with the provisions of this title except and unless expressly authorized by law to do so and any laws, ordinances, rules or regulations in conflict with the provisions of this title are hereby declared to be invalid and of no effect. Local authorities may, however, adopt additional vehicle and traffic regulations which are not in conflict with the provisions of this title."

In addition, note must be made of Article XI, § 11 of our state constitution which provides that:

"Any county, city, town or township may make and enforce within its limits all such local police, sanitary and other regulations as are not in conflict with general laws."

Your inquiry assumes that a city or town, in the exercise of this constitutionally granted police power, has adopted an ordinance ". . . establishing and defining as a municipal offense the crime of driving while under the influence of intoxicating liquor or any drug in terms identical to the statutory provisions of RCW 46.61.502 . . ."

Quaere: Is that city or town then further required by RCW 46.08.020, supra, to fix the same penalties for a violation

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as are fixed by RCW 46.61.515, supra--including, most importantly, a mandatory one day of imprisonment which may not be suspended or deferred?

In order to sustain an affirmative answer to that question one would have to read the provisions of RCW 46.08.020 as requiring uniformity--as between the state code and any local ordinances--both from the standpoint of the substantive elements of an offense and that of the penalty or penalties to be imposed for a violation. But under such a reading the statute at least arguably would have an effect of making it impossible for certain sections of the state code to be copied and adopted in the form of municipal ordinances at all--since many of the penalties set forth therein are in excess of those which a municipal court or city police court may lawfully impose. For example, under RCW 46.61.515 the maximum penalty which may be imposed for a DWI violation under RCW 46.61.502 is a \$500 fine and one year in jail. But under RCW 35.20.030, the maximum penalty which a municipal court in a city of more than 400,000 inhabitants may fix for a violation of a city ordinance is a fine of \$500 and jail term of not more than six months. And likewise, under RCW 3.50.410 (which relates to municipal courts established in cities of 20,000 or less) the maximum penalty which a court is authorized to impose is a fine of not more than \$500 and imprisonment in the city jail for ". . . not to exceed ninety days . . ."

In fact, our state supreme court in Bellingham v. Schampera, 57 Wn.2d 106, 356 P.2d 292 (1960), did not come to quite so drastic a conclusion. Nevertheless, the conclusion which the Court did reach is most interesting in relation to the question here at hand. Under the provisions of RCW 35.22.470 (since repealed) the maximum penalty which a first class city could then lawfully impose for a violation of a city ordinance was,

" . . . a fine not to exceed three hundred dollars or imprisonment not to exceed ninety days, or both such fine and imprisonment . . ."

However, in adopting its DWI ordinance the city of Bellingham disregarded this limitation--copying, instead, both the substantive elements and the penalty provisions of the state code as they then existed. Accordingly, the ordinance provided that on a first conviction for DWI in violation thereof:

" . . . the court shall impose a fine of not less than fifty dollars or more than five

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hundred dollars and not less than five days or more than one year in jail, . . ."

In dealing with this situation the supreme court did not, however, invalidate the city ordinance. Rather, it simply held that no penalties could be imposed thereunder in excess of those permitted by RCW 35.22.470 as above quoted, saying, at page 118:

"There is a division of authority on this question, but we adopt the majority and, we believe, the preferable rule: that an ordinance which authorizes a penalty in excess of that permitted by statute is not void, and a sentence pronounced under such an ordinance may be enforced to the extent that it is within the statutory limitations, if the city's legislative body would have enacted the ordinance knowing that only the lesser penalties could be imposed. See *Kist v. Butts* (1942), 71 N.D. 436, 1 N.W. (2d) 612, 138 A.L.R. 1206."

But notably, RCW 46.08.020, *supra*, was also then in effect and, in fact, was quoted by the Court during the course of its opinion.^{1/} Therefore, had the uniformity requirement of that statute been regarded as meaning that both the substantive and the penalty aspects of a municipal ordinance must be identical to their state counterparts the Court, on that basis, would logically have upheld in full the penalty provisions of the ordinance as being necessary to conform to a specific state requirement--the general limitation in RCW 35.22.470, *supra*, to the contrary notwithstanding. But, as above indicated, it did not do so.

We next turn to an item of somewhat more recent history. During the 1980 session of the legislature a proposal was made, in the form of House Bill 474, to amend RCW 46.61.515, *supra*, by adding the following new subsection:

"(6) The state hereby preempts the field of control of driving while intoxicated to the extent that no county or municipality may impose a lesser penalty than that imposed by this title."

^{1/} See, 57 Wn.2d at 110.

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This proposal, however, did not pass. Nor did it pass when earlier introduced during the 1979 session.^{2/} Instead what was then enacted was Substitute House Bill 665--including the provision which became § 6, chapter 176, Laws of 1979, 1st Ex. Sess., *supra*, amending RCW 46.61.515. In short, given the opportunity to preclude any local penalty variations by an express preemption, the legislature twice declined to do so.

There is, in addition, one further factor to be considered. As evidenced by a concern expressed in your letter there are, in fact, a number of cities and towns that now have ordinances in effect which, while defining the crime of DWI for local purposes in terms identical to the state code definition, ". . . allow a conviction . . . to occur . . . without resulting in mandatory imprisonment." As a matter of policy, therefore, it would be wrong for this office to issue an opinion purporting to declare those ordinances invalid because of a conflict with state law in the absence of a compelling reason for so doing--with no viable legal argument to the contrary. Quite clearly, however, that is not the kind of situation we have here.

For the foregoing reasons we therefore answer your question in the negative. In the absence of passage of something along the lines of the thus far unsuccessful House Bill 474, *supra*, it is our opinion that while a city or town which adopts an ordinance defining and establishing as a municipal offense the crime of driving while intoxicated must do so in terms identical to the statutory provisions of RCW 46.61.502, *supra*, it is not then further required to fix the same penalties for a violation as are fixed by the provisions of RCW 46.61.515, *supra*.

We trust the foregoing will be of some assistance to you.



Very truly yours,

SLADE GORTON
Attorney General


Philip H. Austin
PHILIP H. AUSTIN
Deputy Attorney General

^{2/} House Bill 474 actually was first introduced during the 1979 session and then, having failed to pass at that time, was reintroduced at the beginning of the 1980 session where it again failed to obtain legislative approval.

APPENDIX IV

SUBSTITUTE HOUSE BILL NO. 665

IN THE LEGISLATURE
of the
STATE OF WASHINGTON



CERTIFICATION OF ENROLLED ENACTMENT

SUBSTITUTE HOUSE BILL NO. 665

CHAPTER NO.

Passed the House April 2, 1909
Yeas 95 Nays 0

Passed the Senate April 25, 1909
as amended Yeas 41 Nays 3

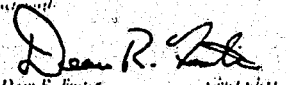
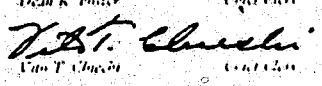
4-27-79

The House concurred in the Senate amendments and passed the bill as amended.

Yeas 94 Nays 1

CERTIFICATE

We, Dean R. Foster and Vin T. Church, Clerk of the House of Representatives of the State of Washington, do hereby certify that the attached is a true and correct copy of the Substitute House Bill No. 665 as passed by the House of Representatives and the Senate on the date herein set forth.


Dean R. Foster

Vin T. Church

State of Washington
46th Legislature
1st Ex. Sess.

by Committee on Judiciary (originally
sponsored by Representatives Chandler,
Thompson, Rosbach, Heck, Deutsch,
Sherman, Haley, Newhouse and Fuller)

Read first time March 28, 1979, and passed to second reading.

1 AN ACT Relating to motor vehicle offenses involving alcohol or
2 drugs; amending section 1, chapter 1, Laws of 1969 as
3 last amended by section 151, chapter 158, Laws of 1978
4 and RCW 46.20.308; amending section 46.52.100, chapter
5 12, Laws of 1981 as last amended by section 183, chapter
6 158, Laws of 1979 and RCW 46.52.100; amending section 3,
7 chapter 1, Laws of 1969 as amended by section 1, chapter
8 287, Laws of 1975 1st ex. sess. and RCW 46.61.508;
9 amending section 62, chapter 155, Laws of 1965 ex. sess.
10 as last amended by section 3, chapter 3, Laws of 1977 ex.
11 sess. and RCW 46.61.515; amending section 5, chapter 122,
12 Laws of 1972 ex. sess. and RCW 70.96A.050; adding new
13 sections to chapter 46.61 RCW; defining crimes;
14 prescribing penalties; and making an appropriation.

15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

16 NEW SECTION. Section 1: There is added to chapter 46.61
17 RCW a new section to read as follows:

18 A person is guilty of driving while under the influence
19 of intoxicating liquor or any drug if he drives a vehicle within
20 this state while:

21 (1) He has 0.10 percent or more by weight of alcohol in
22 his blood as shown by chemical analysis of his breath, blood, or
23 other bodily substance made under RCW 46.61.506 as now or
24 hereafter amended; or

25 (2) He is under the influence of or affected by
26 intoxicating liquor or any drug; or

27 (3) He is under the combined influence of or affected by
28 intoxicating liquor and any drug.

29 The fact that any person charged with a violation of this
30 section is or has been entitled to use such drug under the laws

1 of this state shall not constitute a defense against any charge
2 of violating this section.

3 NEW SECTION. Sec. 2. There is added to chapter 46.61
4 RCW a new section to read as follows:

5 A person is guilty of being in actual physical control of
6 a motor vehicle while under the influence of intoxicating liquor
7 or any drug if he has actual physical control of a vehicle
8 within this state while:

9 (1) He has a 0.10 percent or more by weight of alcohol
10 in his blood as shown by chemical analysis of his breath, blood,
11 or other bodily substance made under RCW 46.61.506, as now or
12 hereafter amended; or

13 (2) He is under the influence of or affected by
14 intoxicating liquor or any drug; or

15 (3) He is under the combined influence of or affected by
16 intoxicating liquor and any drug.

17 The fact that any person charged with a violation of this
18 section is or has been entitled to use such drug under the laws
19 of this state shall not constitute a defense against any charge
20 of violating this section. No person may be convicted under
21 this section if, prior to being pursued by a law enforcement
22 officer, he has moved the vehicle safely off the roadway.

23 Sec. 3. Section 1, chapter 1, Laws of 1989 as last
24 amended by section 151, chapter 158, Laws of 1979 and RCW
25 46.20.308 are each amended to read as follows:

26 (1) Any person who operates a motor vehicle upon the
27 public highways of this state shall be deemed to have given
28 consent, subject to the provisions of RCW 46.61.506, to a
29 chemical test or tests of his breath or blood for the purpose of
30 determining the alcoholic content of his blood if arrested for
31 any offense where, at the time of the arrest, the arresting
32 officer has reasonable grounds to believe the person had been
33 driving or was in actual physical control of a motor vehicle
34 while under the influence of intoxicating liquor. The test or
35 tests shall be administered at the direction of a law
36 enforcement officer having reasonable grounds to believe the

1 person to have been driving or in actual physical control of a
2 motor vehicle upon the public highways of this state while under
3 the influence of intoxicating liquor. Such officer shall inform
4 the person of his right to refuse the test, and of his right to
5 have additional tests administered by any qualified person of
6 his choosing as provided in RCW 46.61.506. The officer shall
7 warn the driver that his privilege to drive will be revoked or
8 denied if he refuses to submit to the test. Unless the person
9 to be tested is unconscious, the chemical test administered
10 shall be of his breath only: PROVIDED, That if an individual is
11 under arrest for the crime of negligent homicide by motor
12 vehicle as provided in RCW 46.61.520, or if an individual is
13 under arrest for the crime of driving while under the influence
14 of intoxicating liquor or drugs as provided in ((RCW-46.61.506))
15 section 1 of this 1979 act, which arrest results from an
16 accident in which another person has been injured and there is a
17 reasonable likelihood that such other person may die as a result
18 of injuries sustained in the accident, a breath or blood test
19 may be administered without the consent of the individual so
20 arrested. In such circumstances, the provisions of subsections
21 (2) through (6) of this section shall not apply.

22 (2) Any person who is dead, unconscious or who is
23 otherwise in a condition rendering him incapable of refusal,
24 shall be deemed not to have withdrawn the consent provided by
25 subsection (1) of this section and the test or tests may be
26 administered, subject to the provisions of RCW 46.61.506.

27 (3) If, following his arrest, the person arrested
28 refuses upon the request of a law enforcement officer to submit
29 to a chemical test of his breath, after being informed that his
30 refusal will result in the revocation or denial of his privilege
31 to drive, no test shall be given. The department of licensing,
32 upon the receipt of a sworn report of the law enforcement
33 officer that he had reasonable grounds to believe the arrested
34 person had been driving or was in actual physical control of a
35 motor vehicle upon the public highways of this state while under
36 the influence of intoxicating liquor and that the person had

1 refused to submit to the test upon the request of the law
2 enforcement officer after being informed that such refusal would
3 result in the revocation or denial of his privilege to drive,
4 shall revoke his license or permit to drive or any nonresident
5 operating privilege. If the person is a resident without a
6 license or permit to operate a motor vehicle in this state, the
7 department shall deny to the person the issuance of a license or
8 permit for a period of six months after the date of the alleged
9 violation, subject to review as hereinafter provided.

10 (4) Upon revoking the license or permit to drive or the
11 nonresident operating privilege of any person, or upon
12 determining that the issuance of a license or permit shall be
13 denied to the person, as hereinbefore in this section directed,
14 the department shall immediately notify the person involved in
15 writing by personal service or by registered or certified mail
16 of its decision and the grounds therefor, and of his right to a
17 hearing, specifying the steps he must take to obtain a hearing.

18 The person upon receiving such notice may, in writing and within
19 ten days therefrom request a formal hearing. Upon receipt of
20 such request, the department shall afford him an opportunity for
21 a hearing as provided in RCW 46.20.329 and 46.20.332. The scope
22 of such hearing for the purposes of this section shall cover the
23 issues of whether a law enforcement officer had reasonable
24 grounds to believe the person had been driving or was in actual
25 physical control of a motor vehicle upon the public highways of
26 this state while under the influence of intoxicating liquor,
27 whether the person was placed under arrest and whether he
28 refused to submit to the test upon request of the officer after
29 having been informed that such refusal would result in the
30 revocation or denial of his privilege to drive. The department
31 shall order that the revocation or determination that there
32 should be a denial of issuance either be rescinded or sustained.
33 Any decision by the department revoking a person's driving
34 privilege shall be stayed and shall not take effect while a
35 formal hearing is pending as herein provided or during the
36 pendency of a subsequent appeal to superior court: PROVIDED,

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1 That this stay shall be effective only so long as there is no
2 conviction for a moving violation during pendency of the hearing
3 and appeal.

4 (5) If the revocation or determination that there should
5 be a denial of issuance is sustained after such a hearing, the
6 person whose license, privilege or permit is so affected shall
7 have the right to file a petition in the superior court of the
8 county wherein he resides, or, if a nonresident of this state,
9 where the charge arose, to review the final order of revocation
10 or denial by the department in the manner provided in RCW
11 46.20.334.

12 (6) When it has been finally determined under the
13 procedures of this section that a nonresident's privilege to
14 operate a motor vehicle in this state has been revoked, the
15 department shall give information in writing of the action taken
16 to the motor vehicle administrator of the state of the person's
17 residence and of any state (~~{in which he has a license.}~~) in
18 which he has a license.

19 Sec. 4. Section 46.52.100, chapter 12, Laws of 1961 as
20 last amended by section 163, chapter 158, Laws of 1979 and RCW
21 46.52.100 are each amended to read as follows:

22 Every justice of the peace, police judge and clerk of
23 superior court shall keep or cause to be kept a record of every
24 traffic complaint, traffic citation or other legal form of
25 traffic charge deposited with or presented to said justice of
26 the peace, police judge, superior court or a traffic violations
27 bureau, and shall keep a record of every official action by said
28 court or its traffic violations bureau in reference thereto,
29 including but not limited to a record of every conviction,
30 forfeiture of bail, judgment of acquittal and the amount of fine
31 or forfeiture resulting from every said traffic complaint or
32 citation deposited with or presented to the justice of the
33 peace, police judge, superior court or traffic violations
34 bureau.

35 The Monday following the conviction or forfeiture of bail
36 of a person upon a charge of violating any provisions of this

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1 chapter or other law regulating the operating of vehicles on
2 highways, every said magistrate of the court or clerk of the
3 court of record in which such conviction was had or bail was
4 forfeited shall prepare and immediately forward to the director
5 of licensing at Olympia an abstract of the record of said court
6 covering the case in which said person was so convicted or
7 forfeited bail, which abstract must be certified by the person
8 so required to prepare the same to be true and correct. Report
9 need not be made of any conviction involving the illegal parking
10 or standing of a vehicle.

11 Said abstract must be made upon a form furnished by the
12 director and shall include the name and address of the party
13 charged, the number, if any, of his driver's or chauffeur's
14 license, the registration number of the vehicle involved, the
15 nature of the offense, the date of hearing, the plea, the
16 judgment, or whether bail forfeited and the amount of the fine
17 or forfeiture as the case may be.

18 Every court of record shall also forward a like report to
19 the director upon the conviction of any person of manslaughter
20 or other felony in the commission of which a vehicle was used.

21 The failure of any such judicial officer to comply with
22 any of the requirements of this section shall constitute
23 misconduct in office and shall be grounds for removal therefrom.

24 The director shall keep all abstracts received hereunder
25 at his office in Olympia and the same shall be open to public
26 inspection during reasonable business hours.

27 Venue in all justice courts shall be before one of the
28 two nearest justices of the peace in incorporated cities and
29 towns nearest to the point the violation allegedly occurred:
30 PROVIDED, That in counties of class A and of the first class
31 such cases may be tried in the county seat at the request of the
32 defendant.

33 It shall be the duty of the officer, prosecuting attorney
34 or city attorney signing the charge or information in any case
35 involving a charge of driving under the influence of
36 intoxicating liquor or any ((narcotic)) drug immediately to make

1 request to the director for an abstract of convictions and
2 forfeitures which the director shall furnish.

3 ((If a driver has a record of two or more convictions or
4 forfeitures of the offense of operating a vehicle under the
5 influence of or affected by the use of intoxicating liquor or
6 any narcotic drug within a five-year period, he shall, upon
7 conviction, be fined not less than one hundred dollars and not
8 more than one thousand dollars, and shall be sentenced to not
9 less than thirty days and not more than one year in the county
10 jail and neither fine nor sentence shall be suspended, and the
11 court shall revoke the driver's license.))

12 If the driver at the time of the offense charged was
13 without a driver's license because of a previous suspension or
14 revocation, the minimum mandatory jail sentence and fine shall
15 be ninety days in the county jail and a two hundred dollar fine.
16 The penalty so imposed shall not be suspended.

17 Sec. 5. Section 3, chapter 1, Laws of 1969 as amended by
18 section 1, chapter 287, Laws of 1975 1st ex. sess. and RCW
19 46.61.506 are each amended to read as follows:

20 (1) ((It is unlawful for any person who is under the
21 influence of or affected by the use of intoxicating liquor or of
22 any drug to drive or be in actual physical control of a vehicle
23 within this state.

24 (2)) Upon the trial of any civil or criminal action or
25 proceeding arising out of acts alleged to have been committed by
26 any person while driving or in actual physical control of a
27 vehicle while under the influence of intoxicating liquor or any
28 drug, if the amount of alcohol in the person's blood at the time
29 alleged, as shown by chemical analysis of his blood, breath, or
30 other bodily substance, ((shall give rise to the following
31 presumptions:

32 (a)---If there was at that time 0.05 percent or less by
33 weight of alcohol in the person's blood, it shall be presumed
34 that he was not under the influence of intoxicating liquor.

35 (b)---If there was at that time in excess of 0.05 percent
36 but)) is less than 0.10 percent by weight of alcohol in the

1 person's blood. ~~((a)---fact---shall---not---give---rise---to---any~~
2 ~~presumption---that---the---person---was---or---was---not---under---the---influence~~
3 ~~of---intoxicating---liquor,---but---such---fact))~~ it is evidence that may
4 be considered with other competent evidence in determining
5 whether the person was under the influence of intoxicating
6 liquor or any drug. ~~((c)---If---there---was---at---that---time---0.10~~
7 ~~percent---or---more---by---weight---of---alcohol---in---the---person's---blood,---it~~
8 ~~shall---be---presumed---that---he---was---under---the---influence---of~~
9 ~~intoxicating---liquor.---(d))~~

10 (2) Percent by weight of alcohol in the blood shall be
11 based upon milligrams of alcohol per one hundred cubic
12 centimeters of blood. ~~((a))~~ The foregoing provisions of this
13 section shall not be construed as limiting the introduction of
14 any other competent evidence bearing upon the question whether
15 the person was under the influence of intoxicating liquor or any
16 drug.

17 (3) Chemical analysis of the person's blood or breath to
18 be considered valid under the provisions of this section or
19 section 1 or 2 of this 1979 act shall have been performed
20 according to methods approved by the state toxicologist and by
21 an individual possessing a valid permit issued by the state
22 toxicologist for this purpose. The state toxicologist is
23 directed to approve satisfactory techniques or methods, to
24 supervise the examination of individuals to ascertain their
25 qualifications and competence to conduct such analyses, and to
26 issue permits which shall be subject to termination or
27 revocation at the discretion of the state toxicologist.

28 (4) When a blood test is administered under the
29 provisions of RCW 48.20.308, the withdrawal of blood for the
30 purpose of determining its alcoholic content may be performed
31 only by a physician, a registered nurse, or a qualified
32 technician. This limitation shall not apply to the taking of
33 breath specimens.

34 (5) The person tested may have a physician, or a
35 qualified technician, chemist, registered nurse, or other
36 qualified person of his own choosing administer a chemical test

1 or tests in addition to any administered at the direction of a
2 law enforcement officer. The failure or inability to obtain an
3 additional test by a person shall not preclude the admission of
4 evidence relating to the test or tests taken at the direction of
5 a law enforcement officer.

6 (6) Upon the request of the person who shall submit to a
7 chemical test or tests at the request of a law enforcement
8 officer, full information concerning the test or tests shall be
9 made available to him or his attorney.

10 Sec. 8. Section 82, chapter 135, Laws of 1965 ex. sess.
11 as last amended by section 3, chapter 3, Laws of 1977 ex. sess.
12 and RCW 46.61.515 are each amended to read as follows:

13 (1) Every person who is convicted of a violation of
14 ~~((a)---driving---a---motor---vehicle---while---under---the---influence---of~~
15 ~~intoxicating---liquor---or---(b)---driving---a---motor---vehicle---while---under~~
16 ~~the---influence---of---a---drug---to---a---degree---which---renders---the---driver~~
17 ~~incapable---of---safely---driving---a---motor---vehicle))~~ section 1 or 2 of
18 this 1979 act shall be punished by imprisonment for not less
19 than ~~((five))~~ one day((s)) nor more than one year, and by a fine
20 of not ~~((less---than---fifty---dollars---now))~~ more than five hundred
21 dollars. The person shall, in addition, be required to complete
22 a course at an alcohol information school approved by the
23 department of social and health services. One day of the jail
24 sentence shall not be suspended or deferred unless the judge
25 finds that the imposition of the jail sentence will pose a risk
26 to the defendant's physical or mental well-being. Whenever the
27 mandatory jail sentence is suspended or deferred, the judge must
28 state, in writing, the reason for granting the suspension or
29 deferral and the facts upon which the suspension or deferral is
30 based.

31 (2) On a second or subsequent conviction ~~((of---either~~
32 ~~offense))~~ under section 1 or 2 of this 1979 act within a five
33 year period ~~((he))~~ a person shall be punished by imprisonment
34 for not less than ~~((thirty))~~ seven days nor more than one year
35 and by a fine not ~~((less---than---one---hundred---dollars---now))~~ more
36 than one thousand dollars~~((---and---neither))~~. The jail sentence

1 ((~~now--the--fine~~)) shall not be suspended(~~((--PROVIDED,--That--the~~
2 ~~court--may,--for--a--defendant--who--has--not--previously--had--a--jail~~
3 ~~sentence--suspended--on--such--second--or--subsequent--conviction,~~
4 ~~suspend--such--sentence--and/or--fine--only--on--the--condition--that--the~~
5 ~~defendant--participate--in--and--successfully--complete--a--court~~
6 ~~approved--alcohol--treatment--program--PROVIDED,--FURTHER,--That--the~~
7 ~~suspension--shall--be--set--aside--upon--the--failure--of--the--defendant~~
8 ~~to--provide--proof--of--successful--completion--of--said--treatment~~
9 ~~program--within--a--time--certain--to--be--established--by--the--court))~~
10 or deferred unless the judge finds that the imposition of the
11 jail sentence will pose a risk to the defendant's physical or
12 mental well-being. Whenever the mandatory jail sentence is
13 suspended or deferred, the judge must state, in writing, the
14 reason for granting the suspension or deferral and the facts
15 upon which the suspension or deferral is based. If such person
16 at the time of a second or subsequent conviction is without a
17 license or permit because of a previous suspension or
18 revocation, the minimum mandatory sentence shall be ninety days
19 in jail and a two hundred dollar fine. The penalty so imposed
20 shall not be suspended or deferred.

21 In addition to any nonsuspendable and nondeferrable jail
22 sentence required by this subsection, the court shall sentence a
23 person to a term of imprisonment not exceeding one hundred
24 eighty days and shall suspend but shall not defer the sentence
25 for a period not exceeding two years. The suspension of the
26 sentence may be conditioned upon nonrepetition, alcohol or drug
27 treatment, supervised probation, or other conditions that may be
28 appropriate. The sentence may be imposed in whole or in part
29 upon violation of a condition of suspension during the
30 suspension period.

31 ((2)) (3) There shall be levied and paid into the
32 highway safety fund of the state treasury a penalty assessment
33 in the minimum amount of twenty-five percent of, and which shall
34 be in addition to, any fine, bail forfeiture, or costs on all
35 offenses involving a violation of any state statute or city or
36 county ordinance relating to driving a motor vehicle while under

1 the influence of intoxicating liquor or being in actual physical
2 control of a motor vehicle while under the influence of
3 intoxicating liquor: PROVIDED, That all funds derived from such
4 penalty assessment shall be in addition to and exclusive of
5 assessments made under RCW 46.81.030 and shall be for the
6 exclusive use of the department for driver services programs and
7 for a state-wide alcohol safety action program, or other similar
8 programs designed primarily for the rehabilitation or control of
9 traffic offenders. Such penalty assessment shall be included in
10 any bail schedule and shall be included by the court in any
11 pronouncement of sentence.

12 ((3)) (4) Notwithstanding the provisions contained in
13 chapters 3.16, 3.46, 3.50, 3.62, or 35.20 RCW, or any other
14 section of law, the penalty assessment provided for in
15 subsection ((2)) (3) of this section shall not be suspended,
16 waived, modified, or deferred in any respect, and all moneys
17 derived from such penalty assessments shall be forwarded to the
18 highway safety fund to be used exclusively for the purposes set
19 forth in subsection ((2)) (3) of this section.

20 ((4)) (5) The license or permit to drive or any
21 nonresident privilege of any person convicted of either of the
22 offenses named in ((subsection-(1)-above)) section 1 or 2 of
23 this 1979 act shall:

24 (a) On the first conviction under either such offense,
25 be suspended by the department for not less than thirty days:
26 PROVIDED, That the court may recommend that no suspension action
27 be taken;

28 (b) On a second conviction under either such offense
29 within a five year period, be suspended by the department for
30 not less than sixty days ((after--the--termination--of--such
31 person's--jail--sentence));

32 (c) On a third or subsequent conviction under either
33 such offense within a five year period, be revoked by the
34 department.

35 ((5)) (6) In any case provided for in this section,
36 where a driver's license is to be revoked or suspended, such

1 revocation or suspension shall be stayed and shall not take
2 effect until after the determination of any appeal from the
3 conviction which may lawfully be taken, but in case such
4 conviction is sustained on appeal such revocation or suspension
5 shall take effect as of the date that the conviction becomes
6 effective for other purposes.

7 (7) The provisions of this section limiting the
8 authority of a court to defer or suspend a sentence shall not
9 take effect until January 1, 1980. The division of criminal
10 justice, no later than December 31, 1980, shall submit a study
11 to the house of representatives and to the senate which details
12 the impact of the sentencing provisions established by this
13 section. The impact study shall include, but shall not be
14 limited to, the following information: The impact of the
15 provisions upon county jail conditions and bed space, the cost
16 impact of the provisions upon local and state governments, and
17 the existence of alternative facilities to which individuals
18 sentenced under this section may be committed.

19 Sec. 7. Section 5, chapter 122, Laws of 1972 ex. sess.
20 and RCW 70.06A.050 are each amended to read as follows:

21 The department shall:

22 (1) Develop, encourage, and foster state-wide, regional,
23 and local plans and programs for the prevention of alcoholism
24 and treatment of alcoholics, persons incapacitated by alcohol,
25 and intoxicated persons in cooperation with public and private
26 agencies, organizations, and individuals and provide technical
27 assistance and consultation services for these purposes;

28 (2) Coordinate the efforts and enlist the assistance of
29 all public and private agencies, organizations, and individuals
30 interested in prevention of alcoholism and treatment of
31 alcoholics, persons incapacitated by alcohol, and intoxicated
32 persons;

33 (3) Cooperate with public and private agencies in
34 establishing and conducting programs to provide treatment for
35 alcoholics, persons incapacitated by alcohol, and intoxicated
36 persons who are clients of the correctional system.

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1 (4) Cooperate with the superintendent of public
2 instruction, state board of education, schools, police
3 departments, courts, and other public and private agencies,
4 organizations and individuals in establishing programs for the
5 prevention of alcoholism and treatment of alcoholics, persons
6 incapacitated by alcohol, and intoxicated persons, and preparing
7 curriculum materials thereon for use at all levels of school
8 education;

9 (5) Prepare, publish, evaluate, and disseminate
10 educational material dealing with the nature and effects of
11 alcohol;

12 (6) Develop and implement, as an integral part of
13 treatment programs, an educational program for use in the
14 treatment of alcoholics, persons incapacitated by alcohol, and
15 intoxicated persons, which program shall include the
16 dissemination of information concerning the nature and effects
17 of alcohol;

18 (7) Organize and foster training programs for persons
19 engaged in treatment of alcoholics, persons incapacitated by
20 alcohol, and intoxicated persons;

21 (8) Sponsor and encourage research into the causes and
22 nature of alcoholism and treatment of alcoholics, persons
23 incapacitated by alcohol, and intoxicated persons, and serve as
24 a clearing house for information relating to alcoholism;

25 (9) Specify uniform methods for keeping statistical
26 information by public and private agencies, organizations, and
27 individuals, and collect and make available relevant statistical
28 information, including number of persons treated, frequency of
29 admission and readmission, and frequency and duration of
30 treatment;

31 (10) Advise the governor in the preparation of a
32 comprehensive plan for treatment of alcoholics, persons
33 incapacitated by alcohol, and intoxicated persons for inclusion
34 in the state's comprehensive health plan;

35 (11) Review all state health, welfare, and treatment
36 plans to be submitted for federal funding under federal

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1 legislation, and advise the governor on provisions to be
2 included relating to alcoholism, persons incapacitated by
3 alcohol, and intoxicated persons;

4 (12) Assist in the development of, and cooperate with,
5 alcohol education and treatment programs for employees of state
6 and local governments and businesses and industries in the
7 state;

8 (13) Utilize the support and assistance of interested
9 persons in the community to encourage alcoholics voluntarily to
10 undergo treatment;

11 (14) Cooperate with public and private agencies in
12 establishing and conducting programs designed to deal with the
13 problem of persons operating motor vehicles while intoxicated;

14 (15) Encourage general hospitals and other appropriate
15 health facilities to admit without discrimination alcoholics,
16 persons incapacitated by alcohol, and intoxicated persons and to
17 provide them with adequate and appropriate treatment; ((and))

18 (16) Encourage all health and disability insurance
19 programs to include alcoholism as a covered illness; and

20 (17) Organize and sponsor a state-wide program to help
21 court personnel, including judges, better understand the disease
22 of alcoholism and the uses of alcoholism treatment programs.

23 NEW SECTION. Sec. 8. If any provision of this act or
24 its application to any person or circumstance is held invalid,
25 the remainder of the act or the application of the provision to
26 other persons or circumstances is not affected.

27 NEW SECTION. Sec. 9. There is hereby appropriated ten
28 thousand dollars to the department of social and health services
29 to study the problem of abuse of alcohol by drivers and to
30 report to the legislature in 1981.

Passed the House April 27, 1979.

John B. ...
Democratic Speaker of the House.

...
Republican Speaker of the House.

Passed the Senate April 25, 1979.

John A. Greerberg
President of the Senate.